



# BULLETIN

Canadian Centre for Justice Statistics



Catalogue No. 85F0027XIE

*Highlights of the Conditional Sentencing Special Study*

*June, 2002*

*Prepared by the Correctional Services Program*

## **Background**

In September of 1996, the Sentencing Reform Bill (C-41) was enacted into law creating a new sentencing option for adult offenders – the conditional sentence of imprisonment. Bill C-41 was enacted to respond to concerns over high levels of incarceration in Canada. The criteria for the application of the sentence, defined in sections 742.1 to 742.7 of the *Criminal Code*, include provisions that the court must be satisfied that serving the sentence in the community would not endanger the safety of the community, and that the offender must comply with conditions. Under the new sanction, an offender could be ordered to serve a term of imprisonment of less than two years to be served in the community.

The distinguishing features of the conditional sentence were enunciated by the Supreme Court of Canada in R. v. Proulx (2000). While conditions of the conditional sentence may appear similar to those available under probation, the purpose and enforcement procedures differ. Conditional sentences should be more punitive in the form of restrictions on liberty, such as house arrest. These restrictions, the Court stated, ought to be the norm, not the exception. In addition to restrictions on movement, more onerous conditions than those imposed under probation may be appropriate.

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## **Objective of the Study**

The Canadian Centre for Justice Statistics conducted a special study on conditional sentencing in 2001 to improve the level and quality of information available on this disposition and to assess the influence of the new sanction on correctional services caseloads. The purpose of this bulletin is to provide a preliminary examination of the results of the special study, as well as the most current data from the Adult Correctional Services Survey and the Adult Criminal Court Survey.

## **Principal Findings**

- The use of conditional sentences has increased progressively since their introduction and has become a sizable component of the community correctional caseload.
- While total admission rates have generally varied very little, marked decreases in the rate of sentenced custody admissions have corresponded with increased rates of conditional sentences. Rates of probation admissions have remained relatively stable.
- Conditional sentence lengths have become progressively longer.
- Conditional sentences are usually combined with another sanction, most often probation.

In 2000/2001, property offences that ended in a conditional sentence were the most common offence types in Prince Edward Island, Nova Scotia, Ontario, Alberta and British Columbia whereas violent offences were the most prevalent offence types in Manitoba and Saskatchewan.

### ***Sources of data***

The highlights presented in this bulletin are taken from the annual surveys, Adult Criminal Court Survey (ACCS) and the Adult Correctional Services Survey (ACS), as well as the CCJS Special Study on Conditional Sentencing. The special study data provide caseload characteristics (e.g. age, sex), in addition to detailed information on unique features of the sanction (e.g. conditions ordered, duration, outcome). Because the information may be compiled differently across jurisdictions, the special study data are best suited to a profile of the administrative process within each jurisdiction and **comparisons across jurisdictions are not recommended.**

The court data (ACCS) provide a perspective of the conditional sentence in combination with other sanctions associated with the court case. The correctional survey (ACS) provides information about the daily number of offenders, admissions and other information about custody and probation caseload. While highlights of these data are presented, more detailed information for each jurisdiction will be provided in the forthcoming report of the findings of the Conditional Sentencing Special Study.

### **What is the Conditional Sentence caseload?**

In 2000/2001, there were 16,400 conditional sentence admissions to correctional services among ten jurisdictions reporting these data to the Adult Correctional Services Survey (excludes Manitoba, the Northwest Territories, and Nunavut). This figure represented 10% of the total admissions to conditional sentence, sentenced custody and probation compared with 8% of admissions to these programs in 1997/1998.

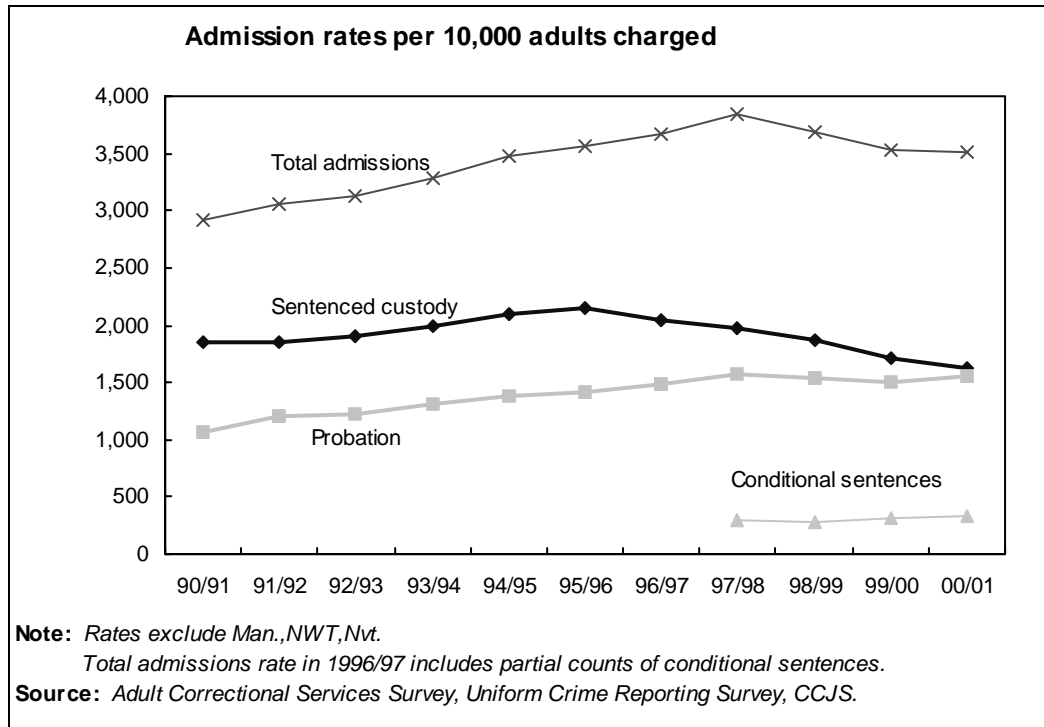
Conditional sentences have had an impact on the number of offenders supervised in the community. In 1995/1996, prior to the enactment of Bill C-41, the average number of offenders supervised in the community on probation, on any one day, was 87,800 in the seven reporting jurisdictions (excludes Prince Edward Island, Nova Scotia, New Brunswick, Manitoba, the Northwest Territories, and Nunavut). The combined probation and conditional sentence count in 2000/2001 was 98,500 for these same jurisdictions, an increase of 12% in the number of offenders supervised in the community.

### **Sentencing Trends**

#### **Has the use of conditional sentences resulted in a decrease in custody or probation?**

Sentenced custody and probation admission rates per 10,000 adults charged generally followed a similar trend of steady increases from 1990/1991 to 1995/1996. However, the rates of sentenced custody admissions declined each year thereafter, while probation rates continued to increase to 1997/1998, and fluctuated moderately the following years. Conditional sentence admission rates remained relatively stable in the first two years for which data are available. The rates increased the next two years, up 12% and 7% respectively. (See the figure: note that the admissions data are not a count of individual persons; the same offender may be counted in more than one program type.)

In summary, while the rate of sentenced custody decreased by 17% from 1997/1998 to 2000/2001, the rate of conditional sentence admissions increased by 17%. During these four years, the rate of probation remained relatively stable (-1%). The total rate of admissions to these three corrections programs in 2000/2001 remained similar to the rate in 1994/1995.



**What is the length of conditional sentences?**

With the exception of Alberta, the median duration of conditional sentences was eight months or less among the jurisdictions providing median sentence length data to the study from 1997/1998 to 2000/2001. While the median duration of conditional sentence changed little over the four years for many jurisdictions, the proportion of the caseload that had been ordered a longer sentence has generally increased among reporting jurisdictions (see Table 1).

**Which types of offences receive a conditional sentence?**

In 2000/2001 property offences were identified as the most common type of federal statute offence resulting in conditional sentences in Prince Edward Island (52%), Nova Scotia (30%), Ontario (38%), Alberta (46%) and British Columbia (37%). In Manitoba and Saskatchewan, the most prevalent offence type was violent offences (43% and 38% respectively)(see Table 2).

In most reporting jurisdictions the proportion of conditional sentence admissions for violent offences decreased or remained level from 1997/1998 to 2000/2001. In Manitoba, however, the proportion of total federal statute offences with a conditional sentence involving a violent offence increased from 37% to 43% during these years. In comparison, all jurisdictions except Saskatchewan (where the proportion has been relatively level) reported a decline in the proportion of property offences over the four

years. Jurisdictions also generally reported increases in the proportion of conditional sentence admissions for drug offences.

**Table 1. Proportion of Conditional Sentences by Sentence Length**

Jurisdiction		12 months	Greater than	Median
		or less	12 months	(in months)
		%	%	
Prince Edward Island	1997/1998	97	3	2
	1998/1999	94	6	3
	1999/2000	89	11	3
	2000/2001	90	10	3
Nova Scotia	1997/1998	92	8	6
	1998/1999	93	7	4
	1999/2000	88	12	4
	2000/2001	89	11	6
Quebec	1997/1998	82	18	..
	1998/1999	80	20	..
	1999/2000	79	21	..
	2000/2001	73	27	..
Ontario	1997/1998	89	11	6
	1998/1999	87	13	6
	1999/2000	86	14	6
	2000/2001	86	14	6
Manitoba	1997/1998	86	14	6
	1998/1999	84	16	6
	1999/2000	80	20	..
	2000/2001	77	23	8
Saskatchewan	1997/1998	86	14	6
	1998/1999	87	13	6
	1999/2000	86	14	6
	2000/2001	82	18	6
Alberta	1997/1998	83	17	6
	1998/1999	75	25	9
	1999/2000	74	26	9
	2000/2001	68	32	12
British Columbia	1997/1998	90	10	5
	1998/1999	89	11	6
	1999/2000	89	11	6
	2000/2001	89	11	6

.. figures not available

**Note:** Excludes counts of "unknown" sentence lengths.

Median: 30 days equals one month.

**Source:** Conditional Sentencing Special Study, CCJS

**Table 2. Conditional Sentence Admissions**

Jurisdiction		Total <sup>1</sup>	Violent offences	Property offences	Other Criminal Code	Drugs	Other Federal offences
		no. (100%)	%	%	%	%	%
Prince Edward Island	1997/1998	31	16	74	3	6	0
	1998/1999	32	25	41	9	25	0
	1999/2000	38	13	66	8	13	0
	2000/2001	33	12	52	12	24	0
Nova Scotia	1997/1998	439	32	37	16	14	1
	1998/1999	488	28	34	19	16	3
	1999/2000	580	27	28	25	19	1
	2000/2001	578	28	30	24	17	1
Ontario	1997/1998	4,213	33	48	9	9	2
	1998/1999	3,669	34	44	8	13	1
	1999/2000	4,147	34	40	8	17	2
	2000/2001	4,064	33	38	8	19	2
Manitoba	1997/1998	386	37	38	5	20	0
	1998/1999	477	41	30	7	23	0
	1999/2000	580	41	31	6	22	0
	2000/2001	680	43	28	9	20	0
Saskatchewan	1997/1998	887	43	36	11	..	10
	1998/1999	1,036	41	35	13	..	11
	1999/2000	1,171	38	40	10	..	12
	2000/2001	1,230	38	37	13	..	12
Alberta	1997/1998	1,109	26	53	14	8	<1
	1998/1999	789	27	52	12	8	<1
	1999/2000	887	28	54	9	9	0
	2000/2001	1,189	26	46	8	20	0
British Columbia	1997/1998	1,933	28	43	12	15	2
	1998/1999	2,010	27	43	11	18	1
	1999/2000	2,304	25	43	10	21	1
	2000/2001	3,067	24	37	10	27	2

.. Figures not available.

1. Excludes "Not Stated"; and "Provincial Offences" counts in Newfoundland, Ontario and Saskatchewan (less than 5 per year).

Source: Conditional Sentencing Special Study, Canadian Centre for Justice Statistics

## Are Conditional Sentences being used in combination with other sanctions?

### Court Data

Court data on conditional sentences have been available from the Adult Criminal Court Survey for Newfoundland and Labrador, Ontario and Alberta since 1998-1999 and for Yukon since 1999-2000. Although limited in coverage, these data permit a preliminary examination of the way in which conditional sentences are used by the courts in these jurisdictions. The following analysis is based on court cases with a single conviction from these jurisdictions. Single conviction court case data have been used in order to be able to relate the sentence to the specific offence, which is not possible using multiple conviction data.

In 2000/2001 the proportion of conditional sentence dispositions that were combined with other sanctions ranged from 47% in the Yukon to 82% in Newfoundland and Labrador. A period of probation was the most common additional sanction in Ontario (58%) and Newfoundland and Labrador (81%) and was the only other associated sanction in the Yukon (47%). Conditional Sentences were combined with restitution orders 25% of the time in Alberta, 16% in Ontario and 6% in Newfoundland and Labrador. Other types of sanctions such as payment of legal costs or driver's licence suspensions were combined with conditional sentences in 32% of cases in Ontario and in 23% of cases in Alberta (see Table 3).

Overall, the proportion of cases that had just one other sanction in addition to a conditional sentence, was similar in Ontario, Alberta and the Yukon at 43%, 46% and 47% respectively. The proportion in Newfoundland and Labrador was 77%. In Ontario, 31% of cases had two or more sanctions in addition to the conditional sentence, while in Alberta the proportion was 10% and in Newfoundland and Labrador it was 5%.

**Table 3. Percentage of Conditional Sentences imposed in conjunction with at least one other sentence, 2000/2001**

Jurisdiction	Total Cases with Conditional Sentences	%Conditional Sentence Alone	% Conditional Sentence + Probation	% Conditional Sentence + Fine	% Conditional Sentence + Restitution	% Conditional Sentence + Other
Newfoundland & Labrador	109	18	81	0	6	0
Ontario	2,912	26	58	2	16	32
Alberta	658	44	19	<1	25	23
Yukon	32	53	47	0	0	0

Note: Percentages can exceed 100% because cases can have more than one sanction.  
**Source:** Adult Criminal Court Survey, single conviction cases only.

## **Methodology**

In October, 2001 the data collection instrument, developed from discussions with the jurisdictions during the feasibility phase of the study, was sent to the thirteen jurisdictions to collect aggregate counts from 1997/1998 to 2000/2001. Data collection was undertaken with the understanding that the jurisdictions would provide data available to them, with no expectation that the study would produce nationally comparable or uniformly detailed information.

The scope of the data collection was limited to admissions to correctional service programs (provided by Prince Edward Island, Nova Scotia, Quebec, Ontario, British Columbia) or commencements of a court order (provided by New Brunswick, Saskatchewan, Manitoba), *not person counts*. Admissions to correctional service programs or commencements of a court order describe events from the point of time an offender enters the correctional service system as a sentenced offender in the jurisdiction to the time the disposition is completed. All statistical information relating to pre-sentence custody is excluded. Data collected refer to one of several types of counts: orders commenced or new intakes or admissions, orders or admissions terminated (completed), or violations of conditions in an order or admission. Only counts of orders commenced or number of intakes or admissions are presented in the bulletin. Many concepts used in the special study were consistent with standards used in the annual CCJS Adult Correctional Services survey. For more information (e.g. glossary of terms) refer to a past Adult Correctional Services publication, catalogue no. 85-211-XIE.

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### **Note of appreciation**

Canada owes the success of its statistical system to a long-standing partnership between Statistics Canada, the citizens of Canada, its businesses and governments. Accurate and timely statistical information could not be produced without their continued cooperation and goodwill.