

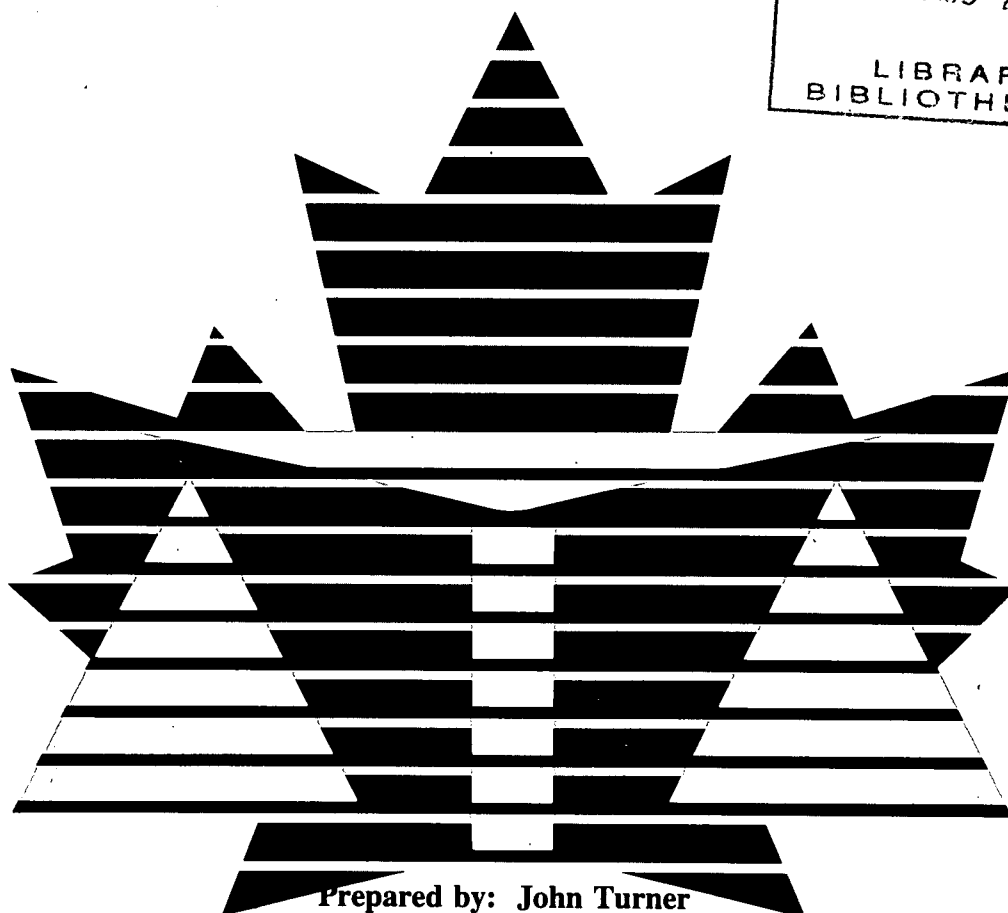
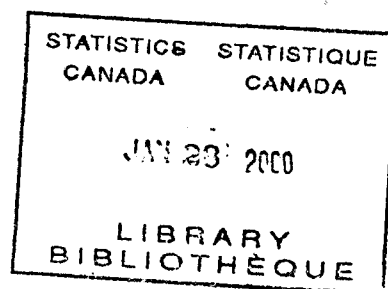
SENTENCING IN ADULT CRIMINAL PROVINCIAL COURTS

A STUDY OF SIX CANADIAN JURISDICTIONS

1991 and 1992

Canadian Centre
for Justice Statistics

Centre canadien
de la statistique juridique



Prepared by: John Turner

November 1993

ACKNOWLEDGEMENTS

The following provincial/territorial departments/ministries should be acknowledged for their leadership and participation in the Adult Criminal Court Survey administered by the Canadian Centre for Justice Statistics:

- Department of Provincial Affairs and Attorney General, Prince Edward Island
- Department of Justice, Nova Scotia
- Ministry of Justice, Quebec
- Department of Justice, Yukon Territory

The following provincial departments/ministries should also be acknowledged for allowing the Centre access to their provincial court databases for the purpose of inclusion in this Sentencing Special Study:

- Ministry of the Attorney General, Ontario
- Alberta Justice

The author would like to thank the members of the Sentencing Study Working Group for their input into the report: Phil Arbing (Prince Edward Island), Andy Margison and Bernie Conrad (Nova Scotia), Michel Mongeau (Quebec), Bonnie Barber (Ontario), Betty Ann Pottruff, Carol Snell and Shaukat Nasim (Saskatchewan), Ken Tjosvold and Goran Tomljanovic (Alberta), Tom Anderson (British Columbia), and Aaron Caplan and Kwing Hung (Justice Canada). This Working Group reviewed materials and provided advice on the analysis, interpretation and presentation of findings.

The contributions of the following Courts Program staff were greatly appreciated: Jim Sturrock, Maureen de Souza, Carol Gudz and Paul Lam. Special thanks to Allan Barless for all his assistance in retrieving data and in creating tables and graphics.

The author would also like to thank Julian Roberts of the University of Ottawa for taking the time to provide advice in the area of sentencing research.

Canadian Cataloguing in Publication Data

Turner, John

Sentencing in adult criminal provincial
courts : a study of six Canadian jurisdictions,
1991 and 1992

Issued also in French under title: La détermination
de la peine dans les tribunaux provinciaux de juridiction
criminelle pour adultes au Canada, étude de six secteurs
de compétence, 1991 et 1992.

ISBN 0-660-15388-2

1. Sentences (Criminal procedure) -- Canada --
Provinces -- Statistics. 2. Prison sentences -- Canada --
Provinces -- Statistics. I. Canadian Centre for Justice
Statistics. II. Title.

HV9507 T87 1993 364.6'0971'021
C94-988006-X

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EXECUTIVE SUMMARY

Background

Information to support current and future discussion of sentencing practices and alternatives remains a priority issue for the justice community. In order to provide information in this area, it was proposed at the April 1992 Liaison Officers Committee (LOC) meeting that the Canadian Centre for Justice Statistics (CCJS) undertake a special study on sentencing practices in Canadian criminal courts. The Initiative agreed to conduct a study in this area using the information sources available to it at this point: provincial/territorial court data from six jurisdictions.

This study was subsequently approved by the Justice Information Council. A Sentencing Study Working Group, comprised of federal and provincial representatives from the justice area, was created to review materials and to provide advice on the analysis, interpretation and presentation of findings. The special study encompasses more than just this report. A Sentencing Database was created, which contains over 600,000 conviction records. This database contains more detailed information than could be presented in this report.

Methodological Overview

This report analyzes Criminal Code and other federal statute charges resulting in conviction in adult provincial/territorial courts in six jurisdictions: Prince Edward Island, Nova Scotia, Quebec, Ontario, Alberta and Yukon. The caseload represented by these six jurisdictions comprises approximately two-thirds of the annual provincial/territorial court caseload in Canada. The study covers a minimum 15-month period during 1991 and 1992 for each jurisdiction as follows (dates refer to the date of sentencing or "final appearance"):

P.E.I., N.S., Que., Yukon:	Jan. 1 '91 - June 30 '92
Ontario:	June 1 '91 - Aug. 31 '92
Alberta:	Jan. 1 '91 - Oct. 26 '92

A "case" is defined in this study as all charges resulting in conviction for one accused with the same sentence date in the same court. There are almost 400,000 cases in the database. For each case, a "most serious offence" (the offence receiving the most serious sentence) is identified to represent the case. The majority of analyses in this report uses the "most serious offence" to represent a case.

Major limitations

- Data on recidivism or other aggravating or mitigating circumstances were not available.
- Historical data were not available for analysis of emerging trends.
- No data were available from superior courts or from Quebec municipal courts.

MAJOR FINDINGS

The following highlights pertain to all six jurisdictions combined and are "case-based", unless otherwise noted:

Offenders by Gender

- Males accounted for 81% of total convictions under the Criminal Code, females 14%, corporations 0.3%, and unknown 5%.
- Males comprised close to 90% of all convictions for firearms offences, offences against the person (except for harassing phone calls - 68%) and motor vehicle offences. Female offenders tended to be convicted (although still less frequently than males) for minor thefts, fraud, forgery and prostitution-related offences.

Offenders by Age (at time of sentencing)

- Offenders aged **18-22** were over-represented (compared to their distribution for all Criminal Code offences) in the following categories: robbery, firearms offences, all property offences (except fraud/forgery), dangerous driving, causing a disturbance, and Food and Drugs Act offences. Offenders aged **23-27** were over-represented in: assaulting peace officer, fraud/forgery, offences against the administration of justice (eg. obstructing justice, unlawfully at large), and Narcotic Control Act offences.
- Offenders aged **28-32** were most over-represented in sexual assault with a weapon/causing bodily harm offences. This age group also represented the highest percentage (20%) of offenders convicted of impaired driving. Offenders aged **33-37** showed a very even distribution across offence categories. Offenders **38 years of age and older** were over-represented in terms of sexual assault convictions, touching children under the age of 14, and gaming and betting offences. However, as these categories represent the offender's age at the time of sentencing, some of the sexual assault and touching offences may have actually occurred years before.

Most Serious Sanction Imposed (only 1 sanction counted for each conviction)

- Imprisonment was imposed for 29% of all Criminal Code convictions in adult provincial court. Intermediate sanctions were imposed for 68% of convictions as follows: probation (27%), fines (21%), and prohibition/confiscation/community service orders (19%). The remaining 3% resulted in absolute discharges (although legally not a conviction).

All Sanctions Imposed (allows for multiple sanctions for each conviction)

- Fines were found to be the most common sanction imposed in adult provincial court (51% of all convictions). Other sanctions imposed were as follows: probation (37%), prohibition/confiscation/community service orders (35%), imprisonment (29%), suspended sentences (11%), restitution/compensation (5%), and conditional discharge (5%).

Imprisonment

- The following seven offences all showed an imprisonment rate of at least 80%: robbery, sexual assault with weapon/causing bodily harm, aggravated assault, use of firearm during commission of offence, escaping custody, unlawfully at large, and drug trafficking.
- The following offences showed an imprisonment rate of 10% or less: gaming and betting offences, other morals offences, causing disturbance/trespassing, and breach of recognizance.
- The median sentence length for all Criminal Code convictions resulting in prison was 30 days. Ninety per cent of the sentences imposed were for a period of 8 months or less; ten per cent were for a period of one day; only 3% of sentences were for a period of two years or more.
- Of the 65 selected offences, four showed median sentence lengths of at least one year: manslaughter (4 years), sexual assault with weapon/causing bodily harm (2 years), robbery (1 year 9 months), and use of firearm during commission of offence (1 year).
- Four offences showed median sentences of less than 30 days: fail to appear in court (15 days), causing a disturbance/trespassing (14 days), soliciting/obtaining services for prostitution (14 days), and breach of recognizance (12 days).
- Maximum penalties were imposed very rarely in adult provincial court. Of the 52 offences carrying an identifiable maximum penalty, 31 never had the maximum penalty imposed, 17 had the maximum penalty imposed less than 1% of the time, and only four offences resulted in a maximum penalty over 5% of the time: gaming and betting offences - maximum penalty of 2 years (10%), harassing/indecent phone calls - maximum penalty of 6 months (7%), indecent acts/exposure - 6 months (5%), and fail to comply with probation order - 6 months (5%).
- 77% of the cases involved only one conviction, with the remaining 23% involving two or more convictions. The incarceration rate for multiple charge cases was substantially higher than for single charge cases. The median sentence length ranged from two to three times higher for cases with multiple convictions than for cases with single convictions.

- There was an average of 1.9 charges resulting in conviction for each case. By comparison, for this same group of cases at first court appearance, there was an average of 2.4 charges per case. This means that approximately 20% of the original number of charges were either terminated early, dismissed, discharged or acquitted (**data for four ACCS jurisdictions only: Quebec, Nova Scotia, Prince Edward Island and Yukon**).

Probation

- Probation was the most serious sentence imposed for over 50% of convictions for the following offences: assault, uttering threats of bodily harm, harassing/indecent phone calls, fraud under \$1,000, and mischief (both over and under \$1,000 property damage).
- The distribution of probation sentences was as follows: 6 months (11%), one year (33%), 18 months (7%), two years (28%), three years (maximum allowed) (11%). The remaining 10% were for other lengths.

Forfeiture / Prohibition / Community Service Orders

- There were only three offences where these sanctions were the most serious imposed over 50% of the time: breach of recognizance (78%), refuse to provide breath sample (69%), and impaired driving (60%).

Fines

- Only three offences received a fine as their most serious sentence over 50% of the time: gaming and betting offences (54%), soliciting/obtaining services for prostitution (52%), and Narcotic Control Act possession (51%).

Compensation/Restitution

- Sentences of compensation or restitution were most commonly imposed (between 25% and 50% of all convictions) for fraud, false pretences and mischief.

Suspended Sentence

- The four offences most frequently receiving a suspended sentence were: sexual touching of child under 14 (33% of all convictions); uttering threats of bodily harm (33%); mischief - property damage over \$1,000 (33%); and, fraud over \$1,000 (31%).

Discharge

- Conditional discharges were most frequently granted for gaming and betting offences (17%), harassing/indecent phone calls (15%), and mischief > \$1,000 (15%).
- Absolute discharges were most frequently granted for soliciting/obtaining services for prostitution (16%), indecent acts/exposure (14%), and minor thefts (11%).

Sentencing Variation Among Jurisdictions/Cities

This study compares five provinces and one territory, as well as six large cities (Toronto, Montreal, Ottawa, Edmonton, Calgary and Quebec City), in terms of incarceration rates and median sentence lengths for 65 selected offences. The following represents a sample comparison of sentencing practices at both the provincial and municipal level:

- Among the six provinces/territories, incarceration rates for **sexual assault** convictions were similar in Nova Scotia, Quebec, Ontario and Alberta (ranging from 50% to 57%), but were higher (over 80%) in Prince Edward Island and the Yukon. The median sentence length imposed for offenders sentenced to prison ranged from 1.5 months in Prince Edward Island to 9 months in Quebec.
- Incarceration rates for **break & enter** convictions were very similar among the six major cities, ranging from 64% in Montreal to 78% in Toronto. The median sentence length was 4 months in Toronto and Calgary, 6 months in Montreal, Ottawa and Edmonton, and 10 months in Quebec City.

Effect of Procedure Selected For Hybrid Offences (data for four ACCS jurisdictions only: Quebec, Nova Scotia, Prince Edward Island and Yukon)

- Hybrid offences, which represented approximately 60% of all Criminal Code convictions in adult provincial court, are those which can be prosecuted either summarily or by indictment. Of the 20 hybrid offences analyzed in the report, three-quarters were proceeded with summarily and one-quarter by indictment.
- On average, the incarceration rate for hybrid-indictable offences was approximately twice as high as for hybrid-summary offences. Similarly, the median sentence length was generally two to three times longer for hybrid-indictable convictions than for hybrid-summary.

Conclusion

This report represents the largest volume of sentencing data available in Canada: over 600,000 charges resulting in conviction from six jurisdictions. It represents a beginning in terms of the availability and analysis of sentencing statistics in this country.

Data for four of the these six jurisdictions (Quebec, Nova Scotia, Prince Edward Island and Yukon) originated from the Adult Criminal Court Survey (ACCS) of the CCJS. The data collection method for the ACCS survey involves accessing automated criminal court databases in each province or territory, and developing automated interfaces between the jurisdictional system and the ACCS system. As the level of automation increases in the jurisdictions currently not participating, the capability of these jurisdictions to participate in this survey will also increase.

Sentencing data for the other two participating jurisdictions (Ontario and Alberta) were extracted directly from their court systems and "converted" to the specifications of the Sentencing Database. Until such time that these and other jurisdictions can provide data to the ACCS survey, this strategy may be an appropriate "interim" strategy to follow for the collection of sentencing data.

CHAPTER 1. INTRODUCTION

1.1 Background

A Canadian Sentencing Commission report on sentencing reform (Archambault Report) stated that "one of the most basic failings of the current sentencing system in Canada is that there is no method for anyone to know ... what kinds of sentences are being handed down, ... and that the lack of timely aggregate sentencing statistics presents problems for the operation of the criminal justice system".¹ Other reports from the Sentencing Commission as well as the Standing Committee on Justice and Solicitor General (Daubney Report)² have recommended that sentencing data be collected to address issues related to sentencing variation and the need to provide the public with information in the area of sentencing.

Justice Canada has recently proposed various reforms to the sentencing process, including a statement of "purpose and principles of sentencing", a recommendation for increased use of intermediate sanctions, and a recommendation for an improved process for the imposition and collection of fines.³ Issues such as the perceived over-reliance on custody in sentencing, sentencing variation and the perception of unrealistically high maximum penalties cannot be addressed without sentencing data. Presently, even basic information such as the types and quantum of these sanctions for specific offences is not available in Canada on a national basis.

Information to support current and future discussion of sentencing practices and alternatives remains a priority issue for the justice community. In order to provide information in this area, it was proposed at the April 1992 Liaison Officers Committee (LOC) meeting that the Canadian Centre for Justice Statistics (CCJS) undertake a special study on sentencing practices. The Initiative agreed to conduct a study in this area using the information sources available to it at this point: provincial/territorial court data from six jurisdictions. In the remainder of this report, the term "provincial court" will be used when referring to "provincial/territorial" court.

This study was subsequently approved by the Justice Information Council. A Sentencing Study Working Group, comprised of federal and provincial representatives from the justice area, was created to review materials, and to provide advice on the analysis,

¹ Sentencing Reform - A Canadian Approach, Report of the Canadian Sentencing Commission, 1987, p. 60.

² Taking Responsibility - Report of the Standing Committee on Justice and Solicitor General on its review of sentencing, conditional release and related aspects of corrections (David Daubney, M.P. - Chairman), August 1988.

³ Directions For Reform - Sentencing, Department of Justice Canada, 1990, p. 4.

interpretation and presentation of findings.

The special study encompasses more than just this report. A Sentencing Database was created, which contains over 600,000 conviction records. This database contains more detailed information than could be presented in this report.

1.2 Objective of Study

The objective of this study is to collect and report information on sentencing practices in adult provincial courts in Canada in order to inform discussions relating to sentencing issues as outlined in section 1.3 below. This study does not attempt to explain variations in sentencing practices among jurisdictions.

1.3 Sentencing Issues Addressed

By analyzing conviction data from adult provincial court in five provinces and one territory, this report sheds light on the following major sentencing issues:

- **Lack of basic sentencing information: the types of sanctions being imposed and the quantum of these sanctions.** For example, for a specific offence such as break and enter, what proportion of convictions receive imprisonment, what is the average sentence length and the range of sentences imposed?
- **Sentencing variation (disparity).** Do certain offences tend to receive a smaller range of sentence lengths than other offences? Is there sentencing variation among provinces or among similar-sized cities?
- **Perceived over-reliance on custody; reforms calling for increased use of "intermediate sanctions".** Intermediate sanctions are generally defined as the range of dispositions between imprisonment and absolute discharge. To what degree are intermediate sanctions currently being used in sentencing, and for what types of offences? Are these sanctions imposed independently or do they tend to be used in conjunction with other sanctions?
- **Perception that maximum penalties set out in federal criminal legislation currently provide little guidance as to what sentence might be expected.** How frequently are maximum penalties imposed, and what is the relationship between average sentence lengths being imposed for selected offences and their respective maximum penalties?
- **Effect of procedure selected for hybrid offences.** Do hybrid offences proceeding by indictment receive more serious sentences than hybrid offences proceeding summarily?

- **Frequency of breach of probation convictions.** How frequently are offenders convicted for breach of probation, and are there usually convictions for other related offences in the same case?
- **Sentences of "1 day".** For certain types of offences (those having either a minimum penalty of imprisonment or a maximum penalty greater than 5 years), the Criminal Code does not allow a fine to be imposed unless there is also a sentence of imprisonment. In order to circumvent this statutory requirement, judges may impose a fine plus one day in prison. The issue is whether or not judges would still impose an incarceral sentence on these offenders if this Criminal Code provision was not present.
- **Magnitude of charge attrition.** For those cases which result in at least one conviction, what percentage of charges are "dropped" due to attrition from first appearance in court through to final disposition?

CHAPTER 2. METHODOLOGICAL OVERVIEW

2.1 Scope/Coverage/Time Period

This report analyzes Criminal Code and other federal statute charges resulting in conviction in adult provincial courts in six jurisdictions: Prince Edward Island, Nova Scotia, Quebec, Ontario, Alberta and Yukon. The caseload represented by these six jurisdictions comprises approximately two-thirds of the annual provincial court caseload in Canada. The study covers a minimum 15-month period during 1991 and 1992 for each jurisdiction as follows (dates refer to the date of sentencing or "final appearance"):

P.E.I., N.S., Que., Yukon:	Jan. 1 '91 - June 30 '92
Ontario:	June 1 '91 - Aug. 31 '92
Alberta:	Jan. 1 '91 - Oct. 26 '92

Not all provincial court locations are included for the full reference period in each jurisdiction. See Appendix "C" - Methodology for more information.

Sentencing characteristics mean very little for "groups" of offences, such as "offences against the person". As such, the focus of this report is on 65 specific high-volume or high-profile offences.

2.2 Main Units of Count

Charge - One record exists for each charge resulting in conviction. Each charge will have at least one sentence recorded against it. All sentences imposed for the charge are collected.

Case - A "case" is defined in this study as **all charges resulting in conviction for one accused with the same sentence date in the same court.**

Most serious offence (MSO): For each case, an MSO is identified as the offence receiving the most serious sentence (see below). The majority of analysis in this report uses the MSO to define a case.

Most serious sentence (MSS): Rather than showing all the sanctions imposed for a particular offence on conviction, the data can also be displayed by selecting a "most serious sentence" for each charge. Sentences are ordered from most severe to least severe according to proposals put forth in a 1990 Justice Canada report⁴ as follows:

⁴ Directions For Reform - Sentencing, Department of Justice Canada, 1990, p.15.

imprisonment
probation
forfeiture/prohibition/confiscation orders
community service order
fine
compensation/restitution
conditional discharge
absolute discharge

2.3 Study Limitations

No data on recidivism or other aggravating or mitigating circumstances - The previous criminal history of the offender is one of the most significant factors in sentencing variation. If one were to attempt to explain sentencing variation, all aggravating and mitigating factors would be required for each case.

Lack of time-series data - The consistency over time of findings from this study cannot be explored, nor can emerging trends in sentencing be identified. However, this study will be useful as a starting point for future time-series analysis, keeping in mind that any subsequent amendments to the Criminal Code must be noted in future analysis.

No data from superior courts - Although superior courts tend to hear the most serious cases (eg. murder), they represent a relatively small percentage of jurisdictional caseload. It should be noted that previous research has demonstrated that average sentence lengths imposed in superior courts were generally higher than those imposed in provincial courts for equivalent offences.⁵ Further, data related to appeals or judicial reviews are not included.

Missing provincial court locations in Nova Scotia - Halifax city court and Liverpool provincial court, representing approximately 15% of Nova Scotia's annual caseload, are currently not providing data to ACCS.

No data from municipal courts in Quebec - Quebec has empowered 133 municipal courts to hear **summary** federal charges, primarily traffic offences. These courts hear approximately 20% of all federal statute charges in Quebec. The existence of these courts may result in Quebec's provincial courts hearing proportionally "more serious" cases than provincial courts in other provinces.

Possible under-counting of "intermediate sanctions" - Intermediate sanctions may be under-counted due to court system's limitations for the reporting of multiple sanctions.

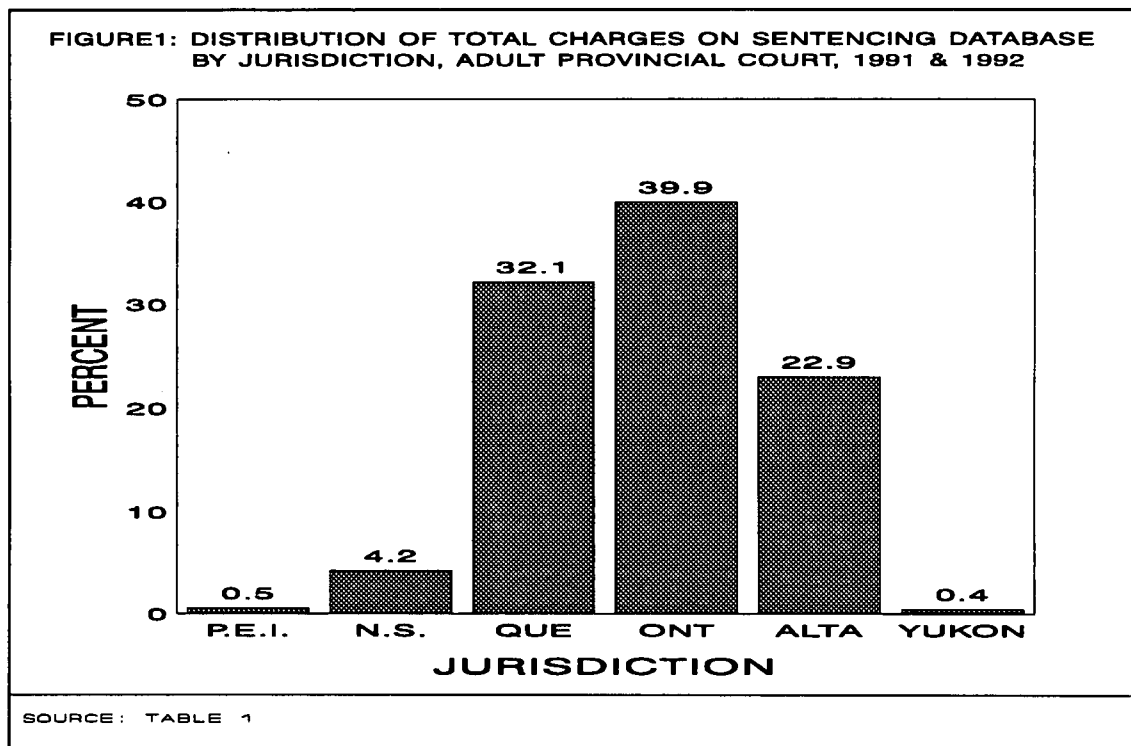
⁵ Sentences Given in The Toronto Courts, Robert G. Hann and Faigie Kopelman, 1988, p.23

CHAPTER 3. BASIC AGGREGATE CHARACTERISTICS OF SENTENCING DATABASE

3.1 Distribution by Jurisdiction

The Sentencing Database is comprised of adult provincial court data from six jurisdictions representing over 600,000 charges resulting in conviction during 1991 and 1992 (see methodology section for more detailed information on coverage, time periods, data sources, etc.).

Appendix table 1 displays the distribution of these charges by jurisdiction and by type of case. The overall distribution of charge convictions by jurisdiction is shown in figure 1.



3.2 Charge Attrition

It is possible to compare the original number of charges at the time of first court appearance with the final number of charges resulting in conviction for four of the six jurisdictions in this study: Prince Edward Island, Nova Scotia, Quebec and Yukon (note that Quebec represents 88% of the cases for these four jurisdictions).

For these four jurisdictions combined, there were 229,645 charges resulting in conviction in 122,014 cases, representing an average of 1.88 charges per case. At first court appearance these cases contained 295,174 charges for a ratio of 2.41 charges per case. However, of the 65,529 charges which did not result in conviction, 5,646 were either transferred to a higher court or resulted in some other "non-final" disposition. This means that 20% (59,883 charges) of the original number of charges in those cases in which at least one charge resulted in conviction, were either terminated early (eg. charge withdrawn, stay of proceedings, accused found unfit to stand trial), or dismissed, discharged or acquitted. Acquittals accounted for 3% (8,121 charges) of this 20% figure.

3.3 Single vs Multiple Charge Cases

For the purposes of this study, a "case" has been defined as all charges resulting in conviction with the same sentence date in the same court for one accused. Over three-quarters (77%) of cases resulting in conviction were "single charge/count" convictions. Of the remaining 23% of cases, 13% were "multiple charge" cases, 5% were "multiple count" cases and the remaining 5% were comprised of those cases having both multiple charge and multiple count convictions (table 1).

Single charge/count - Regardless of the number of charges when the accused first appears in court, only one charge in the case results in conviction.

Multiple charge - More than one charge in a case results in conviction, but all convictions are for **different offences**.

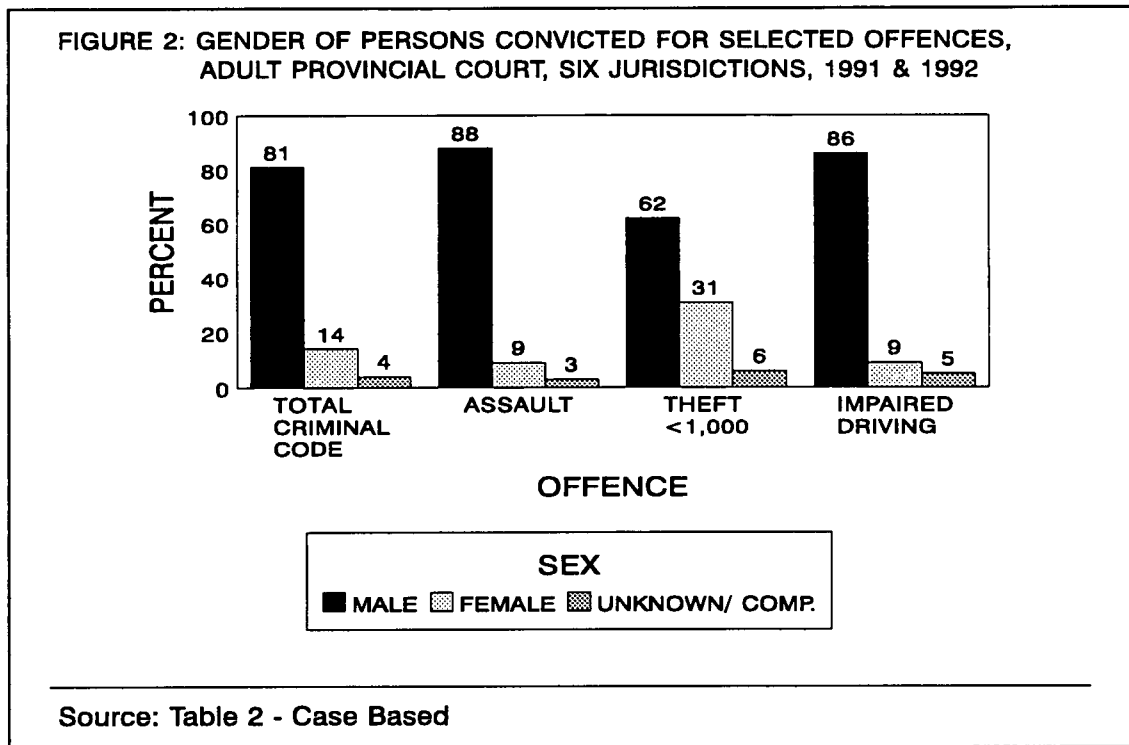
Multiple count - More than one charge in a case results in conviction, and all convictions are for the **same offence**.

Multiple charge/multiple count - An accused is convicted of at least 2 different charges, of which at least one has multiple counts.

3.4 Gender of Offender

Table 2 shows the breakdown of offenders into male, female, corporations and unknown for all 65 selected offences. Males accounted for 81% of total convictions under the Criminal Code, females 14%, corporations 0.3% and unknown 4% (figure 2).

Males comprised close to 90% of all convictions for firearms offences, offences against the person (except for harassing phone calls - 68%) and motor vehicle offences. Female offenders tended to be convicted (although still less frequently than males) for minor thefts, fraud, forgery and prostitution-related offences.



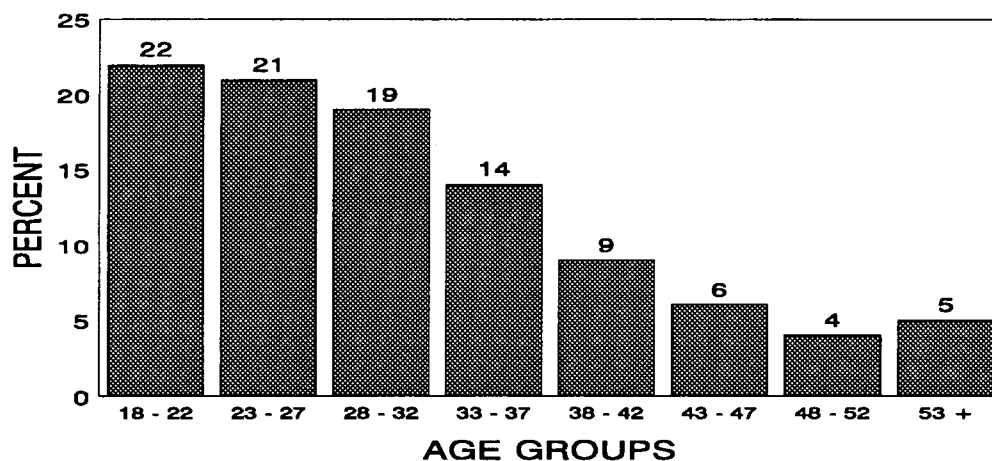
Not surprisingly, corporations tended to be convicted for other federal statute offences such as those under the Income Tax Act and Food and Drugs Act. The only Criminal Code offence category for which corporations represented a significant percentage was gaming and betting (8%).

3.5 Age of Offender At Sentencing

Table 3 shows the age distribution for all offenders convicted in adult provincial court. Due to the fact that the "date of the offence" was not available for all jurisdictional databases, the calculations are based on the age of the offender at the time of sentencing, not at the time of the offence. For this reason, the true number of young offenders tried in adult court cannot be identified. The table examines eight age groups, with those offenders under the age of 18 excluded from the table in order to avoid inferences about the number of young offenders.

Figure 3 shows the eight selected age categories in five-year groupings, starting at age 18. This chart reveals that the proportion of offenders in each age group begins to drop off after the age of 32. Table 3 indicates that certain offences did not follow the general pattern described above. Offenders aged **18-22** were over-represented (compared to their distribution for all Criminal Code offences) in the following categories: robbery, firearms offences, all property offences (except fraud/forgery), dangerous driving, causing a

FIGURE 3: AGE OF OFFENDER AT TIME OF SENTENCING,
CRIMINAL CODE CONVICTIONS IN ADULT PROVINCIAL COURT,
SIX JURISDICTIONS, 1991 & 1992



Source: Table 3 - Cased Based

disturbance, and Food and Drugs Act offences. Offenders aged **23-27** were over-represented in the following categories: assaulting peace officer, fraud/forgery, offences against the administration of justice (eg. obstructing justice, unlawfully at large), and Narcotic Control Act offences.

Offenders aged **28-32** were most over-represented in sexual assault with a weapon/causing bodily harm offences. This age group also represented the highest percentage (20%) of offenders convicted of impaired driving, although older offenders tended to be more over-represented. Offenders aged **33-37** showed a very even distribution across offence categories.

Offenders **38 years of age and older** were over-represented in terms of sexual assault convictions, touching children under the age of 14, and gaming and betting offences. However, as these categories represent the offender's age at the time of sentencing, some of the sexual assault and touching offences may have actually occurred years before. This is particularly relevant given the fact that more victims of sexual abuse are now coming forth with incidents which may have occurred years earlier.

CHAPTER 4. TYPES OF SENTENCES IMPOSED

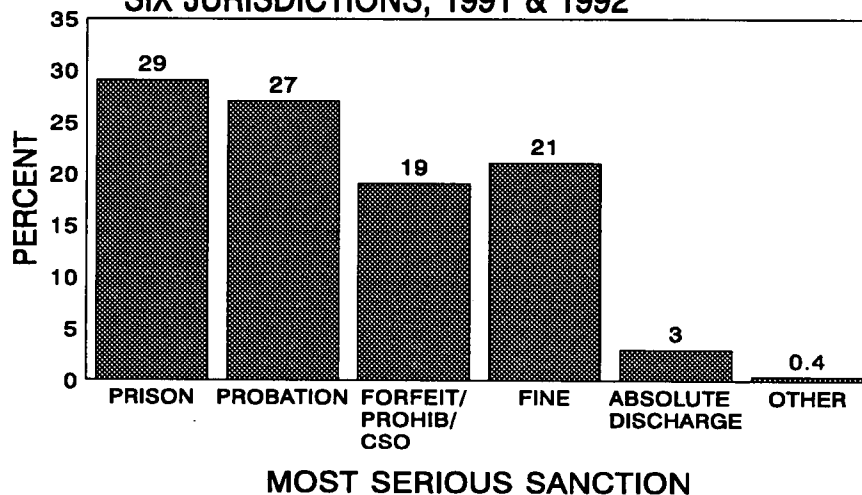
4.1 Most Serious Sentence Imposed

Table 4 shows the "most serious sanction" imposed by case count for all offences. In other words, if more than one sentence was imposed for a particular charge, only the most serious sentence was counted. The ranking of the seriousness of sentences used in this report is outlined on p. 5.

The ranking of sentences in this manner is still a subjective measurement. The actual seriousness of a sanction imposed on an offender may vary according to factors such as the terms and conditions of probation, or the amount of fine imposed. However, the ranking procedure has the advantage of enabling quick comparisons to be made on the relative severity of sentences among various offences. For information on all sanctions imposed, see section 4.2.

One of the major concerns in the area of sentencing over the years has been the perceived over-reliance on the use of incarceration. Table 4 shows the frequency in the use of imprisonment for the 65 selected offences as well as for all Criminal Code and other federal statute offences. Figure 4 shows that imprisonment was imposed for 29% of all Criminal Code convictions in adult provincial court in the Sentencing Database (over 300,000 cases). Chapter 5 examines those cases resulting in a sentence of imprisonment in more detail.

FIGURE 4: MOST SERIOUS SANCTION IMPOSED FOR CRIMINAL CODE CONVICTIONS IN ADULT PROVINCIAL COURT SIX JURISDICTIONS, 1991 & 1992



Source: Table 4: Case Based

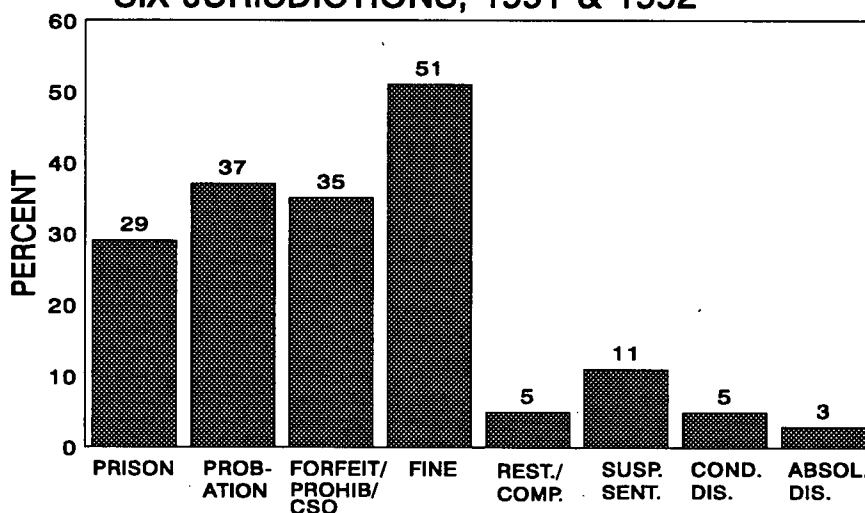
Intermediate sanctions such as probation, fines, and prohibition orders were the most serious sentences imposed for 68% of total convictions, and absolute discharge was imposed for the remaining 3% (although a sentence of "discharge" is legally not a conviction, it is included in this study). The intermediate sanctions were distributed as follows: 27% of offenders convicted of a Criminal Code offence received probation as the most serious sentence, 21% received a fine, and 19% received a prohibition / confiscation / community service order.

4.2 Frequency of All Sanctions Imposed

Table 5 shows the distribution of **all** sanctions imposed in adult provincial court, allowing for more than one sentence to be recorded for each conviction. Therefore, as contrasted to table 4, row percentages will total more than 100%. The numbers for imprisonment, being the most serious sentence, will be the same for table 5 as for table 4. However, a more complete picture of the use of intermediate sanctions is possible from table 5. "Intermediate" sanctions may be under-counted due to court system's limitations for the reporting of multiple sanctions.

Among all Criminal Code convictions, the most common intermediate sanction used was a fine. Although a fine was the "most serious sentence" imposed in 21% of convictions, it was imposed as a sentence in 51% of all convictions. Fines were followed by probation (37%), the group of sanctions including prohibition / confiscation / community service orders (35%), suspended sentences (11%), and restitution / compensation (5%). Five percent of all convictions received a sentence of conditional discharge, with 3% receiving absolute discharge (figure 5).

FIGURE 5: ALL SANCTIONS IMPOSED FOR CRIMINAL CODE CONVICTIONS IN ADULT PROVINCIAL COURT SIX JURISDICTIONS, 1991 & 1992



Source: Table 5 - Case Based

CHAPTER 5. IMPRISONMENT

5.1 Imprisonment Defined

Imprisonment refers to the physical confinement and restraint of an offender within a penal institution for the duration of the term of the sentence, subject to early release on parole or mandatory supervision. A term of imprisonment of two years or more is normally served in a federal penitentiary, less than two years in a provincial correctional facility. Sentences of 90 days or less may be served "intermittently", usually on weekends. When the offender is not in actual confinement during an intermittent sentence, he/she is subject to a probation order.

5.2 Frequency of the Imposition of Imprisonment

As mentioned earlier, one of the major concerns in the area of sentencing has been the perceived over-reliance on the use of imprisonment. **Of the 331,812 Criminal Code cases resulting in conviction on the Sentencing Database during 1991 and 1992, 29% resulted in a sentence of imprisonment.** Further, the three highest volume offences (assault, theft under \$1,000, and impaired driving) all had imprisonment rates of between 17% and 21%, which pulled the overall Criminal Code rate down. Although the rate of imprisonment for other federal statute convictions was lower (12% as a group), there was considerable variation within these offences: Narcotic Control Act (NCA) trafficking - 82%; NCA possession - 15%; other NCA offences - 50%; Food and Drugs Act - 39%; and, "other" federal statutes - 3%.

When sanctions are presented according to the "most serious sanction" imposed (table 4), imprisonment appears to be the most frequently used sanction. However, when **all** sanctions are included for total Criminal Code offences (table 5), imprisonment was found to be used less frequently than fines (imposed for 51% of all convictions), probation (37%) and forfeiture/prohibition/community service orders (35%).

The following seven offences all showed an imprisonment rate of at least 80%: robbery, sexual assault with weapon/causing bodily harm, aggravated assault, use of firearm during commission of offence, escaping custody, unlawfully at large, and drug trafficking. A sentence of imprisonment was imposed at least 50% of the time for one-third of the 65 selected offences.

Conversely, the following offences showed an imprisonment rate of 10% or less: gaming and betting offences, "other" morals offences, causing disturbance/trespassing, breach of recognizance, and "other" federal statutes.

Although the frequency of imprisonment is one measure of the "relative" seriousness of an offence, the length of imprisonment must also be considered. Offences such as manslaughter, forcible confinement and procuring for prostitution, while not showing the highest rates of incarceration, do show relatively long median sentence lengths (table 6). For example, while two-thirds of manslaughter convictions resulted in a sentence of imprisonment, the median sentence length was 4 years. Conversely, an offence such as being unlawfully at large had a high rate of incarceration (89%), while showing a fairly short median sentence length (30 days). Sections 5.5, 5.6 and 5.7 describe sentence length in more detail.

5.3 Comparison of Single Charge and Multiple Charge Cases

The standard unit for analysis in this report is the "case", with the most serious offence in each case defining that case. This means that the sentencing characteristics for break & enter (for example) combine those cases involving only a single charge/count of B&E with those cases where there may have been other B&E convictions or convictions on other charges in the same case.

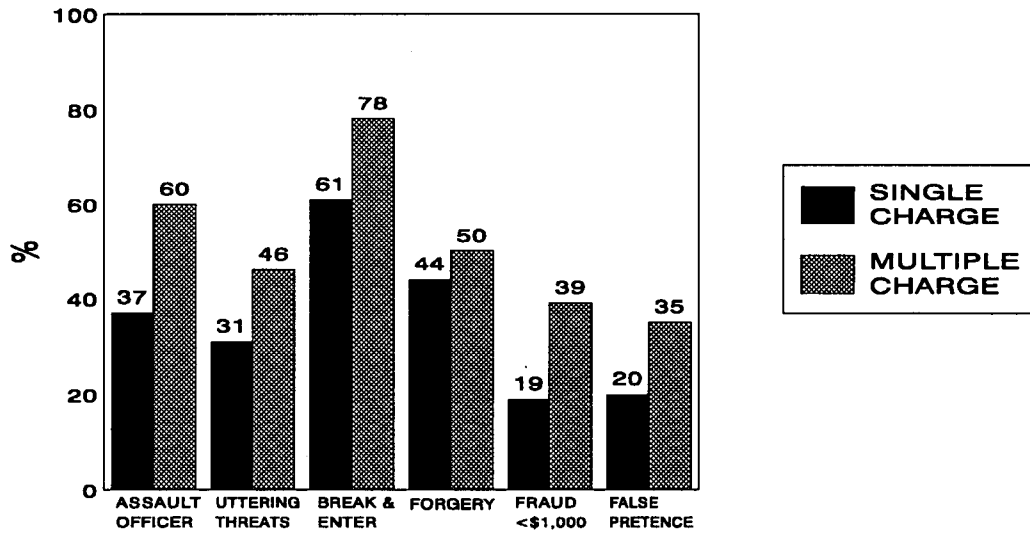
In the Sentencing Database, 77% of the cases resulting in conviction involved only one conviction, with the remaining 23% involving two or more convictions. In order to examine the effect, if any, of other related convictions on the sentence imposed on the most serious offence, 10 offences have been selected for analysis. For all 10 of these offences, at least 40% of the cases resulted in multiple convictions.

Table 7 and figure 6 below show that the incarceration rate for multiple charge cases is substantially higher than for single charge cases for each of the 10 offences. This pattern was evident in each jurisdiction. Similarly, the median sentence length ranged from two to three times higher for cases with multiple convictions than for cases with single convictions. These findings should be kept in mind when interpreting the sentencing characteristics contained throughout this report.

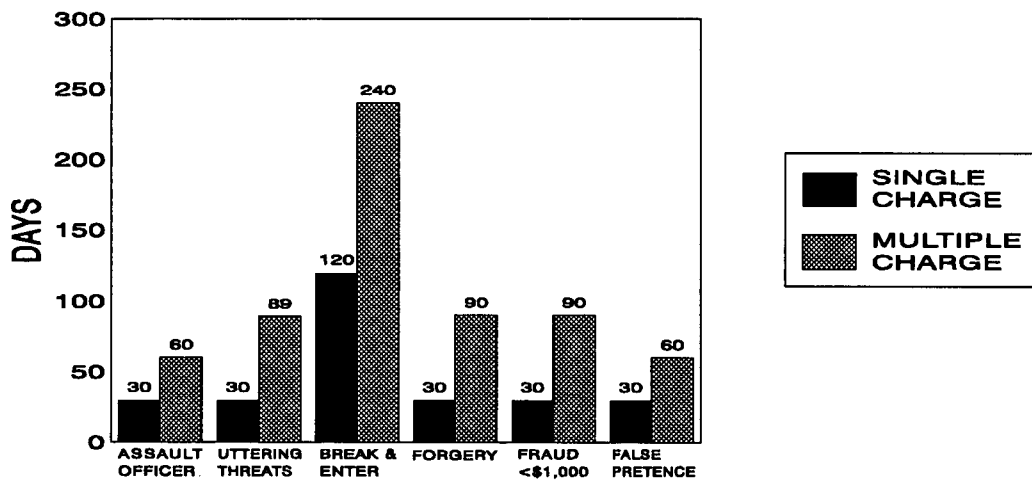
As an example to explain figure 6, the **incarceration rate** for "assaulting a peace officer" was 37% for single charge cases and 60% for multiple charge cases (with "assaulting a peace officer" being the most serious offence in the case). The **median sentence length** was 30 days for single charge cases and 60 days for multiple charge cases.

FIGURE 6: SENTENCING CHARACTERISTICS FOR SINGLE AND MULTIPLE CHARGE CASES,
ADULT PROVINCIAL COURT, SIX JURISDICTIONS, 1991 & 1992

INCARCERATION RATE



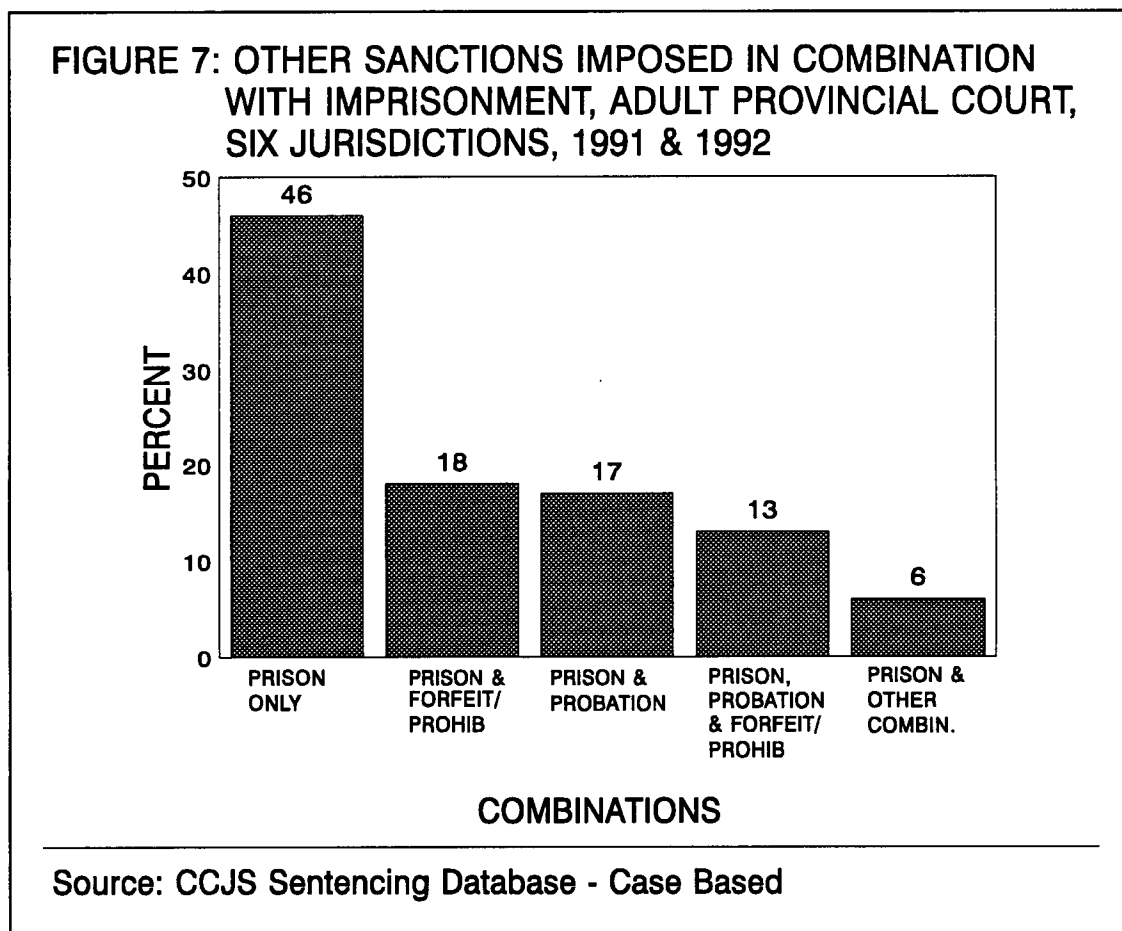
MEDIAN SENTENCE LENGTH



SOURCE: TABLE 7: CASE BASED

5.4 Other Sanctions Imposed in Combination With Imprisonment

Figure 7 shows that four unique combinations of sanctions accounted for 94% of all combinations of sanctions involving imprisonment. The frequency of these combinations varies by specific offence. As there are 65 offences being examined in this study, the results at this level are too numerous to include in this report.



5.5 Average Incarceral Sentence Length

Table 8 presents the "average" sentence length in terms of the mean, median and mode, the mid-80 percentile range of sentences, as well as the coefficient of variation for each of the 65 selected offences (see Appendix "C"- Methodology for detailed descriptions and comparisons of these measurements).

Comparison of median, mean, mode - In this report, the **median** has been chosen as the most meaningful indicator of central tendency. It represents the middle value when all values are ordered in terms of magnitude. In other words, 50% of the values fall below the median and 50% fall above the median. However, other measures of central tendency have been presented in order to inform the reader as to how the choice of one method over another can lead to quite different results.

The **mean** represents the sum of all values divided by the total number of values. The major limitation of the mean for sentencing data is that it can be influenced by only a few extreme values, such as "life" sentences. It can be seen from table 8 that the mean sentence length is longer than the median sentence length for all offences (except keeping bawdy-house which has only 15 cases). As an example, the median sentence length for sexual assault is 120 days or 4 months. However, the mean sentence length is 297 days or almost 10 months. This difference can be explained by examining the detailed sentence length categories in table 9: 11% of sentences imposed for persons convicted of sexual assault were for a period of 2 years or greater. While these long sentences have relatively little impact on the calculation of the median, they will inflate the mean.

The **mode** is defined as the one value which occurs most frequently. As an example, the most common sentence length imposed on persons convicted of sexual assault is 90 days, as compared to the median value of 120 days. Although the mode can still be a useful indicator of sentencing distribution, it is limited in its measurement of central tendency if it does not occur near the centre of the data (eg. frequent sentences of 1 day). There were actually 9 offences for which the most frequent sentence imposed was 1 day. The median sentence length for these offences ranged from 14 days (soliciting and causing a disturbance) to 60 days (forgery). For 31 of the 65 selected offences in table 8, the mode was equal to the median. In other words, the most common sentence length imposed also happened to be the middle value for almost one-half of the offences under study. In most cases where the mode was not equal to the median, the mode was lower.

Median Sentence Length - For all Criminal Code convictions resulting in prison in the six jurisdictions under study in 1991 and 1992, the median sentence length was 30 days. The 90th percentile was 240 days (table 8), meaning that 90% of sentences imposed were for a period of 8 months or less.

Of the 65 selected offences, four offences showed median sentence lengths of at least one year: manslaughter (4 years), sexual assault with weapon/causing bodily harm (2 years), robbery (1 year 9 months) and use of firearm during commission of offence (1 year, which is also the minimum penalty for this offence).

Four offences showed median sentences of less than 30 days: fail to appear in court (15 days), soliciting/obtaining services for prostitution (14 days), causing a disturbance / trespassing (14 days), and breach of recognizance (12 days).

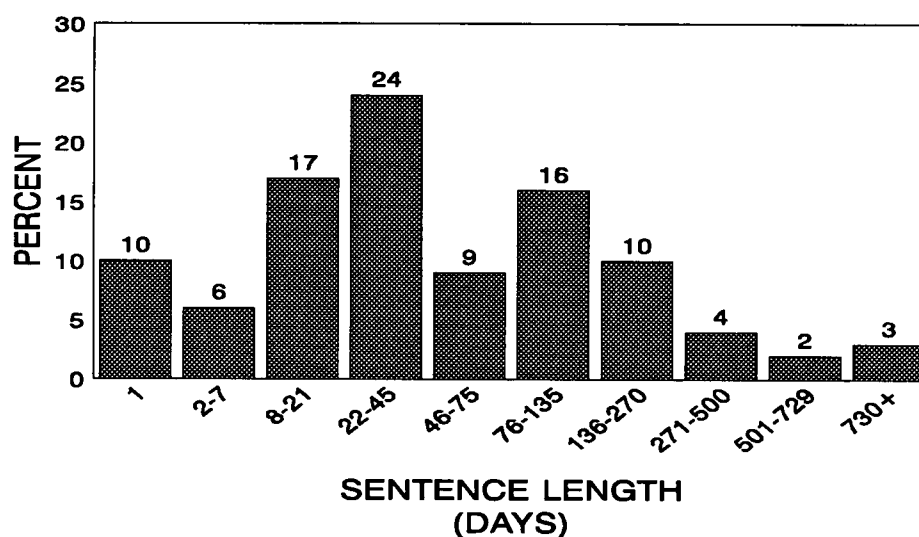
5.6 Sentence Length Categories

Table 9 groups sentence lengths imposed in adult provincial court into 10 categories. As sentence lengths tend to be in "rounded" figures, the categories have been selected so as to include common sentence lengths in the middle of each category as follows:

- 1 day: 1-day sentences are frequent enough (10%) to justify own category;
- 2- 7 days: sentences of 1 week (7 days) are most common;
- 8- 21 days: sentences of 2 weeks (14 or 15 days) are most common;
- 22- 45 days: sentences of 1 months (30 days) are most common;
- 46- 75 days: sentences of 2 months (60 days) are most common;
- 76-135 days: sentences of 3 months (90 days) are most common;
- 136-270 days: sentences of 6 months (180 days) are most common;
- 271-500 days: sentences of 1 year (365 days) are most common;
- 501-729 days: allows for an upper value of 2 years less a day (729 days); and,
- 730+ days: accounts for all sentences to federal penitentiaries.

Although the frequency of each category depends on the size of the category to some extent, the 22-45 day period was the most common sentence length imposed on persons convicted of Criminal Code offences (24%). The majority of the sentences in this category were for 30 days. A further 17% of sentences were for a period of 8-21 days (generally sentences of 2 weeks), and 16% were for between 76 and 135 days (generally sentences of 90 days). Only 3% of sentences imposed in adult provincial court were to a federal penitentiary for a period of 2 years or more (figure 8). Section 12.2 discusses sentencing variation among the 65 selected offences to determine if some offences show more consistent sentence lengths than others.

FIGURE 8: INCARCERAL SENTENCE LENGTH IMPOSED FOR CRIMINAL CODE CONVICTIONS IN ADULT PROVINCIAL COURT, SIX JURISDICTIONS, 1991 & 1992



SOURCE: TABLE 9 - CASE BASED

5.7 Sentences of One day

For a number of offences, it was not uncommon to be sentenced to just 1 day in prison: soliciting/obtaining services for prostitution (30%), causing disturbance/trespassing (29%), and fail to appear in court (25%). One area of interest is the relationship between sentences of 1 day and S. 718 of the Criminal Code, which states that "an accused shall not be fined in lieu of imprisonment where the offence of which he is convicted is punishable by a minimum term of imprisonment". Further, "an accused who is convicted of an indictable offence punishable with imprisonment for more than five years may be fined in addition to, but not in lieu of, any other punishment".

In other words, the Code does not allow a fine to be imposed unless it is accompanied by another type of sentence for these types of offences. In order to circumvent this statutory requirement, judges often resort to the imposition of a fine plus one day in prison⁶. To examine this further, all charges resulting in both a fine as well as a prison sentence of 1 day were selected, and the offences were examined to determine if there was either a minimum penalty or a maximum penalty of more than 5 years.

The results showed that of the 10,334 offenders (using the MSO rule) sentenced to 1 day of imprisonment, 14% also received a fine sentence. Of this group receiving a fine, 73% of the offenders were convicted of an offence having a maximum penalty of more than 5 years or a minimum penalty of imprisonment. By comparison, the overall percentage in the database represented by offences having a maximum penalty over 5 years or a minimum penalty of imprisonment was 17%.

Another way of examining this issue was to determine what percentage of the 3,733 cases having a sentence of both imprisonment and fine, resulted in a prison sentence of 1 day. Almost 40% of these sentences were for a period of one day, compared to the overall figure of 10% for one day sentences.

The results of both examples above appear to indicate that, for those offenders who receive both a fine sentence as well as a sentence of imprisonment for 1 day, the imposition of imprisonment may be done primarily to adhere to Criminal Code provisions. In other words, if S. 718 did not exist, it is possible that these offenders would have received a fine sentence only.

⁶ Sentencing Reform, A Canadian Approach, - Report of the Canadian Sentencing Commission, 1986, p.164.

5.8 Offences Having a Minimum Punishment of Imprisonment

Very few Criminal Code offences carry a minimum punishment of a period of imprisonment. Of the 65 offences under study, only S. 85 offences (using a firearm during commission of offence) carry a minimum term of imprisonment as follows: 1st time offenders must be sentenced to at least 1 year; and, 2nd and subsequent offences must receive at least 3 years. While there are other offences which call for a minimum jail term for 2nd and subsequent offences (eg. impaired driving), these cannot be examined as the level of detail coded by the jurisdictions was not sufficient to determine 1st, 2nd or subsequent offences.

Table 8 reveals some interesting information on sentences imposed for S. 85 offences in provincial court. Although the minimum term of imprisonment is one year, both the median and modal sentence lengths were for exactly one year. Clearly, sentences imposed for this offence do not normally exceed the minimum punishment: only 19% were for a period greater than one year.

5.9 Maximum Penalties

All Criminal Code offences carry a maximum penalty. There are only 6 different maximum penalties under the Code: 6 months for summary offences, and 2 years, 5 years, 10 years, 14 years or life for indictable offences. In addition, Narcotic Control Act - possession offences carry a maximum penalty of 7 years.

One issue identified in the introduction to this report was that the maximum penalties currently outlined in the Code provide little guidance as to what sentence might be expected. Two questions need to be answered in relation to this issue: how frequently are maximum penalties imposed, and what is the relationship between the average sentence lengths and the maximum penalties?

How Frequently Are Maximum Penalties Imposed? - Table 6 shows that maximum penalties are imposed very rarely in provincial court. Of the 52 offences carrying an identifiable maximum penalty, 31 never had the maximum penalty imposed, 17 had the maximum penalty imposed less than 1% of the time, and only 4 offences (listed below) resulted in a maximum penalty over 5% of the time:

<u>Offence</u>	<u>Maximum Penalty on Indictment</u>	<u>Frequency Maximum Penalty Imposed</u>
Gaming and betting offences	2 years	10%
Harassing/indecent phone calls	6 months	7%
Indecent acts/exposure	6 months	5%
Fail to comply probation order	6 months	5%

Two important points should be noted concerning this discussion. First, this study covers only "provincial" courts, thereby excluding "superior" courts. Superior courts tend to hear a more serious caseload as compared to provincial courts. As only the most serious cases normally receive the maximum penalty prescribed under the Code, chances are that the frequency of maximum penalties being imposed would be higher in the superior courts.

Second, many offences are "hybrid" offences, meaning that they can be proceeded with summarily or by indictment. Summary offences have a maximum penalty of 6 months, while indictable offences have maximum penalties ranging from 2 years to life. This analysis checks the sentences imposed on "hybrid" offences against the maximum penalty on indictment only. This means that "hybrid-summary" offences receiving sentences of 6 months will not be counted as having received the maximum penalty.

What is the relationship between median sentence lengths and maximum penalties? - Table 6 shows both the median sentence length for each of the 65 offences as well the maximum penalty on indictment. In general, the greater the maximum penalty, the longer the median sentence length:

<u>Maximum Penalty on Indictment</u>	<u>Range of Median Sentence Length For Offences Having This Max. Penalty</u>
6 months	12 - 30 days
2 years	15 - 90 days
5 years	30 - 60 days
10 years	30 - 300 days
14 years	30 days to 2 years
life	90 days to 4 years

However, certain offences can be seen to have a relatively short median sentence length when compared to their maximum penalties. Some of the largest variances are as follows:

<u>Offence</u>	<u>Median Sentence</u>	<u>Max. Penalty on Indictment</u>
NCA trafficking	90 days	life
Break and enter	180 days	life
Personation with intent	30 days	14 years
Forgery	60 days	14 years
Obstructing justice	30 days	10 years
Mischief-prop. damage >\$1,000	30 days	10 years

Current sentencing reform proposals recommend the increased use of "**intermediate sanctions**". Intermediate sanctions are generally defined as dispositions between imprisonment and absolute discharge, and include probation, forfeiture, confiscation, disability and prohibition orders, community service orders, fines, restitution, compensation, suspended sentences and conditional discharges. Intermediate sanctions may be under-counted due to court system's limitations for the reporting of multiple sanctions.

Chapters 6-11 address two specific questions: (i) to what degree are "intermediate sanctions" currently being used in sentencing and for what types of offences? and, (ii) are these sanctions imposed independently or do they tend to be used in conjunction with other sanctions?

CHAPTER 6. PROBATION

6.1 Probation Defined

Probation consists mainly of supervising offenders in the community through social work methods. Supervision is usually carried out by professional social workers employed by government correctional agencies or by volunteer probation officers. It is generally recognized that probation caseloads are more overcrowded than prisons/correctional centres, and that probation caseloads are too large to permit probation officers to do any serious work with most offenders.⁷

Where the accused is convicted of an offence, the court may suspend the passing of sentence and direct that the accused be released on the conditions prescribed in a probation order or, in addition to fining or sentencing the accused to a term not exceeding two years, direct that the accused comply with the conditions prescribed in a probation order. The maximum duration of a probation order is three years.

Certain conditions are mandatory in a probation order: that the accused shall keep the peace and be of good behaviour and shall appear before the court as required. Other conditions that **may** be prescribed include: being under the supervision of a probation officer; abstaining from the consumption of alcohol or from owning, possessing or carrying a weapon; or, making restitution or reparation to an aggrieved or injured person.

⁷ Taking Responsibility - Report of the Standing Committee on Justice and Solicitor General on its review of sentencing, conditional release and related aspects of corrections (David Daubney, M.P. - Chairman), August 1988, p. 103.

6.2 Frequency of Probation in Sentencing

All sanctions - Probation was ordered in **37% of all Criminal Code convictions and 26% of all Narcotic Control Act and Food and Drugs Act convictions in adult provincial court in the six jurisdictions under study** (table 5). Probation was most commonly used as a sanction for the following offences: sexual touching of child under the age of 14 (89% of all convictions); uttering threats of bodily harm (81%); harassing / indecent phone calls (76%); and, sexual assault (75%).

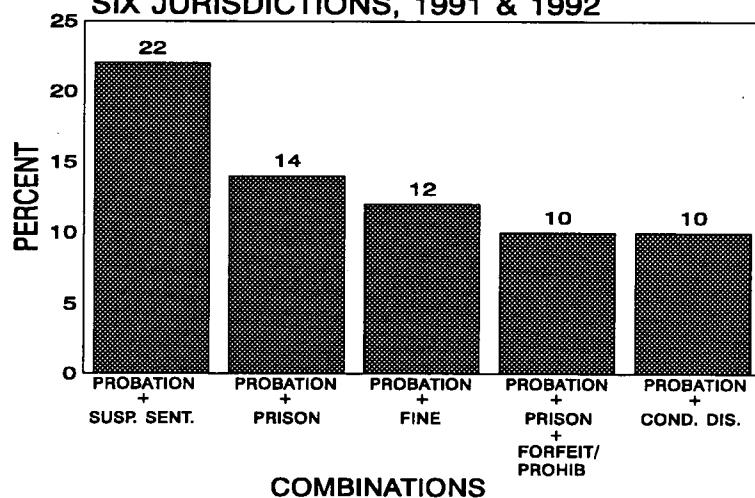
Probation was infrequently used as a sanction for the following offences: being unlawfully at large (9%); manslaughter (10%); escaping custody (11%); refusing to provide a breath sample (12%); breach of recognizance (14%); and, impaired driving (16%).

Most serious sanction - This study ranks probation as the second most serious sanction behind imprisonment. Clearly, the frequency of probation as the most serious sentence imposed will be lower in table 4 than in table 5: **probation was the most serious sentence imposed in 27% of all Criminal Code convictions and 16% of all Narcotic Control Act and Food and Drugs Act convictions**. Probation was the most serious sentence imposed for over 50% of convictions for the following offences: assault, uttering threats of bodily harm, harassing/indecent phone calls, fraud under \$1,000, and mischief (both over and under \$1,000 property damage).

6.3 Other Sanctions Imposed in Combination With Probation

The sentence most commonly imposed in combination with probation was a suspended sentence (30%), followed by the group of sanctions including forfeiture/confiscation, disability and prohibition orders and community service orders (28%), imprisonment (26%), a fine (26%), conditional discharge (13%) and compensation/restitution (12%). Note that these percentages add to more than 100% due to the possibility of multiple sanctions being imposed for a single conviction. However, Figure 9 displays unique combinations of sentences which would total to 100% if all combinations were shown.

FIGURE 9: OTHER SANCTIONS IMPOSED IN COMBINATION WITH PROBATION, ADULT PROVINCIAL COURT, SIX JURISDICTIONS, 1991 & 1992

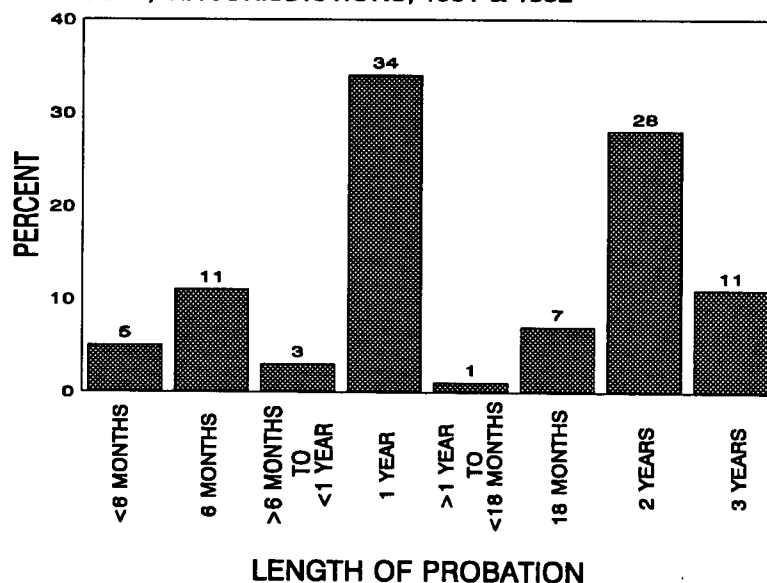


SOURCE: CCJS SENTENCING DATABASE- CASE BASED.

6.4 Length of Probation

Due to data limitations with regard to the aggregate length of probation for each accused for each case, this section of the analysis will focus on the **charge** level. The maximum length of probation which can be ordered by the court is three years. This maximum was imposed on 11% of all charges receiving probation. Other common probation lengths were as follows: 6 months (11%), one year (34%), 18 months (7%), 2 years (28%); the remaining 9% were for other lengths (figure 10).

FIGURE 10: PROBATION LENGTHS IMPOSED IN ADULT PROVINCIAL COURT, SIX JURISDICTIONS, 1991 & 1992



SOURCE: CCJS SENTENCING DATABASE: CHARGE BASED.

6.5 Failure to Comply With Probation Order

Section 740 states that an accused who is bound by a probation order and who wilfully fails or refuses to comply with that order is guilty of an offence punishable on summary conviction. On the Sentencing Database there were approximately 33,000 charges resulting in conviction under Section 740. Slightly less than one half of these charges (14,630) represented the most serious offence in the case.

Table 5 reveals that 43% of offenders convicted for fail to comply with probation order were sentenced to imprisonment, 42% received a fine (either alone or in combination with another sanction), 32% received probation, and 31% received a forfeiture / prohibition / community service order.

In one-half of all cases involving convictions for this offence, failure to comply with probation order was the only conviction in the case. In other words, 50% of all convictions under Section 740 are in combination with convictions for other offences.

CHAPTER 7. FORFEITURE, PROHIBITION, COMMUNITY SERVICE ORDERS

7.1 Type of Sanctions Included in This Category

This chapter focuses on the group of sanctions which include forfeiture/confiscation, disability and prohibition orders, and community service orders. With the exception of community service orders, these sanctions cannot be examined individually. The majority of jurisdictions included in this study report their court data through the Centre's ACCS survey, which aggregates these sanctions into one category. Although "community service orders" are currently not a sanction in their own right (they are made under the terms of a probation order), they have been included in this category for the purposes of this report.

Some of these orders fall within the discretion of the judge to impose, while others are mandatory and must be made in addition to the other punishment prescribed for the offence.

Forfeiture and confiscation orders - The following types of items may be ordered to be forfeited by the court: weapons, explosives, narcotics, property obtained illegally, counterfeit money, telecommunication devices used for illegal purposes, obscene material, hate propaganda and gaming material.

Disability and prohibition orders - There are two major types of prohibition orders: (i) from possessing firearms, ammunition or explosive substances (convictions under S. 85: use of firearms or other weapons during commission of offence); and, (ii) from operating a motor vehicle (convictions under various motor vehicle offences). Another type of restriction included in this category is a "peace bond", where the offender is ordered into a recognizance to keep the peace and be of good behaviour for a certain period of time. This bond is most commonly used when it is feared that an offender will cause injury to another or another's family, or will damage another's property.

Community service orders - Community service orders (CSO) must currently be made as part of a probation order. However, proposed sentencing reforms from Justice Canada call for community service orders to be made a sanction in their own right.⁸ A CSO cannot be ordered if the offender is convicted of an offence with a minimum punishment. Under the terms of the CSO, the offender is ordered to perform a specific number of hours of community service without pay. Examples of typical community service work include helping the underprivileged or disadvantaged, shovelling snow, cleaning parks, and working in children's centres.

⁸ Directions for Reform - Sentencing, Department of Justice Canada, 1990, p.16.

7.2 Frequency of the Use of Forfeiture, Prohibition Orders and CSOs

All sanctions - **This group of sanctions was used in 35% of all Criminal Code convictions and 19% of all Narcotic Control Act (NCA) and Food and Drugs Act (FDA) convictions.** However, these sanctions tended to be concentrated for certain offences (table 5). For example, 83% of breach of recognizance convictions received one of these sanctions, most likely the "peace bonds" described above.

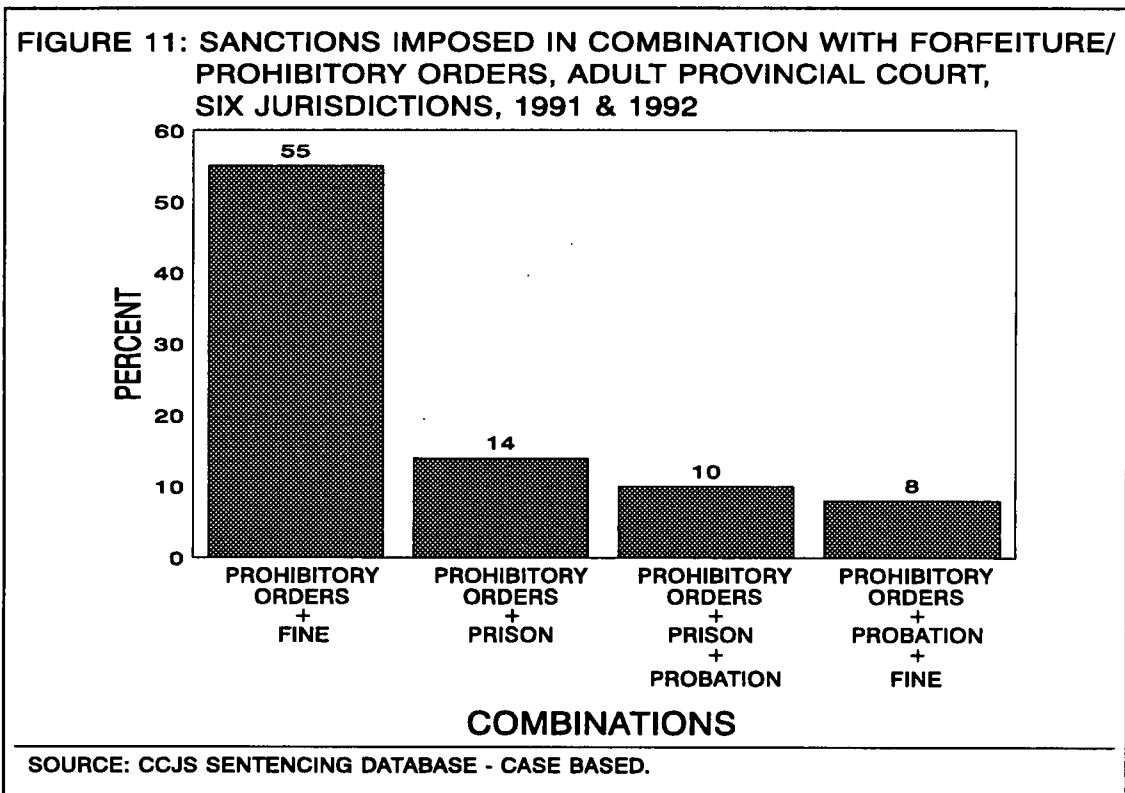
Over 50% of all convictions for motor vehicle offences and over 80% of all convictions for impaired driving received one of these sanctions. Section 259 of the Criminal Code states that when an offender is convicted of impaired driving, it is mandatory that the offender is prohibited from operating a motor vehicle for a period ranging from a minimum of 3 months to a maximum of 3 years, in addition to any other punishment. Forty-two per cent of all convictions for use of firearm during commission of offence resulted in either forfeiture of a weapon or a prohibition order from possessing a weapon or ammunition.

One offence (soliciting/obtaining services for prostitution) rarely resulted in one of these sanctions being imposed on conviction (1% of all convictions).

Most serious sanction - **This group of sanctions represented the most serious sanction imposed for 19% of all Criminal Code convictions and 9% of all NCA and FDA convictions (table 4).** There were only three offences where these sanctions were the most serious imposed for the majority of all convictions: **breach of recognizance (78%), refuse to provide breath sample (69%), and impaired driving (60%).** Although firearm restrictions were commonly imposed for convictions for use of firearm during commission of offence, these sanctions were never the "most serious sanction", due to the high frequency of imprisonment imposed for this offence.

7.3 Other Sanctions Used in Combination With Forfeiture and Prohibition Orders

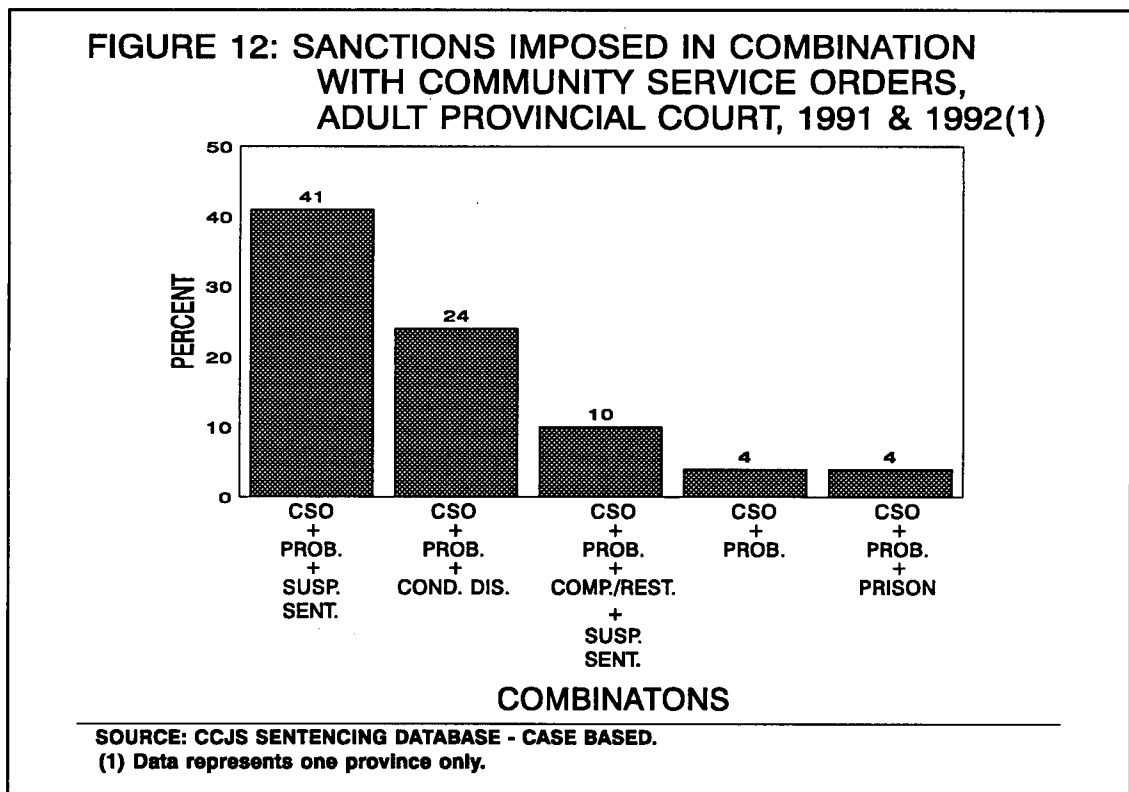
Seventy-one per cent of all forfeiture and prohibition orders were imposed in combination with a fine. Just over one-quarter (26%) were imposed in combination with imprisonment, and 23% were imposed in combination with probation. Note that these percentages add to more than 100% due to the possibility of multiple sanctions being imposed for a single conviction. However, figure 11 displays unique combinations of sanctions which would total to 100% if all combinations were shown.



7.4 Community Service Orders (one province only)

This sanction may be under-counted due to court system's limitations for the reporting of multiple sanctions. Community service orders (CSOs) were imposed in 4% of all Criminal Code convictions. This sanction was most commonly imposed for breach of recognizance convictions (60%). Other offences which received a CSO as a sentence over 10% of the time included fraud over \$1,000 (14%), theft/forgery of a credit card (12%), and theft over \$1,000 (11%).

As described in Section 7.1, a CSO is not a sanction on its own: it must be made as part of a probation order. However, CSOs can be ordered in combination with other sentences in addition to probation: only 4% of sentences were for a CSO and probation only. Other sanctions used in combination with CSOs were suspended sentences (53%), conditional discharge (27%) and restitution (15%). The single most common unique combination involving CSOs was for a sentence of probation, community service order and a suspended sentence (41%) (figure 12).



CHAPTER 8. FINES

8.1 Overview of Fine Sentences

A fine refers to the offender being ordered by the court to pay a sum of money to the provincial treasurer or the Receiver General for Canada. A fine is an attractive sentencing option for judges: it does not disrupt the offender's social and economic ties with the community, it can be relatively inexpensive to administer, and it generates revenue for the administering government.

With two exceptions, the offender may be fined in lieu of any other punishment or in addition to that punishment: if the offender has been convicted of an offence which has either a minimum term of imprisonment, or a maximum penalty greater than five years, then the offender **cannot** receive a "fine alone" sentence (see section 5.7 for discussion of sentences of "1 day imprisonment + fine").

In sentencing an offender to payment of a fine, the judge may direct that a term of imprisonment be imposed in default of payment of the fine. Fine option programs are available in most provinces to enable offenders to work off their fines at a given rate per hour by performing work in the community. These programs reduce the risk of imprisonment for fine default and are usually negotiated "up-front" at the determination of ability to pay.

Justice Canada has recently called for reforms in the imposition and collection of fines, citing two major difficulties with the current legislation: first, a significant number of fines are never collected; and second, upon default in the payment of a fine, the courts have little discretion except to imprison the defaulting offender (fine default admissions accounted for one-third of all admissions to provincial custody in 1991/92⁹). The proposed reforms from Justice Canada include conducting a formal "means inquiry" at the point of sentencing to ensure that the offender has the resources to pay a fine, giving courts the power to collect fines through seizure of assets and garnishment of wages, and making the offender still liable for payment even after serving the term of incarceration for fine default¹⁰. Further, the proposed Contraventions Act will change a variety of federal statute offences into "ticketable" infractions.

The "victim fine surcharge" was introduced as a Criminal Code amendment in 1989 to establish a fund for crime victims by compelling offenders to pay 15% over and above

⁹ Adult Correctional Services in Canada - 1991-92 Statistical Report, Canadian Centre for Justice Statistics, Statistics Canada, pp. 30,31.

¹⁰ Directions for Reform - Sentencing, Department of Justice Canada, 1990, pp.13,14.

any fine amount imposed. The degree to which this surcharge is being utilized by judges is relatively unknown. It is also not known whether the surcharge is being imposed in addition to the amounts of fines previously imposed, or whether the quantum of the fine is being adjusted downward to partially accommodate the surcharge.

8.2 Frequency of the Use of Fines

All sanctions - Table 5 shows that fines were the most commonly used sanction in adult provincial court in the six jurisdictions under study. Fines were imposed in over one-half (51%) of all Criminal Code convictions, 58% of convictions under the Narcotic Control Act and Food and Drugs Act, and 95% of "other" federal statutes.

Fines were imposed most frequently for impaired driving (84%), fail to stop at scene of accident (76%), keeping common bawdy-house (72%), NCA possession (71%), and gaming and betting offences (69%). It should be noted that impaired driving convictions contain a minimum penalty of a \$300 fine for a first offence. However, for second and subsequent offences, there is a minimum punishment of imprisonment. The 84% figure for impaired driving could be explained by a number of repeat offenders sentenced to imprisonment without a fine.

Fines were rarely imposed for more serious offences such as sexual assault causing bodily harm (3%), robbery (4%), and use of a firearm during commission of offence (8%).

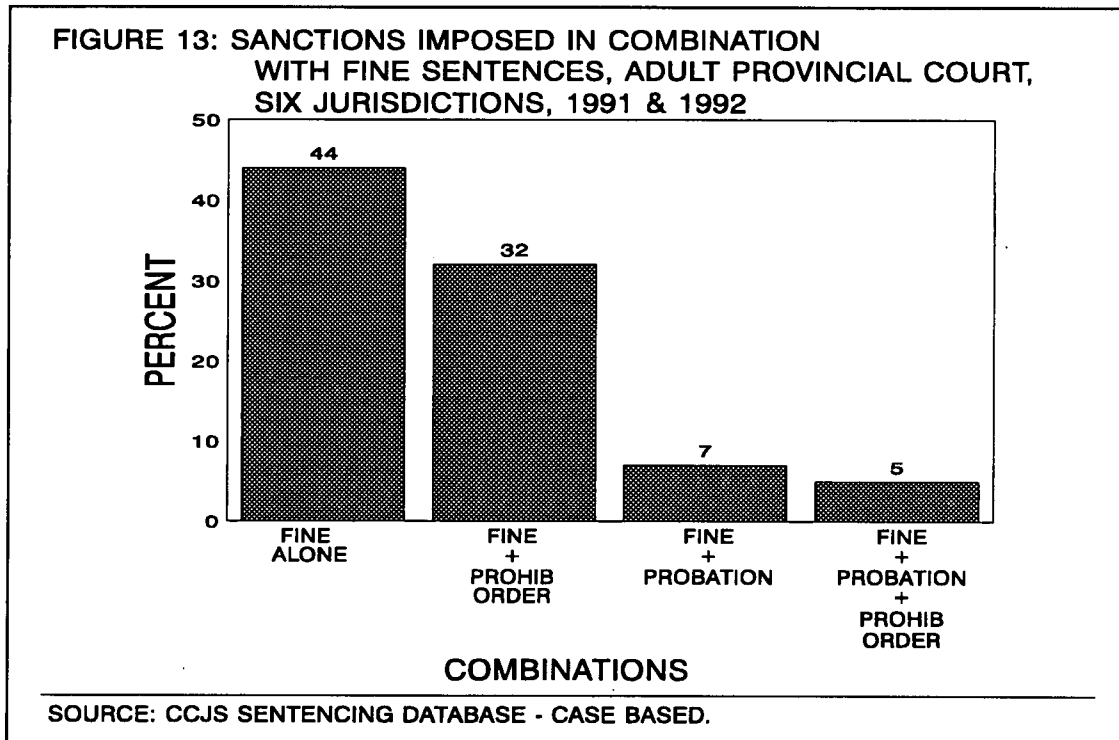
Most serious sanction - Table 4 shows that a fine was the most serious sentence imposed for 21% of Criminal Code convictions, 40% of NCA and FDA convictions, and 63% of "other" federal statutes.

Only three offences received a fine as their most serious sentence over 50% of the time: gaming and betting offences (54%), soliciting/obtaining services for prostitution (52%), and NCA possession (51%).

8.3 Other Sentences Imposed in Combination With Fines

Fines tended to be imposed in combination with forfeiture/prohibition orders (41% of the time) and with probation (15% of the time). Sentences of imprisonment were imposed in only 2% of all instances involving a fine. Many of these carceral sentences (39%) were for a period of one day only (see section 5.7).

Figure 13 shows that two unique combination of sentences involving fines accounted for over three-quarters of all fine sentences: fine alone (44%) and fine + forfeiture / prohibition orders only (32%).



8.4 Fine Amounts

The median fine amount imposed for all Criminal Code offences in adult provincial court was \$300 (table 10). Fine amounts (as measured by the mid-80 percentile) ranged from \$75-700. This represents the range of all fine amounts excluding the highest and lowest 10%.

Only two offences showed a median fine amount of over \$500: impaired driving causing bodily harm (\$827), and dangerous operation of a motor vehicle causing bodily harm (\$700). The median fine amount for impaired driving was \$500. It should be noted that impaired driving convictions carry a minimum fine of \$300 for a first offence.

Soliciting/obtaining services for prostitution showed the most restricted range of fine amounts, as measured by the mid-80 percentile range. The median fine amount for this offence was \$200, and 80% of fines were between \$100 and \$300.

CHAPTER 9. COMPENSATION / RESTITUTION

9.1 Compensation / Restitution Defined

Compensation and restitution both represent economic sanctions which redress the victim of an offence for loss, damage or injury suffered. There are generally two types of **compensation**: (i) the court may order the offender to compensate the victim for loss or damage to property suffered as a result of the commission of an offence; and, (ii) the offender could be ordered to pay compensation to a "bona fide" purchaser who had purchased goods in good faith not realizing that they had been illegally obtained.

Restitution refers to the financial reimbursement to the victim for either property damage or for personal injury as a result of the offence committed.

As these two terms tend to overlap in meaning, the term "compensation" will be used throughout the remainder of this chapter to refer to both these sanctions.

9.2 Frequency of the Use of Compensation

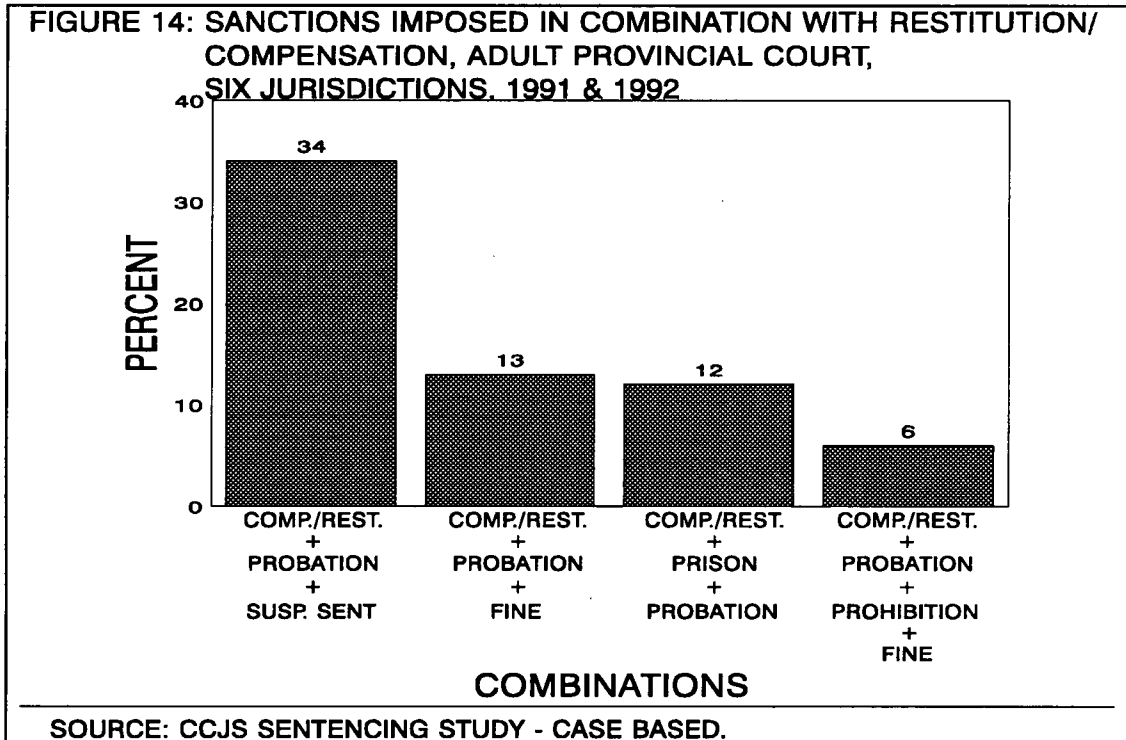
Compensation was imposed for 5% of all Criminal Code convictions and less than 1% of NCA, FDA and "other" federal statute convictions in adult provincial court in the six jurisdictions under study (table 5). As compensation was usually imposed in combination with probation (see section 9.3), it was rarely the "most serious sentence" imposed on an offender.

Since this sanction is primarily intended to compensate for property loss or damage, it is not surprising that it is most commonly used for property and fraud offences: between 25% and 50% of all convictions for fraud, false pretences and mischief-property damage resulted in a sentence of compensation.

9.3 Other Sentences Imposed in Combination With Compensation / Restitution

Compensation was used on its own as a sanction less than 1% of the time. Compensation was generally imposed along with a sentence of probation (92% of the time), suspended sentence (39%), a fine (27%) or imprisonment (17%).

The most common combination of sentences consisted of compensation in combination with probation and a suspended sentence (one-third of all sentences involving compensation). Two other combinations were common: compensation + probation + fine (13%), and compensation + prison + probation (12%) (figure 14).



9.4 Compensation Amounts

Table 11 shows the median amount of compensation ordered by the court for assault and property offences only. The remaining offence categories did not generate a sufficient volume of charges resulting in compensation for analysis. It should be noted that, while data for Quebec are included in the total number of cases receiving compensation, data were not available for compensation amounts.

The median compensation amount ordered for all Criminal Code convictions was \$250, slightly lower than the median fine amount of \$300. The offences receiving the highest median compensation amounts were theft over \$1,000 (\$1,207) and fraud over \$1,000 (\$1,825). However, there was a wider range of compensation amounts imposed compared with the range of fine amounts, as measured by the mid-80 percentile. Excluding the highest and lowest 10% of values, compensation amounts ranged from \$45 - \$2,992, compared to \$75 - \$700 for fines.

CHAPTER 10. SUSPENDED SENTENCES

10.1 Suspended Sentence Defined

Upon conditions set out in a probation order, a judge may choose to "suspend" the passing of sentence altogether. This sentence cannot be imposed for those offences with a minimum punishment. Should the offender breach any of the conditions of the probation order during its term, the offender is liable to be returned to court to be sentenced for the original offence.

It has been recommended that probation orders be made in conjunction with "true suspended sentences", where the sentencing judge would make an order of imprisonment for a specific period of time, suspend the enforcement of the order and substitute in lieu thereof a period of probation. If the conditions of probation were subsequently breached, then a simple "revocation hearing" could be held and the original sentence enforced.¹¹

10.2 Frequency of the Use of Suspended Sentences

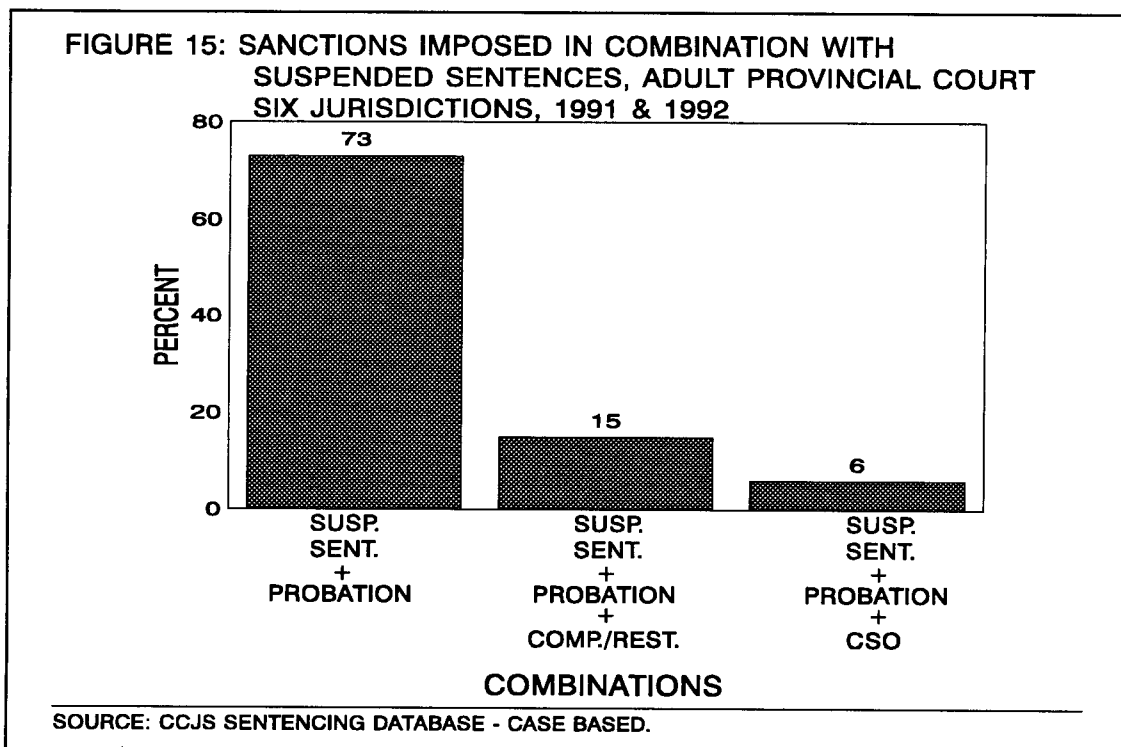
Table 5 reveals that suspended sentences were imposed for 11% of all Criminal Code convictions, 4% of all NCA and FDA convictions, and 2% of all "other" federal statute convictions in adult provincial court in the six jurisdictions under study. The four offences most frequently receiving a suspended sentence were: sexual touching of child under 14 (33% of all convictions); uttering threats of bodily harm (33%); mischief - property damage over \$1,000 (33%); and, fraud over \$1,000 (31%).

As mentioned above, a sentence cannot be "suspended" if the offence carries a minimum punishment. For example, table 5 shows that impaired driving convictions rarely received a suspended sentence. As a suspended sentence must always be part of a probation order, it can never be classified as the "most serious sentence" imposed on an offender.

¹¹ Taking Responsibility - Report of the Standing Committee on Justice and Solicitor General on its review of sentencing, conditional release and related aspects of corrections (D. Daubney, Chairman), August 1988, p. 104.

10.3 Other Sentences Imposed in Combination With a Suspended Sentences

A suspended sentence was imposed in combination with probation in virtually all instances, as per the Criminal Code provisions. Almost three-quarters (73%) of all sanctions involving a suspended sentence included probation only. Fifteen percent also included a sentence of compensation or restitution (figure 15).



CHAPTER 11. DISCHARGE

11.1 Conditional Discharge

If an accused is granted a conditional discharge, he/she does not stand convicted of the offence in respect of which the order is made, although the accused may appeal against the finding of guilt as if it were a conviction, and the Crown may appeal against the decision not to convict the accused as if it were an acquittal. An accused cannot receive a discharge if the offence carries either a minimum punishment or has a maximum penalty of imprisonment of 14 years or more.

"Conditional" discharge refers to the accused being discharged on the conditions prescribed in a probation order. If the offender commits an offence while still under probation, then the court may revoke the discharge and convict the offender of the original offence.

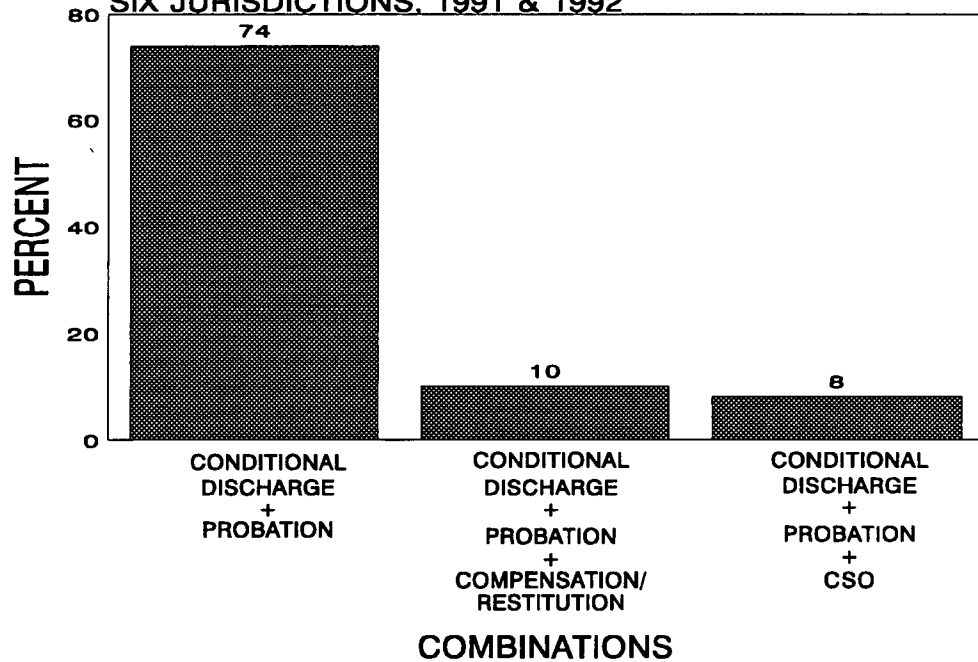
Frequency of the use of conditional discharge - Table 5 reveals that **conditional discharge was granted for 5% of all Criminal Code "convictions", 5% of all NCA and FDA "convictions", and less than 1% of all "other" federal statute "convictions"**. The offences which most frequently received a conditional discharge included gaming and betting (17%), harassing/indecent phone calls (15%), mischief - property damage over \$1,000 (15%) and under \$1,000 (10%), assault (12%), indecent acts/exposure (12%), and minor thefts (10-12%).

Sentences used in combination with conditional discharge - A conditional discharge was granted in combination with probation in virtually all instances, as per the Criminal Code provisions. Almost three-quarters of all sanctions involving a conditional discharge were for probation + a conditional discharge only (74%). Ten percent also included a sentence of compensation or restitution (figure 16).

11.2 Absolute Discharge

An absolute discharge differs from a conditional discharge described above in that it does not involve a probation order. **Absolute discharges were granted for 3% of all Criminal Code "convictions", 4% of all NCA and FDA "convictions", and less than 1% of all other federal statute "convictions"**. This type of sanction was most frequently granted for those found guilty of various morals offences (soliciting/obtaining services for prostitution (16%), indecent acts/exposure (14%), gaming and betting offences (9%), and other morals offences (14%)), as well as for minor thefts such as shoplifting (11%). As the granting of an absolute discharge does not involve any other sanction being imposed, these percentages also apply to the distribution by "most serious sentence".

**FIGURE 16: SANCTIONS IMPOSED IN COMBINATION WITH
CONDITIONAL DISCHARGE, ADULT PROVINCIAL COURT,
SIX JURISDICTIONS, 1991 & 1992**



SOURCE: CCJS SENTENCING DATABASE - CASE BASED.

CHAPTER 12. SENTENCING VARIATION

12.1 Sentencing Variation Defined

One of the major issues in sentencing today concerns sentencing variation. Sentencing variation can mean different things to different people. One of the best definitions of sentencing variation originates from a 1988 Canadian Sentencing Commission Report, which categorizes sources of variation into two groups: primary and secondary.¹²

"Primary" variation is defined as differences among judges as to the purposes or aims of the sentencing process. As an example, if two judges have differing views over the purpose of sentencing an offender (eg. deterrence vs rehabilitation), then this difference may manifest itself in disparate sentences for similar offenders.

"Secondary" variation arises from differences among judges in the importance attributed to various mitigating and aggravating factors associated with a particular case. For example, the offender's age may be a significant factor for one judge, while having no effect on the decision of another judge.

The existence of variation is not necessarily "unwarranted". Before attributing variation in sentencing to an unwarranted source, one has to assume comparable cases were sentenced in each court. It is always possible that differences in sentences between two cases involving the same offence could be attributed to differences in the characteristics of the cases, rather than to differences in sentencing practices.

Typical "aggravating" factors which may be taken into consideration by the sentencing judge include the previous criminal history of the offender, actual or threatened violence, the vulnerability of the victim, presence of multiple counts or multiple victims, and breach of trust. Some common "mitigating" factors include the impairment or diminished capacity of the offender (drugs, alcohol, mental problems, etc.), remorse shown by offender, age of offender, provocation by the victim, and evidence of a "minor role" (accessory) played by the offender.

Sentencing variation will be examined in this study in two areas: (i) variation among offence types; and, (ii) variation in the rate of incarceration and in the median sentence length among jurisdictions and major cities. The former area will compare the range of sentence lengths imposed on offenders convicted of selected offences to determine if certain offences tend to receive more consistent sentences than other offences.

¹² Empirical Research on Sentencing, Julian Roberts, Research Reports of the Canadian Sentencing Commission, Department of Justice Canada, 1988, pp. 17,18.

12.2 Variation in Sentence Lengths Imposed For Selected Offences

A simplistic approach to measure variation among offences would be to compare the size of the **mid-80 percentile range** for each of the 65 selected offences. This range is defined as the range of values excluding the lowest 10% and highest 10% of carceral sentences. However, the upper range of sentences for less serious offences is constrained by relatively low maximum penalties (eg. 6 months or 2 years). Therefore, this measurement technique is not appropriate when comparing less serious offences with more serious offences.

A second option would be to use the **standard deviation**. This measurement represents the "average" deviation of all sentence lengths from the "mean" sentence length. However, this technique is also limited in that, even if two offences have roughly the same proportional variation in sentence lengths, the offence having the higher mean sentence length will tend to have a larger standard deviation.

In order to overcome this latter limitation, the **coefficient of variation (c.v.)** has been selected as the most appropriate method of examining variation in sentence length. This is a unitless measure of relative variability and is defined as the ratio of the standard deviation to the mean. The higher the coefficient of variation, generally the greater the variability of the distribution.

Table 8 shows the c.v. for 57 selected offences (the c.v. calculation for the "other" categories has little significance). In terms of interpreting the relative range of results, it should be noted that the average c.v. for the 57 offences was 175. The offences which showed the largest variation in sentence lengths in the six jurisdictions combined were (with the c.v. in brackets): fail to appear in court (649), obstructing peace officer (512), causing a disturbance/trespassing (363), uttering threats (289), and theft under \$1,000 (270).

Those offences which tended to show relatively small variation in sentence lengths included: manslaughter (86), sexual assault with weapon/causing bodily harm (86), keeping a common bawdy-house (87 - based on only 15 cases, however), robbery (95), procuring for prostitution (106), and making harassing/obscene phone calls (108).

Clearly, some offences tend to receive more consistent sentences than others. However, so many different factors affect sentencing that it cannot be concluded through this study that this variation is necessarily "unwarranted".

12.3 Variation Among Jurisdictions

The Sentencing Database for this study is comprised of six jurisdictions: Prince Edward Island, Nova Scotia, Quebec, Ontario, Alberta and the Yukon. As mentioned in section 12.1, sentencing variation will, no doubt, be found among these jurisdictions. This variation could be as a result of many factors and is not necessarily "unwarranted".

Before any conclusions are drawn from these comparisons, the reader must keep in mind that there are previously mentioned coverage limitations which affect some of the jurisdictions. Halifax city court and Liverpool provincial court, representing approximately 15% of Nova Scotia's annual caseload, are not included in the data for **Nova Scotia**. In addition, the 133 municipal courts in **Quebec**, which hear summary federal charges (primarily traffic offences) are not included in the database. The existence of these courts may result in Quebec's provincial courts hearing proportionally "more serious" cases than provincial courts in other provinces.

Incarceration rates for total Criminal Code convictions in adult provincial court ranged from 18% in Nova Scotia to 61% in P.E.I. (table 12A). The median sentence length imposed for total Criminal Code offences ranged from 14 days in P.E.I. to 60 days in Quebec (table 13).

As each jurisdiction has a very different mix of caseload, this information has little utility unless it is examined at the offence level. For example, incarceration sentences were imposed on virtually all offenders convicted of impaired driving in P.E.I. (97%), compared to rates ranging from 6% to 35% in the remaining jurisdictions. However, the median sentence length for impaired driving in P.E.I. was 4 days in prison, compared to median lengths ranging from 21 to 90 days in the other jurisdictions. As impaired driving convictions represented one-third of total convictions in adult provincial court in P.E.I., the overall sentencing characteristics for P.E.I. will be influenced significantly by the characteristics of this one offence.

Eight offences have been selected for analysis in this section. For each offence, the incarceration rate and the median sentence length are examined together in graphical format. In addition, crime rates from the Uniform Crime Reporting (UCR) survey of CCJS have been included for additional contextual purposes. However, it should be pointed out that police and court boundaries do not necessarily correspond.

Examining figures 17 and 18 and tables 12A and 13, some jurisdictional patterns do emerge. Generally speaking, Prince Edward Island is characterized by higher than average rates of incarceration combined with relatively low median sentence lengths, particularly for offences against the person and for motor vehicle offences. Conversely, Quebec displays relatively low incarceration rates combined with longer than average median lengths.

It should be noted that the following sentencing characteristics represent offences which were the "most serious" in a case:

Sexual Assault (1,582 convictions) - Incarceration rates for sexual assault convictions were fairly constant in Nova Scotia, Quebec, Ontario and Alberta (ranging from 50% to 57%), but were higher (over 80%) in Prince Edward Island and the Yukon. The median sentence length ranged from 45 days in Prince Edward Island to 270 days (9 months) in Quebec (figure 17).

1991 crime rates (per 10,000 population) for this offence were lowest in Quebec (5.3) and highest in Alberta (14.4) and the Yukon (40.9).

Assault (30,469 convictions) - Incarceration rates for assault convictions were much lower than those noted above for sexual assault: 10% in Quebec, 11% in Nova Scotia, 19% in Alberta, 25% in Ontario, 31% in the Yukon, and 51% in Prince Edward Island. The median sentence length was considerably shorter than for sexual assault convictions, although the jurisdictional pattern was much the same: shortest in Prince Edward Island (15 days) and longest in Quebec (60 days), with all other jurisdictions showing a median of 30 days (figure 17).

1991 crime rates (per 10,000 population) for this offence were lowest in Quebec (36.9) and highest in Alberta (74.3) and the Yukon (223.4).

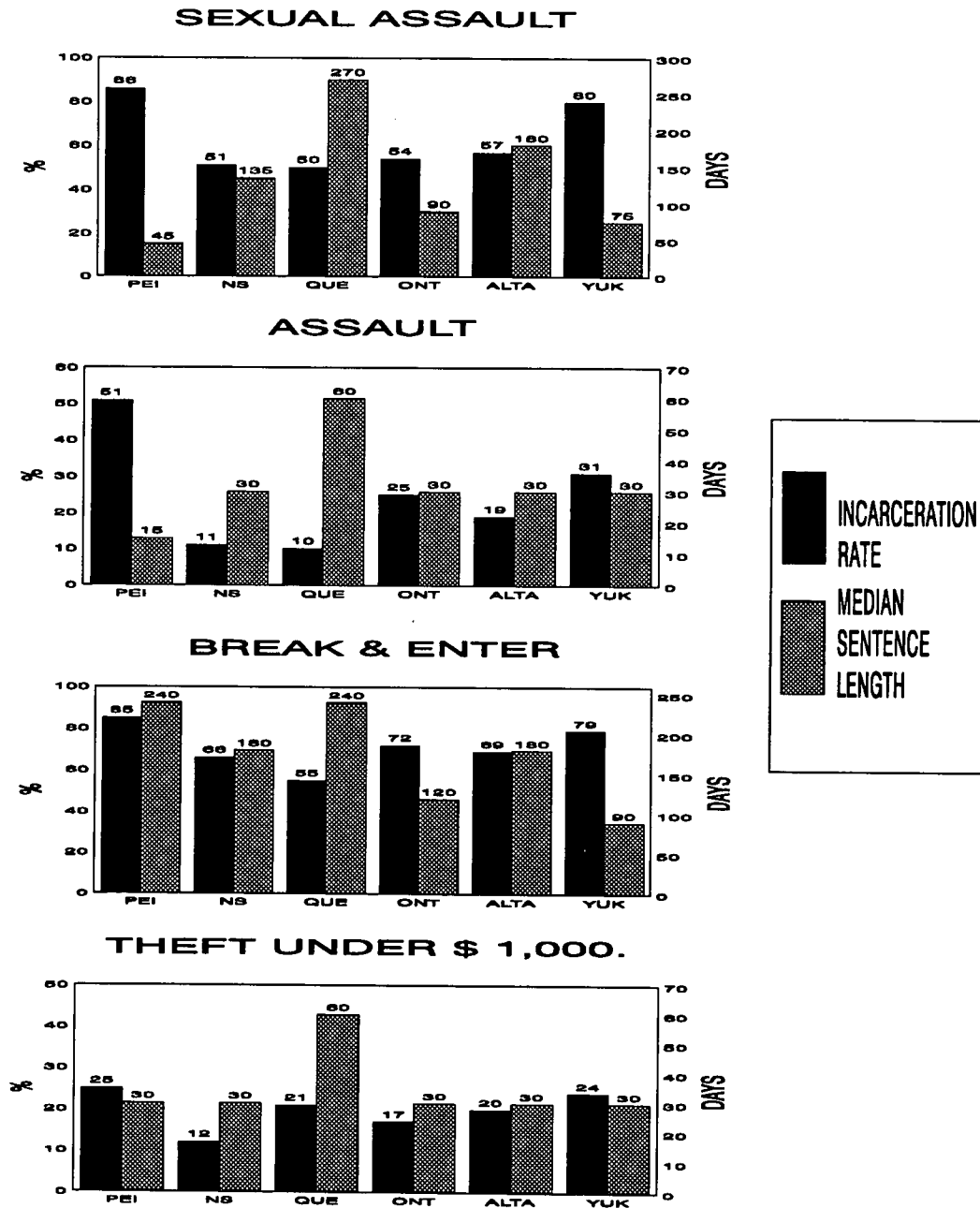
Break & Enter (11,921 convictions) - Sentencing data for break & enter (B&E) convictions should be interpreted very carefully. Cases involving break and enter frequently involve multiple counts. In this analysis, no distinction is made between those cases involving one B&E and those involving 2 or more convictions (see Section 5.3 for comparison of single vs multiple charge cases).

B&E incarceration rates were lowest in Quebec (55%), ranged from 66% to 72% in Nova Scotia, Ontario and Alberta, and were highest in the Yukon (79%) and Prince Edward Island (85%). The median sentence lengths ranged from 90 days in the Yukon to 240 days in Prince Edward Island and Quebec (figure 17).

1991 crime rates (per 10,000 population) for this offence were lowest in Prince Edward Island (108.4) and highest in Quebec (187.6) and the Yukon (188.8).

Theft < \$1,000 (46,287 convictions) - Incarceration rates for minor thefts were fairly consistent among the six jurisdictions and considerably lower than for B&E, ranging from 12% in Nova Scotia to 25% in Prince Edward Island. The median sentence length for

FIGURE 17: A COMPARISON OF SENTENCING PATTERNS AMONG SIX JURISDICTIONS
ADULT PROVINCIAL COURT, 1991 & 1992



Source: Tables 12A & 13 - Case based.

theft < \$1,000 convictions was 30 days in all jurisdictions except Quebec (60 days) (figure 17). 1991 crime rates (per 10,000 population) for theft < \$1,000 were lowest in Prince Edward Island (222.0) and highest in Alberta (419.1) and the Yukon (505.6).

Impaired Driving (78,259 convictions) - Impaired driving convictions accounted for almost one-quarter (23.6%) of all Criminal Code convictions in adult provincial court. If convictions for refusing to provide a breath/blood sample were included in this category, the percentage would increase to just over 25%.

Figure 18 shows a large amount of variation among jurisdictions in incarceration rates for this offence: 6% in Nova Scotia and Quebec, approximately 20% in Ontario and Alberta, 35% in the Yukon and 97% in Prince Edward Island. In P.E.I., prison sentences were imposed on virtually all offenders convicted of impaired driving in that province, including first time offenders. It should be noted that impaired driving carries a minimum penalty of a \$300 fine for first time offenders, a minimum term of imprisonment of 14 days for second time offenders, and a minimum 90 days imprisonment for subsequent offenders. Unfortunately, data were not available for this study to distinguish first time offenders from repeat offenders.

The median sentence length varied from 4 days in Prince Edward Island to 21 days in Ontario to 30 days in Quebec and Nova Scotia to 45 days in Alberta to 90 days in the Yukon. Although P.E.I. tends to incarcerate virtually all offenders convicted of impaired driving, these offenders tend to be sentenced to a relatively short period of imprisonment.

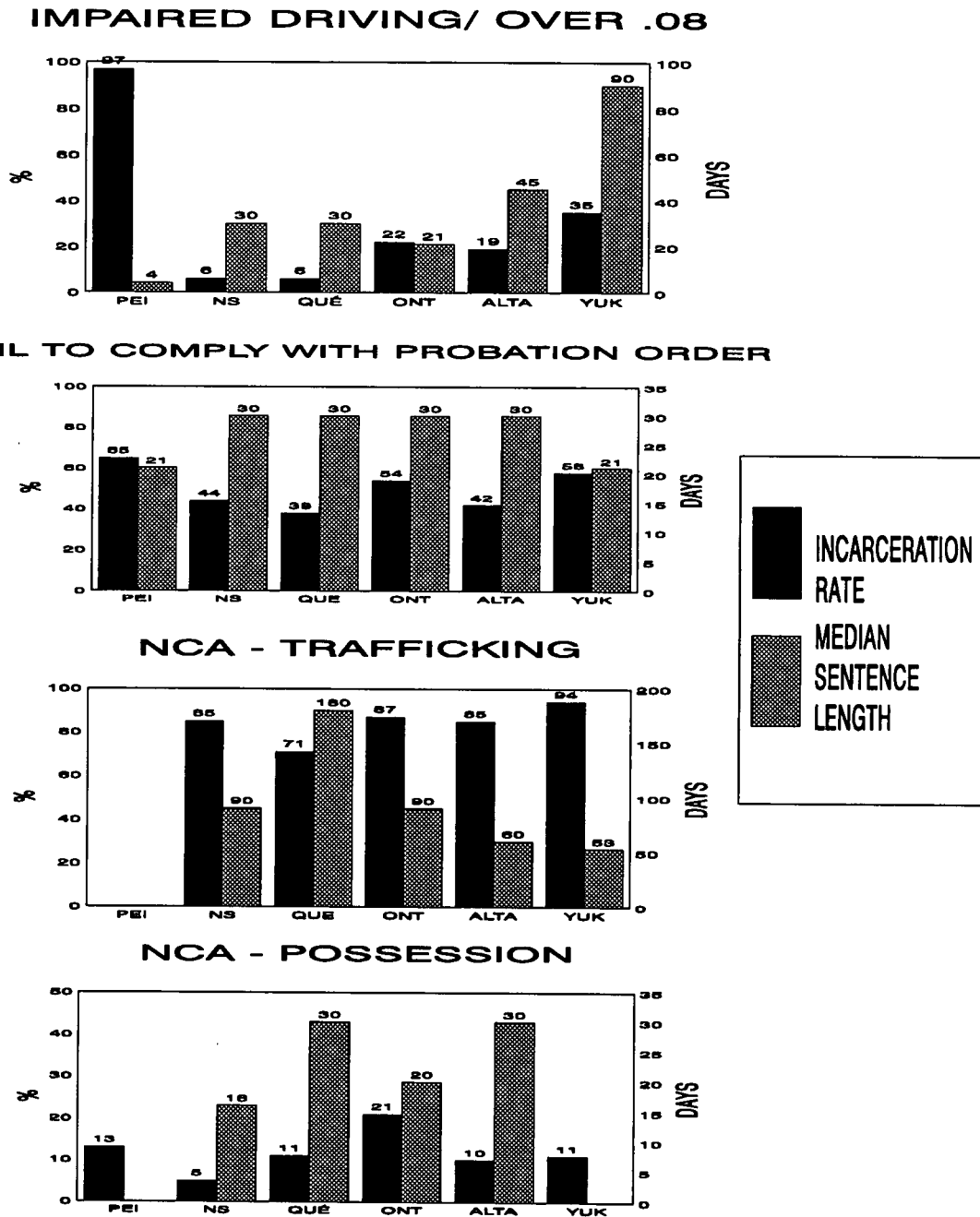
The number of persons charged with impaired driving expressed as a rate per 10,000 licensed drivers ranged from 4.8 in Ontario and 5.7 in Quebec, to 9.4 in Alberta and 11.6 in the Yukon.¹³

Fail to Comply With Probation Order (14,630 convictions) - In section 6.5 it was noted that in 50% of cases involving a conviction under this offence, there were convictions for other offences as well. For those cases where fail to comply was the only conviction or the most serious conviction, incarceration rates ranged from 38% in Quebec to 65% in Prince Edward Island. Median sentence lengths for this offence were very consistent among the jurisdictions, ranging from 21 to 30 days (figure 18).

Crime statistics were not available for this particular offence.

¹³ Impaired Driving - Canada, 1991, Juristat Service Bulletin Vol. 12 No. 17, Canadian Centre for Justice Statistics, Statistics Canada, pp.8,9.

**FIGURE 18: A COMPARISON OF SENTENCING PATTERNS AMONG SIX JURISDICTIONS
ADULT PROVINCIAL COURT, 1991 & 1992**



Source: Tables 12A & 13 - Case based.

Narcotic Control Act - trafficking (4,641 convictions) - This offence showed a consistently high rate of incarceration among the jurisdictions, from 71% in Quebec to 94% in the Yukon. The median sentence length for this offence ranged from 53 days in the Yukon to 180 days in Quebec (figure 18).

1991 crime rates (per 10,000 population) for this offence were lowest in Prince Edward Island (5.5) and highest in Ontario (8.7) and the Yukon (27.1).

Narcotic Control Act - possession (16,198 convictions) - Incarceration rates in each jurisdiction were much lower for possession convictions than for trafficking convictions, varying from 5% in Nova Scotia to 21% in Ontario. For the four jurisdictions with sufficient volume for analysis (excluding P.E.I. and the Yukon), the median sentence length imposed in provincial court ranged from 15 days in Nova Scotia to 30 days in Quebec and Alberta (figure 18).

1991 crime rates (per 10,000 population) for this offence were lowest in Prince Edward Island (5.8) and highest in Alberta (12.0) and the Yukon (46.5).

Fine Amounts - Table 14 shows the median fine amount imposed in each of the six jurisdictions for all 65 offences. While this is available to the reader for reference, no analysis will be done with these data.

Conclusion - The graphics and related analysis presented above reveal a considerable amount of sentencing variation among the jurisdictions. The amount of this variation differs from offence to offence. Jurisdictions which tend to have higher than average incarceration rates tend to have lower than average median sentence lengths, and vice versa. Many factors have to be taken into consideration before concluding that this variation is unwarranted, such as jurisdictional policies and procedures, differing community values, rural/urban mix of population, local crime rates, conviction rates, use of intermediate sanctions, etc.

12.4 Variation Among Major Cities

The previous section compared sentencing data for five provinces and one territory. These six jurisdictions encompass differing rural/urban mixes of population. In an effort to enhance comparability, this section concentrates on six large urban centres: Edmonton, Calgary, Toronto, Ottawa, Montreal and Quebec City. Once again, it should be noted that the municipal courts in Montreal and Quebec City are not included. It should also be noted that Toronto includes all three provincial courts in Toronto, and one each in Scarborough, Downsview and Etobicoke. As was the case in the section above, the analysis will concentrate on incarceration rates and median sentence lengths (tables 15 and 16). Crime rates from the Uniform Crime Reporting (UCR) survey of CCJS have been included for additional contextual purposes. However, it should be pointed out that police and court boundaries do not necessarily correspond.

Sexual Assault - The highest incarceration rates were found in Edmonton (63%) and Calgary (53%) and the lowest in Quebec City (33%) and Montreal (39%). The longest sentence lengths were in Edmonton (a median sentence length of 318 days) and Montreal (270 days or 9 months), and the shortest in Toronto (60 days). There was not a sufficient number of cases resulting in imprisonment in Quebec City for calculation of the median sentence length (figure 19).

1991 crime rates (per 10,000 population) for this offence were lowest in Montreal (7.0) and Quebec City (7.4), and highest in Edmonton (17.9).

Assault - The highest incarceration rate was found in Toronto at 29%, the lowest in Quebec City at 7%. The median sentence length for assault convictions in four of the six cities was 30 days, the others being 21 days in Toronto and 90 days in Quebec City (figure 19).

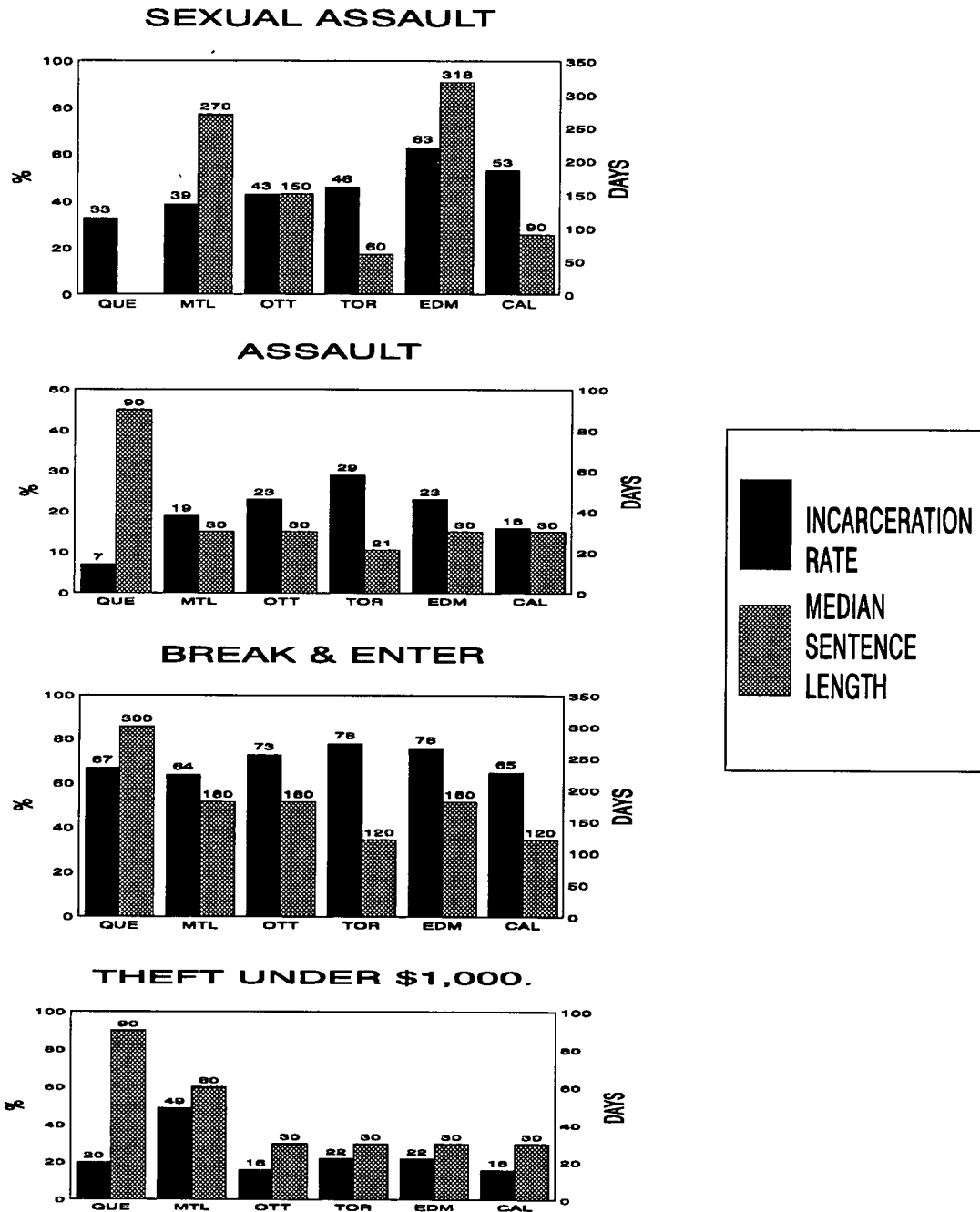
1991 crime rates (per 10,000 population) for this offence were lowest in Quebec City (45.8) and Calgary (55.0), and highest in Ottawa (99.1).

Break & Enter - Incarceration rates were quite consistent among the six cities, ranging from 64% in Montreal to 78% in Toronto. The median sentence length ranged between four and six months, except for Quebec City (10 months) (figure 19).

1991 crime rates (per 10,000 population) for this offence were lowest in Toronto (124.8) and highest in Quebec City (291.6).

Theft < \$1,000 - Five of the six cities showed an incarceration rate of around 20% for minor thefts; the remaining city (Montreal) showed a rate of nearly 50%. In terms of

FIGURE 19: COMPARISON OF SENTENCING PATTERNS AMONG SIX LARGE CITIES, ADULT PROVINCIAL COURT, 1991 & 1992



Source: Tables 15A and 16: Case based.

median sentence lengths, the pattern illustrated by the previous offences continued for this offence: four of the six cities showed a median sentence length of close to 30 days, while Montreal was 60 days and Quebec City was 90 days. A possible explanation for this pattern could be the existence in Quebec of the municipal courts, which tend to hear less serious cases. This could result in their provincial courts hearing proportionally more serious cases, resulting in longer median sentences (figure 19).

1991 crime rates (per 10,000 population) for this offence were lowest in Montreal (359.6) and Toronto (363.5) and highest in Edmonton (587.3) and Ottawa (536.8).

Impaired Driving - Incarceration rates for impaired driving ranged from 5% in Montreal and 6% in Quebec City to 22% in Ottawa and 23% in Edmonton. With the exception of Edmonton (90 days), the median sentence length for this offence was close to 30 days in prison (figure 20).

Fail to comply With Probation Order - The incarceration rate for this offence ranged from 35% in Edmonton to 61% in Toronto. The median sentence length ranged from 2 weeks in Calgary and Montreal to 2 months in Quebec City (figure 20).

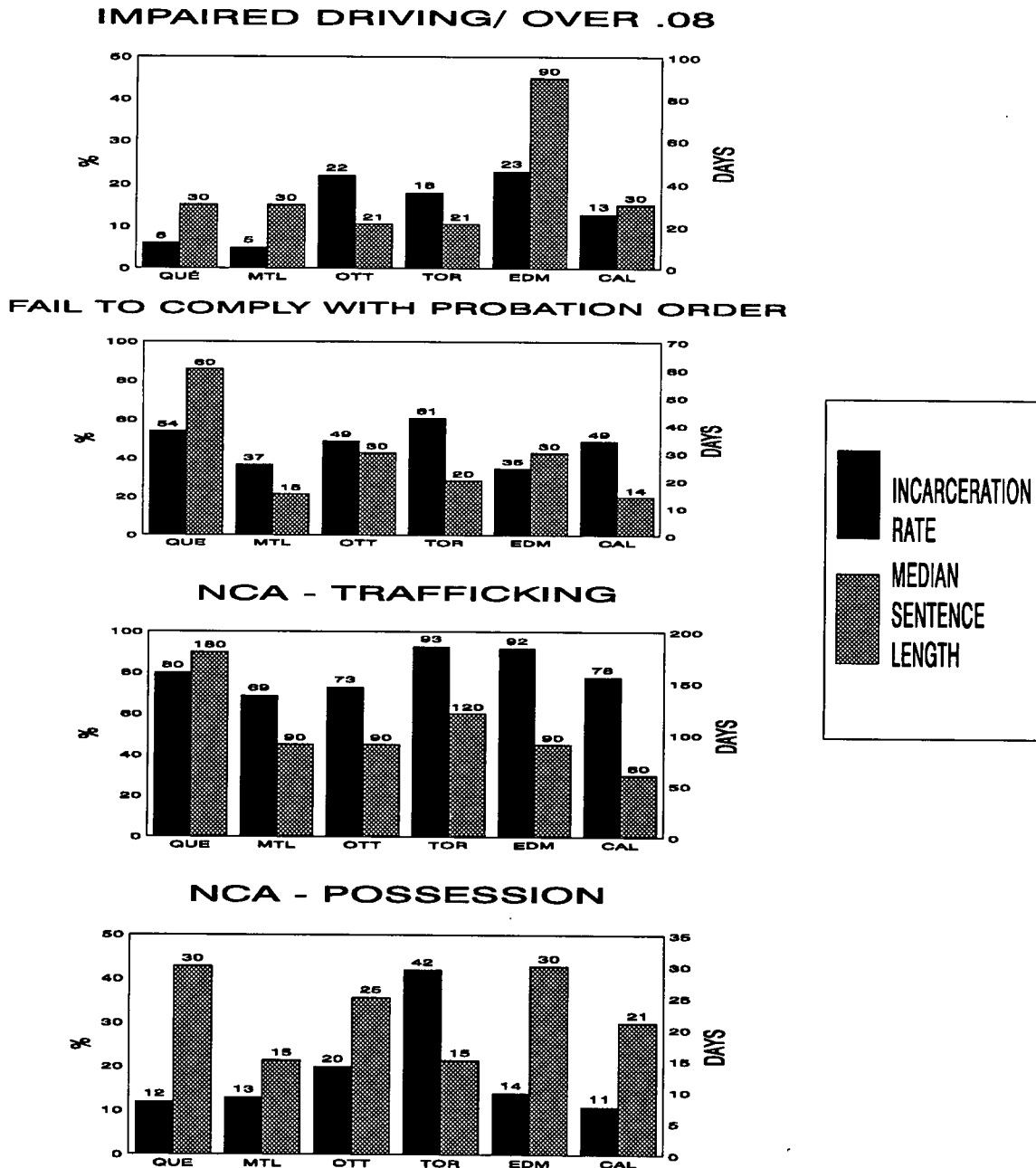
Narcotic Control Act - trafficking - Edmonton and Toronto showed the highest incarceration rates for trafficking at over 90%, and Montreal the lowest at 69%. Quebec City displayed the longest median sentence length (6 months), with Calgary showing the shortest at 2 months (figure 20). 1991 crime rates (per 10,000 population) for this offence were lowest in Edmonton (2.9) and Ottawa (3.1), and highest in Toronto (23.7).

Narcotic Control Act - possession - Toronto's incarceration rate for possession (42%) was more than double that for any other major city. Median sentence lengths for this offence ranged from 15 to 30 days (figure 20). 1991 crime rates (per 10,000 population) for this offence were lowest in Calgary (6.5) and Ottawa (6.1), and highest in Toronto (20.3).

Fine Amounts - Table 17 shows the median fine amount imposed in each of the six cities. However, no analysis will be done with these data in this report.

Conclusion - The variation found among major cities was not that different than the variation discovered when comparing the provinces/territories. Similar to the discussion in the conclusion to that section, many factors have to be taken into consideration before attributing this variation among major cities to be unwarranted: local policies and procedures, local crime rates, conviction rates, use of intermediate sanctions, and so forth.

FIGURE 20: COMPARISON OF SENTENCING PATTERNS AMONG SIX LARGE CITIES, ADULT PROVINCIAL COURT, 1991 & 1992



Source: Tables 15A & 16: Case based.

CHAPTER 13. EXAMINATION OF HYBRID OFFENCES

All Criminal Code, federal statute, provincial statute and municipal by-law offences in Canada can be classified as either summary, indictable or "hybrid" (dual procedure) offences. Summary offences are generally less serious offences, and carry a maximum sentence length of six months in prison, and a maximum fine amount of \$2,000. Indictable offences represent more serious offences and carry higher maximum penalties, ranging from two years to life imprisonment, and in some cases minimum sentences and/or deferred eligibility for parole.

The majority of Criminal Code offences are hybrid offences, meaning that they can be prosecuted either summarily or by indictment. Some of the factors affecting the Crown's decision as to how to proceed in a hybrid offence include the seriousness of the harm done by the offence, the previous criminal history of the accused, as well as the financial loss to the victim or gain to the accused.

One sentencing issue identified in the introduction to this report was whether hybrid offences proceeded with by indictment receive more serious sentences than hybrid offences proceeded with summarily. It is commonly assumed that sentences for indictable convictions would be more severe, as they carry stiffer maximum penalties than summary convictions. Even if this were shown to be the case, the magnitude of this difference is currently not known. This analysis also has implications for the related issue of whether or not the concept of hybrid offences should exist in the Criminal Code at all, where the Crown is given the exclusive right to decide procedure.

Twenty Criminal Code offences selected for analysis in the tables are hybrid offences, and have been designated as such with an asterisk (*). These 20 offences accounted for 58.6% of total Criminal Code charges resulting in conviction (excluding the "other" categories) on the database. In other words, **hybrid offences represent approximately 60% of Criminal Code convictions in adult provincial court.**

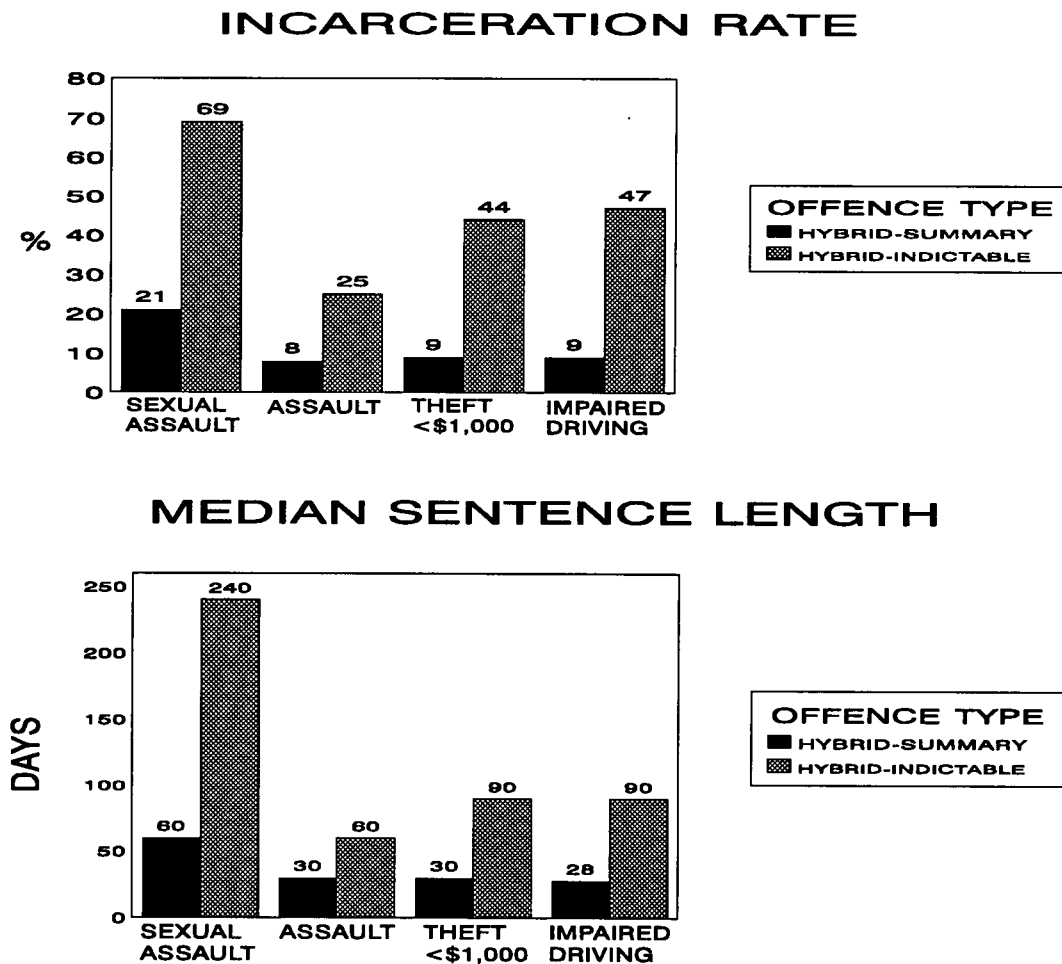
In addressing this issue, data were available from the four jurisdictions currently providing data to ACCS: Quebec, Nova Scotia, Prince Edward Island and the Yukon. It should be noted that Quebec data accounted for 88% of total hybrid offences in these four jurisdictions. However, the data for each jurisdiction reveal the same patterns as described below for all four combined.

When all 20 hybrid offences are combined for these four jurisdictions, three-quarters of these offences were proceeded with summarily and one-quarter by indictment (excluding "unknowns"). However, some hybrid offences did not follow this pattern: sexual assault (74% proceeded by indictment), fraud under \$1,000 (69% by indictment), possession of stolen goods under \$1,000 (60% by indictment), and sexual touching of child under 14 years of age (54% by indictment).

On average, the incarceration rate for hybrid-indictable offences was approximately twice as high as for hybrid-summary offences. This finding was consistent for virtually all 20 offences in each of the four jurisdictions (table 18). Figure 21 illustrates this finding for four hybrid offences. Similarly, the median sentence length was generally two to three times longer for hybrid-indictable convictions than for hybrid-summary.

The data, therefore, confirm that hybrid offences which proceed by indictment generally receive more severe sentences than those proceeded with summarily.

FIGURE 21: COMPARISON OF SENTENCES IMPOSED ON HYBRID-SUMMARY AND HYBRID-INDICTABLE OFFENCES, ADULT PROVINCIAL COURT, FOUR JURISDICTIONS(1), 1991 & 1992



(1) Includes P.E.I., Nova Scotia, Quebec and Yukon.
Source: Table 18 - Case based.

CHAPTER 14. CONCLUSION

As stated in the Introduction, there currently "is no method for anyone to know ... what kinds of sentences are being handed down, ... and that the lack of timely aggregate sentencing statistics presents problems for the operation of the criminal justice system". Many reports have recommended that sentencing data be collected to address issues related to sentencing variation and the need to provide the public with information in the area of sentencing. Information to support current and future discussion of sentencing practices and alternatives remains a priority issue for the justice community.

This report represents the largest volume of sentencing data available in Canada for analysis. The study has addressed some of the major issues facing sentencing today:

- lack of basic sentencing information including the types of sanctions being imposed and the quantum of these sanctions;
- sentencing variation;
- the perceived over-reliance on custody: reforms calling for increased use of "intermediate sanctions"; and,
- maximum penalties set out in the Criminal Code currently provide little guidance as to what sentence might be expected.

In terms of coverage, there were some limitations: no information from superior courts or Quebec municipal courts; provincial court data not available for all jurisdictions; and, under-coverage of provincial court cases in participating jurisdictions. Hopefully, these limitations will be overcome in future years to produce more comprehensive and comparable sentencing data.

Data for four of the six participating jurisdictions in this study (P.E.I., N.S., Que., Yukon) originated from the Adult Criminal Court Survey (ACCS) of the Canadian Centre for Justice Statistics. The data collection method for this survey involves accessing centralized automated criminal court databases in each province or territory and developing automated interfaces between the jurisdictional system and the ACCS system. As the level of automation increases in the remaining jurisdictions, the capability of these jurisdictions to participate in this survey will also increase.

Sentencing data for Ontario and Alberta were extracted directly from their court systems and "converted" to the specifications of the Sentencing Database. Until such time that these and other jurisdictions can provide data to the ACCS survey, this strategy may serve as an appropriate "interim" approach for the collection of sentencing data.

In conclusion, this report represents a beginning in terms of the availability and analysis of sentencing statistics in Canada.

APPENDICES

APPENDIX "A" - Tables

APPENDIX "B" - List of Criminal Code Sections and Maximum Penalties For the 65 Selected Offences

APPENDIX "C" - Methodology

APPENDIX "D" - Sentencing Defined

APPENDIX "E" - Experience With Sentencing Guidelines in the United States

APPENDIX "A" - TABLES

Table "A"	Explanation of Symbols Used in Tables and Standard Footnotes For Tables
Table 1	Single and Multiple Charge Convictions by Jurisdiction
Table 2	Gender of Persons Convicted
Table 3	Age of Persons Convicted
Table 4	Most Serious Sanction Imposed
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Table 6	Ranking of Offences According to Median Sentence Length
Table 7	Comparison of Sentencing Patterns For Single and Multiple Charge Cases
Table 8	Average Incarceral Sentence Lengths Imposed
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Table 18	Comparison of Sentences Imposed on Hybrid-summary and Hybrid-indictable Offences

TABLE "A"

EXPLANATION OF SYMBOLS USED IN TABLES

- .. not enough cases to perform calculations (generally if < 10 cases)
- ... not applicable
- nil or zero
- for percentage calculations: result greater than zero, but less than 0.5%

STANDARD FOOTNOTES FOR TABLES

- Data include all Criminal Code and other federal statute charges resulting in conviction in adult provincial/territorial courts. Absolute and conditional discharge sentences are included as sanctions, although they are "legally" not considered to be convictions. Provincial statute and municipal by-law charges are not included.
- Data represent the following six jurisdictions unless otherwise stated:
 - Prince Edward Island: Jan. 1 1991 to June 30 1992
 - Nova Scotia: Jan. 1 1991 to June 30 1992
 - Quebec: Jan. 1 1991 to June 30 1992
 - Ontario: June 1 1991 to Aug. 31 1992
 - Alberta: Jan. 1 1991 to Oct. 26 1992
 - Yukon: Jan. 1 1991 to June 30 1992
- Data for Nova Scotia do not include Halifax City Court.
- Data for Quebec do not include municipal courts.
- Not all court locations reported for the entire reference period in Ontario (see Methodology Section for more detail).
- Unless otherwise stated, the unit of analysis is the case. A "case" is defined as all charges resulting in conviction for one accused with the same sentence date in the same court. Each case is represented by its "most serious offence (MSO)". The MSO is defined as the offence receiving the most serious sentence in that case.
- The group of sanctions called "forfeit./prohib./CSO" includes all court orders of forfeiture/confiscation (eg. weapons, explosives, narcotics), disability/prohibition orders (eg. possessing firearms, operating motor vehicle), community service orders, and peace bonds.

TABLE 1. SINGLE AND MULTIPLE CHARGE CONVICTIONS IN ADULT PROVINCIAL COURT,
SIX JURISDICTIONS, 1991 AND 1992 (1)

Province/ Territory	Charges Resulting In Conviction #	Cases Resulting In At Least 1 Conviction								
		Total	Single Charge/Count Convictions #	%	Multiple Charge Convictions #	%	Multiple Count Convictions #	%	Multiple Count And Charge Convictions #	%
P.E.I.	3,315	2,441	2,054	84	221	9	92	4	74	3
Nova Scotia	25,771	17,764	14,260	80	1,719	10	1,112	6	673	4
Quebec	198,036	100,112	69,127	69	15,188	15	8,103	8	7,694	8
Ontario	246,678	178,727	145,223	81	20,294	11	7,526	4	5,684	3
Alberta	141,527	98,023	76,076	78	13,715	14	3,990	4	4,242	4
Yukon	2,523	1,697	1,237	73	278	16	84	5	98	6
TOTAL	617,850	398,764	307,977	77	51,415	13	20,907	5	18,465	5

(1) See Table "A" for standard footnotes and explanation of symbols used in tables.

**TABLE 2. GENDER OF PERSONS CONVICTED IN ADULT PROVINCIAL COURT,
SIX JURISDICTIONS, 1991 & 1992 (1)**

Most Serious Offence	Cases Resulting in Conviction	Gender of Offender			
		Male	Female	Corpor- ation	Unknown
	#	%	%	%	%
CRIMINAL CODE OFFENCES					
OFFENCES AGAINST THE PERSON					
1 Manslaughter	73	90	7	—	3
2 Robbery	2,181	91	6	—	3
3 Sexual assault—weapon/bodily harm	94	96	3	—	1
4* Sexual assault	1,582	97	1	1	2
5 Aggravated assault	460	87	12	1	1
6 Assault with weapon/bodily harm	5,787	88	9	1	2
7* Assault	30,469	88	9	—	3
8* Assaulting peace officer	2,390	83	14	1	2
9 Forcible confinement	94	93	5	—	2
10* Sexual touching of child under 14	731	96	1	1	3
11 Uttering threats of bodily harm	3,668	91	5	—	4
12 Harassing/indecent phone calls	967	68	22	—	10
13 Other offences against person	1,544	86	11	1	3
FIREARMS, OTHER WEAPONS					
14 Use of firearm during offence	52	88	4	—	8
15 Careless/dangerous use of firearm	2,130	92	6	—	1
16* Possession firearms/other weapons	2,022	91	5	—	4
17 Other weapon/explosive offences	489	95	3	1	1
OFF. AGAINST PROPERTY, FRAUD					
18 Break and enter	11,921	94	3	—	3
19 Possession of break—in instrument	355	97	1	—	1
20 Possession stolen goods > \$1,000	3,120	93	5	—	3
21* Possession stolen goods < \$1,000	4,705	83	13	—	4
22 Possession stolen goods — other	3,736	90	8	—	2
23 Theft over \$1,000	4,317	85	11	—	4
24* Theft under \$1,000	46,287	62	31	—	6
25 Theft — amount unspecified	4,078	65	26	—	9
26* Theft/forgery of credit card	2,386	76	21	—	3
27 Forgery	2,706	71	26	—	3
28 Personation with intent	1,222	84	10	—	6
29 Fraud over \$1,000	2,202	63	33	1	3
30* Fraud under \$1,000	5,635	61	28	—	10
31 Fraud — amount unspecified	1,538	73	24	1	2
32 False pretences	3,743	67	31	—	2
33* Mischief — prop. damage > \$1,000	1,724	92	8	—	—
34* Mischief — prop. damage < \$1,000	12,837	88	8	—	4
35 Other property, fraud offences	2,533	84	11	1	4

* Represents "hybrid" offence

**TABLE 2. GENDER OF PERSONS CONVICTED IN ADULT PROVINCIAL COURT,
SIX JURISDICTIONS, 1991 & 1992 (1)**

Most Serious Offence	Cases Resulting in Conviction	Gender of Offender			
		Male	Female	Corpor- ation	Unknown
	#	%	%	%	%
MOTOR VEHICLE OFFENCES					
36 Impaired driving – bodily harm	392	88	8	—	4
37* Impaired driving/over .08	78,259	86	9	—	5
38* Refuse provide breath/blood sample	5,098	88	10	—	1
39 Dangerous op. of m.v. – bodily harm	147	89	10	—	1
40* Dangerous op. of motor vehicle	2,502	93	6	—	1
41* Fail to stop at scene of accident	1,602	88	8	—	4
42* Driving while disqualified	6,980	92	6	—	2
43 Other motor vehicle offences	220	91	7	—	2
PROSTITUTION / MORAL OFFENCES					
44 Procuring for prostitution	44	59	18	—	23
45 Keeping common bawdy – house	107	36	43	—	21
46 Soliciting / obtaining services	5,307	57	43	—	1
47 Indecent acts/exposure	1,780	82	13	1	4
48 Gaming and betting offences	718	67	16	8	9
49 Other morals offences	580	54	33	3	10
OFFENCES AGAINST ADMIN. OF LAW					
50 Obstructing justice	388	78	21	—	1
51* Providing false info. to peace officer	1,898	72	23	—	4
52* Obstructing peace officer	5,111	84	13	—	2
53* Escape custody	960	90	9	—	1
54* Unlawfully at large	3,905	87	8	—	5
55 Fail to appear in court	20,663	85	12	—	3
56 Fail to comply with probation order	14,630	80	9	—	11
57 Breach of recognizance	673	81	14	—	5
58 Other offences against admin. of law	1,345	85	13	1	1
OTHER CRIMINAL CODE OFFENCES					
59 Causing disturbance, trespassing	5,241	88	10	—	2
60 All other Criminal Code offences	3,484	84	10	1	6
TOTAL CRIMINAL CODE	331,812	81	14	—	4
OTHER FEDERAL STATUTES					
61 Narcotic Control Act(NCA) – traffick	4,641	86	10	1	3
62* NCA – possession	16,198	87	10	—	3
63 Other NCA offences	798	76	20	—	4
64 Food and Drugs Act	573	84	9	4	3
65 Other federal statutes	44,742	69	15	6	11
TOTAL OTHER FEDERAL STAT.	66,952	75	13	4	8
TOTAL C.C. + OTHER FED. STAT.	398,764	80	14	1	5

(1) See Table "A" for standard footnotes and explanation of symbols used in tables.

**TABLE 3. AGE OF PERSONS CONVICTED IN ADULT PROVINCIAL COURT,
SIX JURISDICTIONS, 1991 & 1992 (1)**

Most Serious Offence	Cases Resulting In Conviction	Age At Time of Sentencing (2)							
		18– 22	23– 27	28– 32	33– 37	38– 42	43– 47	48– 52	53+
	#	%	%	%	%	%	%	%	%
CRIMINAL CODE OFFENCES									
OFFENCES AGAINST THE PERSON									
1 Manslaughter	73	21	10	17	20	10	4	4	14
2 Robbery	2,181	33	26	20	12	5	2	1	1
3 Sex assault—weapon/bodily harm	94	17	26	27	19	6	3	1	1
4* Sexual assault	1,582	10	15	16	16	13	9	6	15
5 Aggravated assault	460	26	23	17	14	8	5	3	4
6 Assault with weapon/bodily harm	5,787	22	22	20	14	9	5	3	4
7* Assault	30,469	16	20	21	16	11	7	4	5
8* Assaulting peace officer	2,390	21	27	22	14	7	5	2	3
9 Forcible confinement	94	21	26	18	11	12	10	1	2
10* Sexual touching of child under 14	731	10	11	14	15	15	12	6	16
11 Uttering threats of bodily harm	3,668	13	18	19	18	12	9	5	6
12 Harassing/indecent phone calls	967	15	17	20	15	13	8	5	8
13 Other offences against person	1,544	10	18	21	18	13	7	6	8
FIREARMS, OTHER WEAPONS									
14 Use of firearm during offence	52	39	26	7	11	4	7	—	7
15 Careless/dangerous use firearm	2,130	24	18	17	14	9	6	5	6
16* Possession firearms/oth weapons	2,022	28	20	16	11	8	6	5	6
17 Other weapon/explosive offences	489	16	19	17	15	12	8	5	8
OFF. AGAINST PROPERTY, FRAUD									
18 Break and enter	11,921	49	23	15	7	3	2	1	—
19 Possession break—in instrument	355	42	26	13	11	3	2	1	1
20 Possess stolen goods > \$1,000	3,120	43	24	15	9	4	3	1	1
21* Possess stolen goods < \$1,000	4,705	40	24	16	10	5	3	2	2
22 Possess stolen goods – other	3,736	45	23	14	9	4	3	1	2
23 Theft over \$1,000	4,317	42	25	14	9	5	2	2	1
24* Theft under \$1,000	46,287	25	17	16	13	9	7	4	9
25 Theft – amount unspecified	4,078	27	17	16	13	8	7	5	8
26* Theft/forgery of credit card	2,386	40	25	17	9	5	2	1	1
27 Forgery	2,706	22	23	22	15	9	5	2	2
28 Personation with intent	1,222	23	30	22	14	6	3	2	1
29 Fraud over \$1,000	2,202	13	20	21	17	11	9	6	4
30* Fraud under \$1,000	5,635	19	24	20	15	10	6	3	3
31 Fraud – amount unspecified	1,538	20	22	22	16	7	6	3	4
32 False pretences	3,743	16	24	21	16	9	6	4	4
33* Mischief—prop. damage >\$1,000	1,724	33	22	22	10	5	4	2	2
34* Mischief—prop. damage <\$1,000	12,837	33	24	18	11	6	4	2	2
35 Other property, fraud offences	2,533	32	21	16	11	7	5	3	4

* Represents "hybrid" offence

**TABLE 3. AGE OF PERSONS CONVICTED IN ADULT PROVINCIAL COURT,
SIX JURISDICTIONS, 1991 & 1992 (1)**

Most Serious Offence	Cases Resulting In Conviction #	Age At Time of Sentencing (2)							
		18 – 22	23 – 27	28 – 32	33 – 37	38 – 42	43 – 47	48 – 52	53 +
		%	%	%	%	%	%	%	%
MOTOR VEHICLE OFFENCES									
36 Impaired driving – bodily harm	392	16	20	22	17	7	8	3	6
37* Impaired driving/over .08	78,259	12	18	20	16	12	8	5	8
38* Refuse to provide breath sample	5,098	6	15	22	18	15	9	6	8
39 Dangerous op. m.v. –bodily harm	147	35	27	15	14	5	1	2	1
40* Dangerous op. of motor vehicle	2,502	30	25	17	11	7	5	2	4
41* Fail to stop at scene of accident	1,602	17	23	20	15	8	6	4	6
42* Driving while disqualified	6,980	12	23	24	17	9	7	4	4
43 Other motor vehicle offences	220	19	21	22	16	8	6	5	4
PROSTITUTION / MORAL OFFENCES									
44 Procuring for prostitution	44	20	17	13	17	13	17	3	–
45 Keeping common bawdy –house	107	8	18	24	22	9	10	5	5
46 Soliciting / obtaining services	5,307	18	24	23	15	8	5	3	4
47 Indecent acts/exposure	1,780	12	21	22	16	10	8	4	7
48 Gaming and betting offences	718	4	9	13	14	15	17	11	18
49 Other morals offences	580	14	21	21	15	8	11	5	5
OFFENCES AGAINST ADMIN. OF LAW									
50 Obstructing justice	388	26	29	23	10	8	3	2	1
51* Providing false info. to officer	1,898	30	26	19	11	6	4	2	2
52* Obstructing peace officer	5,111	27	29	21	11	6	3	1	2
53* Escape custody	960	39	29	17	8	4	1	1	1
54* Unlawfully at large	3,905	20	27	23	15	8	4	1	1
55 Fail to appear in court	20,663	27	24	19	13	7	4	2	3
56 Fail to comply – probation order	14,630	26	26	20	13	7	4	2	2
57 Breach of recognizance	673	13	21	21	18	10	8	5	5
58 Other off. against admin. of law	1,345	18	25	20	14	9	5	3	5
OTHER CRIMINAL CODE OFFENCES									
59 Causing disturbance, trespassing	5,241	35	24	17	10	6	4	2	3
60 All other Criminal Code offences	3,484	36	24	16	10	6	4	2	2
TOTAL CRIMINAL CODE	331,812	22	21	19	14	9	6	4	5
OTHER FEDERAL STATUTES									
61 Narcotic Control Act(NCA) –traffic	4,641	20	28	25	14	7	3	1	1
62* NCA – possession	16,198	23	28	23	15	6	3	1	1
63 Other NCA offences	798	11	21	25	20	12	6	2	3
64 Food and Drugs Act	573	39	31	15	7	4	1	1	1
65 Other federal statutes	44,742	17	19	17	13	10	9	6	9
TOTAL OTHER FEDERAL STAT.	66,952	19	23	20	14	9	6	4	6
TOTAL C.C. + OTH. FED. STAT.	398,764	22	21	19	14	9	6	4	5

(1) See Table "A" for standard footnotes and explanation of symbols used in tables.

(2) Offenders under the age of 18 are included in totals, but excluded when calculating percentages.

**TABLE 4. MOST SERIOUS SANCTION IMPOSED IN ADULT PROVINCIAL COURT,
SIX JURISDICTIONS, 1991 & 1992 (1)**

Most Serious Offence	Cases Resulting In Conviction	Most Serious Sanction					
		Prison	Proba- tion	Forfeit/ Prohib/ CSO	Fine	Absol. Dis- charge	Other
	#	%	%	%	%	%	%
CRIMINAL CODE OFFENCES							
OFFENCES AGAINST THE PERSON							
1 Manslaughter	73	66	3	14	18	—	—
2 Robbery	2,181	88	8	—	2	1	—
3 Sex assault—weapon/bodily harm	94	94	4	—	2	—	—
4* Sexual assault	1,582	54	37	1	7	1	—
5 Aggravated assault	460	80	15	—	4	—	—
6 Assault with weapon/bodily harm	5,787	51	38	1	9	1	—
7* Assault	30,469	21	53	2	20	4	—
8* Assaulting peace officer	2,390	40	27	5	27	1	—
9 Forcible confinement	94	71	28	—	—	1	—
10* Sexual touching of child under 14	731	52	46	—	1	—	—
11 Uttering threats of bodily harm	3,668	33	60	1	5	1	—
12 Harassing/indecent phone calls	967	12	70	4	12	3	—
13 Other offences against person	1,544	51	29	8	10	2	—
FIREARMS, OTHER WEAPONS							
14 Use of firearm during offence	52	100	—	—	—	—	—
15 Careless/dangerous use of firearm	2,130	35	47	3	13	2	—
16* Possession firearms/other weapons	2,022	25	26	8	34	7	—
17 Other weapon/explosive offences	489	16	18	33	27	6	—
OFF. AGAINST PROPERTY, FRAUD							
18 Break and enter	11,921	66	31	—	2	—	—
19 Possession of break—in instrument	355	52	41	1	6	—	—
20 Possession stolen goods > \$1,000	3,120	55	35	1	8	1	—
21* Possession stolen goods < \$1,000	4,705	31	32	3	32	2	—
22 Possession stolen goods — other	3,736	39	37	3	19	2	—
23 Theft over \$1,000	4,317	53	40	1	5	1	—
24* Theft under \$1,000	46,287	18	31	5	35	10	—
25 Theft — amount unspecified	4,078	20	40	14	15	11	—
26* Theft/forgery of credit card	2,386	34	45	2	17	2	—
27 Forgery	2,706	47	46	1	6	1	—
28 Personation with intent	1,222	41	39	5	14	—	—
29 Fraud over \$1,000	2,202	46	48	1	4	1	—
30* Fraud under \$1,000	5,635	25	52	3	15	4	—
31 Fraud — amount unspecified	1,538	23	43	3	24	6	1
32 False pretences	3,743	26	44	2	22	5	1
33* Mischief — prop. damage > \$1,000	1,724	23	62	1	9	4	1
34* Mischief — prop. damage < \$1,000	12,837	15	52	3	24	5	1
35 Other property, fraud offences	2,533	31	43	4	19	3	—

* Represents "hybrid" offences.

**TABLE 4. MOST SERIOUS SANCTION IMPOSED IN ADULT PROVINCIAL COURT,
SIX JURISDICTIONS, 1991 & 1992 (1)**

Most Serious Offence	Cases Resulting In Conviction	Most Serious Sanction					
		Prison	Proba- tion	Forfeit/ Prohib/ CSO	Fine	Absol. Dis- charge	Other
	#	%	%	%	%	%	%
MOTOR VEHICLE OFFENCES							
36 Impaired driving – bodily harm	392	70	11	14	5	–	–
37* Impaired driving/over .08	78,259	17	10	60	13	–	–
38* Refuse provide breath/blood sample	5,098	20	4	69	7	–	–
39 Dangerous op. of m.v.–bodily harm	147	67	14	14	4	1	–
40* Dangerous op. of motor vehicle	2,502	30	10	47	13	–	–
41* Fail to stop at scene of accident	1,602	18	14	36	32	–	–
42* Driving while disqualified	6,980	55	3	19	22	–	–
43 Other motor vehicle offences	220	46	11	17	16	9	–
PROSTITUTION / MORAL OFFENCES							
44 Procuring for prostitution	44	48	39	–	9	5	–
45 Keeping common bawdy–house	107	14	49	6	31	1	–
46 Soliciting / obtaining services	5,307	15	17	–	52	16	–
47 Indecent acts/exposure	1,780	16	42	2	26	14	–
48 Gaming and betting offences	718	1	27	8	54	9	–
49 Other morals offences	580	8	32	12	34	14	–
OFFENCES AGAINST ADMIN. OF LAW							
50 Obstructing justice	388	64	22	1	13	1	–
51* Providing false info. to peace officer	1,898	15	36	8	39	2	–
52* Obstructing peace officer	5,111	22	18	7	48	3	–
53* Escape custody	960	81	6	1	12	–	–
54* Unlawfully at large	3,905	89	2	2	7	–	–
55 Fail to appear in court	20,663	43	10	7	39	1	–
56 Fail to comply with probation order	14,630	43	23	9	24	1	–
57 Breach of recognizance	673	4	12	78	3	1	2
58 Other offences against admin. of law	1,345	59	17	2	20	2	–
OTHER CRIMINAL CODE OFFENCES							
59 Causing disturbance, trespassing	5,241	10	30	12	43	5	–
60 All other Criminal Code offences	3,484	40	37	5	16	2	–
TOTAL CRIMINAL CODE	331,812	29	27	19	21	3	–
OTHER FEDERAL STATUTES							
61 Narcotic Control Act(NCA) – traffick	4,641	82	11	1	6	–	–
62* NCA – possession	16,198	15	17	11	51	5	–
63 Other NCA offences	798	50	27	8	14	1	–
64 Food and Drugs Act	573	39	14	7	38	2	–
65 Other federal statutes	44,742	3	2	31	63	–	1
TOTAL OTHER FEDERAL STAT.	66,952	12	7	23	55	1	1
TOTAL C.C. + OTHER FED. STAT.	398,764	26	24	20	27	3	–

(1) See Table "A" for standard footnotes and explanation of symbols used in tables.

**TABLE 5. FREQUENCY OF ALL SANCTIONS IMPOSED IN ADULT PROVINCIAL COURT,
SIX JURISDICTIONS, 1991 & 1992 (1)**

Most Serious Offence	Cases	Type of Sanction (Case-based)							
	Resulting In Conviction	Prison	Prob- ation	CSO/ Prohib/ Seizure	Fine	Rest./ Comp.	Susp. Sent.	Cond. Dis- charge	Absol. Dis- charge
	#	%	%	%	%	%	%	%	%
CRIMINAL CODE OFFENCES									
OFFENCES AGAINST THE PERSON									
1 Manslaughter	73	66	10	49	33	1	1	—	—
2 Robbery	2,181	88	35	32	4	2	5	—	1
3 Sex assault—weapon/bodily harm	94	94	38	28	3	1	2	—	—
4* Sexual assault	1,582	54	75	19	18	1	22	3	1
5 Aggravated assault	460	80	51	20	12	1	10	1	—
6 Assault with weapon/bodily harm	5,787	51	66	20	27	3	19	3	1
7* Assault	30,469	21	64	12	37	2	24	12	4
8* Assaulting peace officer	2,390	40	39	17	44	2	11	4	1
9 Forcible confinement	94	71	60	22	7	—	17	—	1
10* Sexual touching of child under 14	731	52	89	22	11	1	33	1	—
11 Uttering threats of bodily harm	3,668	33	81	21	22	2	33	7	1
12 Harassing/indecent phone calls	967	12	76	20	36	1	27	15	3
13 Other offences against person	1,544	51	51	29	24	5	18	3	2
FIREARMS, OTHER WEAPONS									
14 Use of firearm during offence	52	100	35	42	8	—	4	4	—
15 Careless/dangerous use—firearm	2,130	35	63	25	32	2	25	6	2
16* Possession firearm/other weapon	2,022	25	33	18	50	—	9	8	7
17 Other weapon/explosive offences	489	16	24	40	39	1	8	7	6
OFF. AGAINST PROPERTY, FRAUD									
18 Break and enter	11,921	66	59	22	11	12	20	1	—
19 Possess break—in instrument	355	52	57	19	27	4	18	4	—
20 Possess stolen goods > \$1,000	3,120	55	49	18	29	5	14	3	1
21* Possess stolen goods < \$1,000	4,705	31	38	15	45	4	13	7	2
22 Possess stolen goods — other	3,736	39	48	15	34	8	17	8	2
23 Theft over \$1,000	4,317	53	62	24	21	15	20	4	1
24* Theft under \$1,000	46,287	18	36	15	48	4	12	10	10
25 Theft — amount unspecified	4,078	20	47	28	40	8	16	12	11
26* Theft/forgery of credit card	2,386	34	55	17	30	18	23	10	2
27 Forgery	2,706	47	61	19	23	16	28	2	1
28 Personation with intent	1,222	41	50	28	51	2	9	2	—
29 Fraud over \$1,000	2,202	46	70	18	16	31	31	4	1
30* Fraud under \$1,000	5,635	25	63	23	30	25	27	8	4
31 Fraud — amount unspecified	1,538	23	51	13	36	29	24	8	6
32 False pretences	3,743	26	54	12	34	26	24	6	6
33* Mischief—prop. damage > \$1000	1,724	23	74	8	22	49	33	15	4
34* Mischief—prop. damage < \$1000	12,837	15	58	16	43	30	22	10	5
35 Other property, fraud offences	2,533	31	57	18	33	10	21	9	3

* Represents "hybrid" offence

**TABLE 5. FREQUENCY OF ALL SANCTIONS IMPOSED IN ADULT PROVINCIAL COURT,
SIX JURISDICTIONS, 1991 & 1992 (1)**

Most Serious Offence	Cases Resulting In Conviction	Type of Sanction (Case-based)							
	#	%	%	%	%	%	%	%	%
MOTOR VEHICLE OFFENCES									
36 Impaired driving – bodily harm	392	70	48	80	33	1	2	—	—
37* Impaired driving/over .08	78,259	17	16	81	84	—	—	—	—
38* Refuse to provide breath sample	5,098	20	12	90	81	—	—	—	—
39 Dangerous op. m.v. –bodily harm	147	67	37	81	29	4	7	—	1
40* Dangerous op. of motor vehicle	2,502	30	19	75	66	1	4	1	—
41* Fail to stop at scene of accident	1,602	18	21	54	76	5	4	1	—
42* Driving while disqualified	6,980	55	20	53	45	—	1	—	—
43 Other motor vehicle offences	220	46	26	55	35	1	3	7	9
PROSTITUTION / MORAL OFFENCES									
44 Procuring for prostitution	44	48	52	14	43	—	2	—	5
45 Keeping common bawdy –house	107	14	55	29	72	1	5	7	1
46 Soliciting / obtaining services	5,307	15	19	1	55	—	6	7	16
47 Indecent acts/exposure	1,780	16	48	10	40	1	17	12	14
48 Gaming and betting offences	718	1	27	12	69	2	2	17	9
49 Other morals offences	580	8	35	23	59	2	7	9	14
OFFENCES AGAINST ADMIN. OF LAW									
50 Obstructing justice	388	64	35	13	24	2	12	1	1
51* Providing false info. to officer	1,898	15	40	18	57	2	15	8	2
52* Obstructing peace officer	5,111	22	22	15	62	1	6	5	4
53* Escape custody	960	81	11	13	15	—	4	1	—
54* Unlawfully at large	3,905	89	9	22	9	—	1	—	—
55 Fail to appear in court	20,663	43	16	15	49	—	6	1	1
56 Fail to comply – probation order	14,630	43	32	31	42	4	11	—	1
57 Breach of recognizance	673	4	14	83	7	1	5	1	1
58 Other off. against admin. of law	1,345	59	28	12	27	1	9	3	2
OTHER CRIMINAL CODE OFFENCES									
59 Causing disturbance, trespassing	5,241	10	32	21	66	1	9	8	5
60 All other Criminal Code offences	3,484	40	53	30	36	6	15	4	2
TOTAL CRIMINAL CODE	331,812	29	37	35	51	5	11	5	3
OTHER FEDERAL STATUTES									
61 Narcotic Control Act(NCA) –traffic	4,641	82	42	21	17	1	4	—	—
62* NCA – possession	16,198	15	20	18	71	—	3	6	5
63 Other NCA offences	798	50	42	23	39	—	10	2	1
64 Food and Drugs Act	573	39	30	15	53	—	5	3	2
65 Other federal statutes	44,742	3	2	32	95	—	2	—	—
TOTAL OTHER FEDERAL STAT.	66,952	12	10	28	83	—	2	2	2
TOTAL C.C. + OTHER FED. STAT.	398,764	26	32	34	56	4	10	4	3

(1) See Table "A" for standard footnotes and explanation of symbols used in tables.

**TABLE 6. RANKING OF OFFENCES ACCORDING TO MEDIAN SENTENCE LENGTH
IMPOSED IN ADULT PROVIN. COURT, SIX JURISDICTIONS, 1991 & 1992 (1)**

Rank	Most Serious Offence	Cases Resulting In Conviction	Median Sent. Length (2)	Freq. Incarc- eration Imposed	Maximum Penalty(3)	Frequency Maximum Penalty Imposed
		#	(in days)	%		%
1	Manslaughter	73	1,460	66	Life	—
2	Sex assault—weapon/bodily harm	94	730	94	14 yrs.	—
3	Robbery	2,181	630	88	Life	—
4	Use of firearm during offence	52	365	100	14 yrs.	—
5	Forcible confinement	94	300	71	10 yrs.	—
6	Aggravated assault	460	270	80	14 yrs.	—
7	Break and enter	11,921	180	66	Life	—
8	Other NCA offences	798	180	50	...	...
9	Procuring for prostitution	44	180	48	14 yrs.	—
10	* Sexual assault	1,582	120	54	10 yrs.	—
11	Narcotic Control Act(NCA)—traffick	4,641	90	82	Life	—
12	Impaired driving – bodily harm	392	90	70	10 yrs.	—
13	Dangerous op. of m.v.—bodily harm	147	90	67	10 yrs.	—
14	Possession stolen goods > \$1,000	3,120	90	55	10 yrs.	—
15	Theft over \$1,000	4,317	90	53	10 yrs.	—
16	* Sexual touching of child under 14	731	90	52	10 yrs.	—
17	Other offences against person	1,544	90	51	...	...
18	Fraud over \$1,000	2,202	90	46	10 yrs.	—
19	All other Criminal Code offences	3,484	90	40	...	...
20	Keeping common bawdy—house	107	90	14	2 yrs.	—
21	Other motor vehicle offences	220	65	46	...	...
22	Possession of break—in instrument	355	60	52	10 yrs.	—
23	Assault with weapon/bodily harm	5,787	60	51	10 yrs.	—
24	Forgery	2,706	60	47	14 yrs.	—
25	Food and Drugs Act	573	60	39	...	...
	Possession stolen goods – other	3,736	60	39	...	...
27	Other property, fraud offences	2,533	60	31	...	...
28	* Dangerous op. of motor vehicle	2,502	60	30	5 yrs.	—
29	* Fraud under \$1,000	5,635	60	25	2 yrs.	1
30	Other weapon/explosive offences	489	60	16	...	...
31	* Escape custody	960	45	81	2 yrs.	—
32	Careless/dangerous use of firearm	2,130	45	35	5/10 yrs.	—
33	* Theft/forgery of credit card	2,386	45	34	10 yrs.	—
34	Gaming and betting offences	718	45	1	2 yrs.	10
35	* Unlawfully at large	3,905	30	89	2 yrs.	—
36	Obstructing justice	388	30	64	10 yrs.	—
37	Other offences against admin. of law	1,345	30	59	...	...
38	* Driving while disqualified	6,980	30	55	2 yrs.	—
39	Fail to comply with probation order	14,630	30	43	6 mths.	5
40	Personation with intent	1,222	30	41	14 yrs.	—

* Represents "hybrid" offence

**TABLE 6. RANKING OF OFFENCES ACCORDING TO MEDIAN SENTENCE LENGTH
IMPOSED IN ADULT PROV. COURT, SIX JURISDICTIONS, 1991 & 1992 (1)**

Rank	Most Serious Offence	Cases Resulting In Conviction	Median Sent. Length (2)	Freq. Incarc- eration Imposed	Maximum Penalty(3)	Frequency Maximum Penalty Imposed
		#	(in days)	%		%
41	* Assaulting peace officer	2,390	30	40	5 yrs.	—
42	Uttering threats of bodily harm	3,668	30	33	5 yrs.	—
43	* Possession stolen goods < \$1,000	4,705	30	31	2 yrs.	—
44	False pretences	3,743	30	26	10/5 yrs.	—
45	* Possession firearms/other weapons	2,022	30	25	5 yrs.	—
46	Fraud — amount unspecified	1,538	30	23	...	...
	* Mischief — prop. damage > \$1,000	1,724	30	23	10 yrs.	—
48	* Obstructing peace officer	5,111	30	22	2 yrs.	—
49	* Assault	30,469	30	21	5 yrs.	—
50	* Refuse provide breath/blood sample	5,098	30	20	5 yrs.	—
	Theft — amount unspecified	4,078	30	20	...	...
52	* Theft under \$1,000	46,287	30	18	2 yrs.	—
	* Fail to stop at scene of accident	1,602	30	18	2 yrs.	—
54	* Impaired driving/over .08	78,259	30	17	5 yrs.	—
55	Indecent acts/exposure	1,780	30	16	6 mths.	5
56	* Providing false info. to peace officer	1,898	30	15	5 yrs.	—
	* Mischief — prop. damage < \$1,000	12,837	30	15	2 yrs.	—
58	Harassing/indecent phone calls	967	30	12	6 mths.	7
59	Other morals offences	580	30	8	...	...
60	* NCA — possession	16,198	25	15	7 yrs.	—
61	Fail to appear in court	20,663	15	43	2 yrs.	—
62	Other federal statutes	44,742	15	3	...	...
63	Soliciting / obtaining services	5,307	14	15	6 mths.	1
64	Causing disturbance, trespassing	5,241	14	10	6 mths.	1
65	Breach of recognizance	673	12	4	6 mths.	—

* Represents "hybrid" offences

(1) See Table "A" for standard footnotes and explanation of symbols used in tables.

(2) The "median" represents the middle value when all values are ordered in terms of magnitude.

(3) For "hybrid" offences, represents the maximum penalty on indictment.

**TABLE 7. COMPARISON OF SENTENCING PATTERNS FOR SINGLE CHARGE AND
MULTIPLE CHARGE CASES, ADULT PROVINCIAL COURT,
SIX JURISDICTIONS, 1991 AND 1992 (1)**

Most Serious Offence	Cases Resulting In Conviction	Incarceration Rate		Cases Resulting in Prison	Median Sent. Length(2)	
		Single Charge	Multiple Charge		Single Charge	Multiple Charge
	#	%	%	#	(in days)	(in days)
Robbery	2,181	85	96	1,930	450	900
Assaulting peace officer	2,390	37	60	937	30	60
Uttering threats	3,668	31	46	1,209	30	89
Break & Enter	11,921	61	78	7,886	120	240
Possess B&E equipment	355	51	57	183	60	135
Theft/forgery credit card	2,386	29	46	799	32	60
Forgery	2,706	44	50	1,261	30	90
Fraud < \$1,000	5,635	19	39	1,435	30	90
False Pretenses	3,743	20	35	963	30	60
NCA – trafficking	4,641	80	90	3,805	90	150

(1) See Table "A" for standard footnotes and explanation of symbols used in tables.

(2) The "median" represents the middle value when all values are ordered in terms of magnitude.

TABLE 8. AVERAGE INCARCERAL SENTENCE LENGTHS IMPOSED IN PROVINCIAL ADULT COURT, SIX JURISDICTIONS, 1991 & 1992 (1)

Most Serious Offence	Cases Receiving Prison #	Median Sent.(2) Length (days)	Mean Sent. Length (days)	Coeffi- cient of(3) Variation	Modal Sent. Lngh (days)	Mid-80 Percentile Range (4) (days)
CRIMINAL CODE OFFENCES						
OFFENCES AGAINST THE PERSON						
1 Manslaughter	48	1,460	1,830	86	1,460	30 - 4052
2 Robbery	1,930	630	769	95	730	90 - 1638
3 Sex assault-weapon/bod.hrm.	88	730	990	86	1,095	60 - 2190
4* Sexual assault	861	120	297	131	90	30 - 730
5 Aggravated assault	370	270	408	126	90	30 - 900
6 Assault with weapon/bod. hrm.	2,949	60	114	147	90	1 - 270
7* Assault	6,232	30	51	248	30	1 - 90
8* Assaulting peace officer	937	30	52	116	30	3 - 120
9 Forcible confinement	67	300	495	121	90	30 - 1116
10* Sexual touching of child < 14	383	90	207	139	90	30 - 540
11 Uttering threats of bodily harm	1,209	30	92	289	30	1 - 180
12 Harassing/indecent phone call	113	30	55	108	30	1 - 150
13 Other offences against person	782	90	459	...	30	10 - 1095
FIREARMS, OTHER WEAPONS						
14 Use of firearm during offence	52	365	549	119	365	365 - 1004
15 Careless/dang. use of firearm	733	45	110	192	1	1 - 270
16* Poss. firearms/other weapons	502	30	79	138	30	1 - 180
17 Other weapon/explosive off.	78	60	133	...	30	7 - 307
OFF. AGAINST PROPERTY, FRAUD						
18 Break and enter	7,886	180	242	119	90	30 - 600
19 Poss. of break-in instrument	183	60	143	406	30	1 - 240
20 Poss. stolen goods > \$1,000	1,729	90	158	120	90	1 - 365
21* Poss. stolen goods < \$1,000	1,441	30	77	137	30	5 - 180
22 Poss. stolen goods - other	1,438	60	96	135	30	7 - 182
23 Theft over \$1,000	2,299	90	166	123	90	14 - 365
24* Theft under \$1,000	8,421	30	66	270	30	1 - 150
25 Theft - amount unspecified	821	30	80	176	30	1 - 180
26* Theft/forgery of credit card	799	45	96	170	30	1 - 180
27 Forgery	1,261	60	145	203	1	1 - 365
28 Personation with intent	497	30	90	166	30	1 - 216
29 Fraud over \$1,000	1,016	90	176	130	90	7 - 450
30* Fraud under \$1,000	1,435	60	129	243	30	8 - 344
31 Fraud - amount unspecified	348	30	66	181	1	1 - 180
32 False pretences	963	30	92	164	30	1 - 180
33* Mischief - damage > \$1,000	392	30	56	182	30	1 - 120
34* Mischief - damage < \$1,000	1,871	30	50	163	30	1 - 120
35 Other property, fraud offences	790	60	173	...	30	1 - 540

* Represents "hybrid" offence

TABLE 8. AVERAGE INCARCERATION SENTENCE LENGTHS IMPOSED IN PROVINCIAL ADULT COURT, SIX JURISDICTIONS, 1991 & 1992 (1)

Most Serious Offence	Cases Receiving Prison #	Median Sent.(2) Length (days)	Mean Sent. Length (days)	Coeffi- cient of(3) Variation	Modal Sent. Lngth (days)	Mid-80 Percentile Range (4) (days)
MOTOR VEHICLE OFFENCES						
36 Impaired driving – bodily harm	275	90	137	128	90	30 – 300
37* Impaired driving/over .08	13,197	30	59	235	14	14 – 120
38* Refuse provide breath sample	1,042	30	62	182	14	14 – 120
39 Dangerous op. m.v. –bod.hrm	99	90	162	108	90	14 – 365
40* Dangerous operation – m. v.	742	60	105	125	30	15 – 180
41* Fail to stop scene of accident	289	30	59	118	30	10 – 150
42* Driving while disqualified	3,853	30	56	126	30	14 – 120
43 Other motor vehicle offences	102	65	279	...	30	15 – 730
PROSTITUTION / MORAL OFFENCES						
44 Procuring for prostitution	21	180	420	106	90	54 – 1059
45 Keeping bawdy-house	15	90	83	87	15	9 – 204
46 Soliciting / obtaining services	782	14	21	131	1	1 – 60
47 Indecent acts/exposure	275	30	44	131	30	1 – 120
48 Gaming and betting offences	10	45	351	169	1	1 – 1715
49 Other morals offences	49	30	58	...	1	1 – 120
OFFENCES AGAINST ADMIN. OF LAW						
50 Obstructing justice	248	30	72	174	30	1 – 180
51* Provide false info. to officer	282	30	53	186	30	1 – 111
52* Obstructing peace officer	1,128	30	42	512	30	1 – 90
53* Escape custody	770	45	70	163	30	7 – 180
54* Unlawfully at large	3,494	30	34	145	30	2 – 90
55 Fail to appear in court	8,769	15	29	649	1	1 – 60
56 Fail to comply probation order	6,334	30	48	320	30	3 – 90
57 Breach of recognizance	26	12	19	108	30	1 – 45
58 Other off. against admin. of law	783	30	107	...	30	1 – 210
OTHER CRIMINAL CODE OFFENCES						
59 Causing disturbance, trespass	504	14	28	363	1	1 – 60
60 Other Criminal Code offences	1,376	90	306	...	90	10 – 730
TOTAL CRIMINAL CODE	95,389	30	111	...	30	2 – 240
OTHER FEDERAL STATUTES						
61 NCA – trafficking	3,805	90	219	178	90	20 – 548
62* NCA – possession	2,438	25	37	184	30	1 – 90
63 Other NCA offences	401	180	377	...	90	3 – 910
64 Food and Drugs Act	222	60	108	137	30	15 – 270
65 Other federal statutes	1,089	15	51	...	1	1 – 90
TOTAL OTHER FEDERAL STAT.	7,955	45	145	...	30	1 – 365
TOTAL C.C. + OTH FED. STAT.	103,344	30	114	...	30	1 – 270

(1) See Table "A" for standard footnotes and explanation of symbols used in tables.

(2) The median represents the middle value when all values are ordered in terms of magnitude.

(3) The coefficient of variation = standard deviation / mean * 100.

(4) The mid-80 percentile represents the range of values, excluding the highest and lowest 10%.

**TABLE 9. DETAILED INCARCERATION SENTENCE LENGTHS IMPOSED IN ADULT
PROVINCIAL COURT, SIX JURISDICTIONS, 1991 & 1992 (1)**

Most Serious Offence	Cases Receiving Prison #	Sentence Length Categories (in days)									
		1	2–	8–	22–	46–	76–	136–	271–	501–	730+
		7	%	%	%	%	%	%	%	%	%
CRIMINAL CODE OFFENCES											
OFFENCES AGAINST THE PERSON											
1 Manslaughter	48	–	–	6	8	–	4	2	4	10	65
2 Robbery	1,930	2	–	1	3	2	7	13	15	13	44
3 Sex assault–weapon/bodily harm	88	1	–	1	5	5	3	10	13	10	52
4* Sexual assault	861	5	2	3	13	9	20	17	12	9	11
5 Aggravated assault	370	6	1	1	5	6	15	22	17	11	16
6 Assault with weapon/bodily harm	2,949	13	2	7	18	12	23	16	6	2	1
7* Assault	6,232	12	8	18	30	12	14	5	1	–	–
8* Assaulting peace officer	937	10	6	16	33	12	15	7	1	–	–
9 Forcible confinement	67	4	1	–	6	6	19	12	15	9	27
10* Sexual touching of child under 14	383	4	1	3	16	11	27	16	10	6	5
11 Uttering threats of bodily harm	1,209	15	5	12	22	10	19	12	3	1	1
12 Harassing/indecent phone calls	113	13	6	18	21	15	16	10	1	–	–
13 Other offences against person	782	6	3	11	16	8	17	10	8	6	16
FIREARMS, OTHER WEAPONS											
14 Use of firearm during offence	52	–	–	–	–	–	–	–	81	5	14
15 Careless/dangerous of firearm	733	20	3	9	20	10	18	12	4	2	3
16* Possess firearms/other weapons	502	15	5	14	21	10	17	11	4	1	1
17 Other weapon/explosive offences	78	8	3	9	23	9	19	19	4	1	5
OFF. AGAINST PROPERTY, FRAUD											
18 Break and enter	7,886	5	1	3	10	8	20	25	14	6	8
19 Possess break–in instrument	183	12	3	4	21	14	21	18	3	2	2
20 Possess stolen goods > \$1,000	1,729	11	1	3	12	11	24	23	9	3	3
21* Possess stolen goods < \$1,000	1,441	8	5	12	29	11	20	10	3	1	–
22 Possession stolen goods – other	1,438	8	3	12	23	12	22	13	4	1	1
23 Theft over \$1,000	2,299	8	1	5	15	10	23	23	10	3	4
24* Theft under \$1,000	8,421	12	7	15	28	11	16	8	2	1	1
25 Theft – amount unspecified	821	12	8	15	25	9	15	11	3	1	1
26* Theft/forgery of credit card	799	12	4	11	25	10	19	13	3	2	1
27 Forgery	1,261	15	3	6	18	9	20	16	7	2	4
28 Personation with intent	497	18	3	13	25	10	14	10	5	2	2
29 Fraud over \$1,000	1,016	9	1	5	14	11	23	20	9	5	4
30* Fraud under \$1,000	1,435	6	3	9	23	11	21	15	7	2	2
31 Fraud – amount unspecified	348	22	9	11	20	9	17	8	2	1	1
32 False pretences	963	13	6	12	22	11	17	11	4	2	2
33* Mischief–prop. damage >\$1,000	392	15	7	16	32	10	12	5	2	–	1
34* Mischief–prop. damage <\$1,000	1,871	14	9	18	29	11	13	6	1	–	–
35 Other property, fraud offences	790	11	4	11	18	11	15	13	7	6	5

* Represents "hybrid" offence

**TABLE 9. DETAILED INCARCERATION SENTENCE LENGTHS IMPOSED IN ADULT
PROVINCIAL COURT, SIX JURISDICTIONS, 1991 & 1992 (1)**

Most Serious Offence	Cases Receiving Prison #	Sentence Length Categories (in days)									
		1	2–	8–	22–	46–	76–	136–	271–	501–	
		7	21	45	75	135	270	500	729	730+	
		%	%	%	%	%	%	%	%	%	%
MOTOR VEHICLE OFFENCES											
36 Impaired driving – bodily harm	275	3	--	5	19	13	31	19	5	3	2
37* Impaired driving/over .08	13,197	1	5	39	20	5	23	6	1	--	--
38* Refuse to provide breath sample	1,042	1	8	33	18	7	26	5	1	--	1
39 Dangerous op. m.v. – bodily harm	99	6	--	5	16	5	29	22	8	6	2
40* Dangerous op. of motor vehicle	742	2	3	8	27	14	25	15	3	1	2
41* Fail to stop at scene of accident	289	2	6	25	28	14	16	8	2	--	--
42* Driving while disqualified	3,853	1	3	19	43	11	15	6	1	--	--
43 Other motor vehicle offences	102	1	3	14	26	7	9	8	10	12	11
PROSTITUTION / MORAL OFFENCES											
44 Procuring for prostitution	21	--	--	--	10	--	24	19	14	10	24
45 Keeping common bawdy – house	15	7	--	20	20	--	27	27	--	--	--
46 Soliciting / obtaining services	782	30	14	23	22	6	5	1	--	--	--
47 Indecent acts/exposure	275	18	13	15	26	7	12	8	1	--	--
48 Gaming and betting offences	10	20	10	10	10	10	10	--	--	10	20
49 Other morals offences	49	31	4	8	22	6	20	4	4	--	--
OFFENCES AGAINST ADMIN. OF LAW											
50 Obstructing justice	248	16	5	18	25	10	15	8	2	1	1
51* Providing false info. to officer	282	10	6	21	33	11	13	5	1	--	1
52* Obstructing peace officer	1,128	17	10	22	31	9	7	3	--	--	--
53* Escape custody	770	4	6	12	32	16	18	8	2	--	1
54* Unlawfully at large	3,494	7	16	24	32	10	8	2	--	--	--
55 Fail to appear in court	8,769	25	14	23	25	5	4	2	--	--	--
56 Fail to comply probation order	6,334	9	9	20	34	10	13	6	--	--	--
57 Breach of recognizance	26	15	27	23	31	--	4	--	--	--	--
58 Other off. against admin. of law	783	14	8	15	26	9	13	7	3	2	3
OTHER CRIMINAL CODE OFFENCES											
59 Causing disturbance, trespassing	504	29	15	19	23	6	6	2	--	--	--
60 All other Criminal Code offences	1,376	6	3	8	16	8	17	16	9	5	12
TOTAL CRIMINAL CODE	95,389	10	6	17	24	9	16	10	4	2	3
OTHER FEDERAL STATUTES											
61 NCA – trafficking	3,805	6	1	5	16	10	23	19	8	4	8
62* NCA – possession	2,438	20	11	19	28	10	8	3	--	--	--
63 Other NCA offences	401	9	3	4	10	6	17	17	16	6	13
64 Food and Drugs Act	222	4	1	14	25	9	25	16	5	--	1
65 Other federal statutes	1,089	32	8	16	23	8	8	3	--	--	1
TOTAL OTHER FEDERAL STAT.	7,955	14	5	11	21	10	16	12	5	2	5
TOTAL C.C. + OTHER FED. STAT.	103,344	10	6	17	23	9	16	10	4	2	3

(1) See Table "A" for standard footnotes and explanation of symbols used in tables.

**TABLE 10. FINE AMOUNTS IMPOSED IN ADULT PROVINCIAL COURT,
SIX JURISDICTIONS, 1991 & 1992 (1)**

Most Serious Offence	Cases Resulting in Fine Sentence	Median Fine (2) Amount	Mid-80 Percentile Range (3)
	#	\$	\$
CRIMINAL CODE OFFENCES			
OFFENCES AGAINST THE PERSON			
1 Manslaughter	24	350	125 – 875
2 Robbery	95	250	90 – 540
3 Sexual assault—weapon/bodily harm	3	..	.. ..
4* Sexual assault	282	500	100 – 1,000
5 Aggravated assault	53	500	200 – 1,000
6 Assault with weapon/bodily harm	1,572	350	150 – 800
7* Assault	11,267	200	75 – 500
8* Assaulting peace officer	1,055	250	100 – 500
9 Forcible confinement	7	..	.. ..
10* Sexual touching of child under 14	82	500	100 – 1,000
11 Uttering threats of bodily harm	801	200	100 – 500
12 Harassing/indecent phone calls	347	175	50 – 500
13 Other offences against person	369	300	100 – 800
FIREARMS, OTHER WEAPONS			
14 Use of firearm during offence	4	..	.. ..
15 Careless/dangerous use of firearm	681	300	100 – 600
16* Possession firearms/other weapons	1,015	200	69 – 500
17 Other weapon/explosive offences	189	200	50 – 500
OFF. AGAINST PROPERTY, FRAUD			
18 Break and enter	1,357	300	100 – 750
19 Possession of break-in instrument	97	250	90 – 500
20 Possession stolen goods > \$1,000	919	450	200 – 1,000
21* Possession stolen goods < \$1,000	2,121	200	100 – 500
22 Possession stolen goods – other	1,265	253	100 – 750
23 Theft over \$1,000	905	300	150 – 1,000
24* Theft under \$1,000	22,251	150	50 – 300
25 Theft – amount unspecified	1,616	100	25 – 300
26* Theft/forgery of credit card	715	240	100 – 500
27 Forgery	609	200	50 – 500
28 Personation with intent	618	200	100 – 500
29 Fraud over \$1,000	351	400	100 – 2,000
30* Fraud under \$1,000	1,711	150	50 – 400
31 Fraud – amount unspecified	547	100	35 – 300
32 False pretences	1,285	100	50 – 300
33* Mischief – prop. damage > \$1,000	381	200	100 – 500
34* Mischief – prop. damage < \$1,000	5,551	150	50 – 350
35 Other property, fraud offences	824	250	100 – 500

* Represents "hybrid" offence

**TABLE 10. FINE AMOUNTS IMPOSED IN ADULT PROVINCIAL COURT,
SIX JURISDICTIONS, 1991 & 1992 (1)**

Most Serious Offence	Cases Resulting in Fine Sentence #	Median Fine (2) Amount \$	Mid-80 Percentile Range (3) \$
MOTOR VEHICLE OFFENCES			
36 Impaired driving – bodily harm	128	827	300 – 1,550
37* Impaired driving/over .08	65,568	500	300 – 800
38* Refuse provide breath/blood sample	4,119	500	300 – 850
39 Dangerous op. of m.v. – bodily harm	43	700	240 – 1,800
40* Dangerous op. of motor vehicle	1,660	500	300 – 1,000
41* Fail to stop at scene of accident	1,220	400	153 – 750
42* Driving while disqualified	3,150	500	150 – 1,000
43 Other motor vehicle offences	78	300	50 – 1,000
PROSTITUTION / MORAL OFFENCES			
44 Procuring for prostitution	19	500	100 – 2,500
45 Keeping common bawdy-house	77	500	200 – 1,000
46 Soliciting / obtaining services	2,901	200	100 – 300
47 Indecent acts/exposure	707	200	75 – 400
48 Gaming and betting offences	495	200	50 – 2,000
49 Other morals offences	344	200	80 – 600
OFFENCES AGAINST ADMIN. OF LAW			
50 Obstructing justice	93	250	68 – 560
51* Providing false info. to peace officer	1,086	250	100 – 500
52* Obstructing peace officer	3,187	200	75 – 500
53* Escape custody	142	200	100 – 500
54* Unlawfully at large	357	175	50 – 450
55 Fail to appear in court	10,085	100	25 – 300
56 Fail to comply with probation order	6,096	100	50 – 300
57 Breach of recognizance	46	213	50 – 500
58 Other offences against admin. of law	363	250	50 – 710
OTHER CRIMINAL CODE OFFENCES			
59 Causing disturbance, trespassing	3,480	150	50 – 300
60 All other Criminal Code offences	1,242	200	50 – 575
TOTAL CRIMINAL CODE	167,655	300	75 – 700
OTHER FEDERAL STATUTES			
61 Narcotic Control Act(NCA) – traffick	783	500	150 – 1,500
62* NCA – possession	11,455	200	100 – 500
63 Other NCA offences	315	500	100 – 1,500
64 Food and Drugs Act	301	300	100 – 700
65 Other federal statutes	42,536	79	15 – 300
TOTAL OTHER FEDERAL STAT.	55,390	100	16 – 500
TOTAL C.C. + OTHER FED. STAT.	223,045	250	50 – 700

(1) See Table "A" for standard footnotes and explanation of symbols used in tables.

(2) The median represents the middle value when all values are ordered in terms of magnitude.

(3) The mid-80 percentile represents the range of values, excluding the highest and lowest 10%.

TABLE 11. COMPENSATION/RESTITUTION AMOUNTS IMPOSED IN ADULT PROVINCIAL COURT, SIX JURISDICTIONS, 1991 & 1992 (1)

Most Serious Offence (2)	Cases Receiving Comp./Rest. #	Median Amount (3) \$	Mid-80 Percentile Range (4) \$
CRIMINAL CODE OFFENCES			
6 Assault with weapon/bodily harm	34	318	84 – 7,811
7* Assault	156	200	40 – 1,006
18 Break and enter	115	170	38 – 1,122
20 Possession stolen goods > \$1,000	24	767	49 – 200,000
21* Possession stolen goods < \$1,000	36	165	37 – 7,650
22 Possession stolen goods – other	55	275	48 – 1,170
23 Theft over \$1,000	76	1,207	171 – 19,868
24* Theft under \$1,000	336	185	25 – 1,078
25 Theft – amount unspecified	61	250	21 – 2,895
26* Theft/forgery of credit card	65	265	44 – 25,116
27 Forgery	54	390	65 – 1,241
29 Fraud over \$1,000	60	1,825	395 – 136,268
30* Fraud under \$1,000	162	371	64 – 1,717
31 Fraud – amount unspecified	107	87	9 – 2,500
32 False pretences	193	227	32 – 4,019
33* Mischief – prop. damage > \$1,000	174	400	100 – 1,755
34* Mischief – prop. damage < \$1,000	1,136	200	50 – 4,300
35 Other property, fraud offences	47	250	50 – 1,752
TOTAL CRIMINAL CODE	3,164	250	45 – 2,992
TOTAL OTHER FEDERAL STAT.	81	2,720	100 – 233,740
TOTAL C.C. + OTHER FED. STAT.	3,245	250	46 – 3,639

* Represents "hybrid" offence

(1) See Table "A" for standard footnotes and explanation of symbols used in tables.

(2) Only those offences with at least 10 charges receiving compensation or restitution are included.

(3) The median represents the middle value when all values are ordered in terms of magnitude.

(4) The mid-80 percentile represents the range of values, excluding the highest and lowest 10%.

**TABLE 12A. COMPARISON OF JURISDICTIONAL INCARCERATION RATES IN
ADULT PROVINCIAL COURT, 1991 & 1992 (1)**

Most Serious Offence (Case-based)	Jurisdiction					
	P.E.I.	N.S.	Que.	Ont.	Alta.	Yukon
	%	%	%	%	%	%
CRIMINAL CODE OFFENCES						
OFFENCES AGAINST THE PERSON						
1 Manslaughter	..	..	94	53	..	..
2 Robbery	..	96	87	90	87	..
3 Sexual assault—weapon/bodily harm	..	..	94	95	89	..
4* Sexual assault	86	51	50	54	57	80
5 Aggravated assault	..	86	70	85	78	..
6 Assault with weapon/bodily harm	73	43	30	58	52	83
7* Assault	51	11	10	25	19	31
8* Assaulting peace officer	30	28	16	54	30	50
9 Forcible confinement	..	..	56	73	89	..
10* Sexual touching of child under 14	..	50	52	53	51	..
11 Uttering threats of bodily harm	62	30	26	38	38	..
12 Harassing/indecent phone calls	33	5	12	14	8	..
13 Other offences against person	..	38	38	53	56	76
FIREARMS, OTHER WEAPONS						
14 Use of firearm during offence	..	..	100	100	..	..
15 Careless/dangerous use of firearm	..	22	20	36	40	45
16* Possession firearms/other weapons	..	4	13	35	16	..
17 Other weapon/explosive offences	..	4	13	17	20	..
OFF. AGAINST PROPERTY, FRAUD						
18 Break and enter	85	66	55	72	69	79
19 Possession of break—in instrument	..	..	37	53	70	..
20 Possession stolen goods > \$1,000	..	53	32	55	72	..
21* Possession stolen goods < \$1,000	..	16	28	30	34	..
22 Possession stolen goods — other	50	27	23	40	50	48
23 Theft over \$1,000	43	44	44	55	64	..
24* Theft under \$1,000	25	12	21	17	20	24
25 Theft — amount unspecified	31	12	15	24	14	..
26* Theft/forgery of credit card	..	28	27	32	42	..
27 Forgery	64	30	40	41	61	..
28 Personation with intent	..	8	28	48	67	..
29 Fraud over \$1,000	50	33	37	41	63	..
30* Fraud under \$1,000	..	12	31	23	22	..
31 Fraud — amount unspecified	..	13	25	27	16	..
32 False pretences	32	24	25	23	29	33
33* Mischief — prop. damage > \$1,000	23	19	..	23	22	..
34* Mischief — prop. damage < \$1,000	17	8	15	16	13	16
35 Other property, fraud offences	50	24	24	34	33	31

* Represents "hybrid" offence

**TABLE 12A. COMPARISON OF JURISDICTIONAL INCARCERATION RATES IN
ADULT PROVINCIAL COURT, 1991 & 1992 (1)**

Most Serious Offence (Case-based)	Jurisdiction					
	P.E.I.	N.S.	Que.	Ont.	Alta.	Yukon
	%	%	%	%	%	%
MOTOR VEHICLE OFFENCES						
36 Impaired driving – bodily harm	..	88	58	77	63	..
37* Impaired driving/over .08	97	6	6	22	19	35
38* Refuse provide breath/blood sample	96	10	7	21	24	44
39 Dangerous op. of m.v. –bodily harm	..	..	..	73	61	..
40* Dangerous op. of motor vehicle	79	27	19	48	17	..
41* Fail to stop at scene of accident	50	7	8	26	12	..
42* Driving while disqualified	30	21	43	68	53	67
43 Other motor vehicle offences	..	20	43	47	41	76
PROSTITUTION / MORAL OFFENCES						
44 Procuring for prostitution	..	..	20	48	..	..
45 Keeping common bawdy–house	..	..	12	21	..	..
46 Soliciting / obtaining services	..	..	18	19	8	..
47 Indecent acts/exposure	..	18	15	16	15	..
48 Gaming and betting offences	..	..	1	1	4	..
49 Other morals offences	..	..	4	13	36	..
OFFENCES AGAINST ADMIN. OF LAW						
50 Obstructing justice	..	..	47	66	73	..
51* Providing false info. to peace officer	..	8	6	20	15	..
52* Obstructing peace officer	–	7	15	30	21	58
53* Escape custody	..	50	91	76	77	..
54* Unlawfully at large	90	72	92	87	89	..
55 Fail to appear in court	79	46	30	58	30	65
56 Fail to comply with probation order	65	44	38	54	42	58
57 Breach of recognizance	..	1	5	6	..	–
58 Other offences against admin. of law	64	64	49	62	40	48
OTHER CRIMINAL CODE OFFENCES						
59 Causing disturbance, trespassing	8	8	12	9	10	11
60 All other Criminal Code offences	67	31	38	41	46	36
TOTAL CRIMINAL CODE	61	18	24	32	29	42
OTHER FEDERAL STATUTES						
61 Narcotic Control Act(NCA) – traffick	..	85	71	87	85	94
62* NCA – possession	13	5	11	21	10	11
63 Other NCA offences	..	15	34	58	66	29
64 Food and Drugs Act	..	29	31	40	43	..
65 Other federal statutes	8	1	1	3	11	–
TOTAL OTHER FEDERAL STAT.	14	7	8	12	25	27
TOTAL C.C. + OTHER FED. STAT.	57	16	21	28	29	40

(1) See Table "A" for standard footnotes and explanation of symbols used in tables.

**TABLE 12B. NUMBER OF CASES BY OFFENCE GROUP BY JURISDICTION,
ADULT PROVINCIAL COURT, 1991 & 1992 (1)**

Most Serious Offence (Case-based)	Jurisdiction					
	P.E.I.	N.S.	Que.	Ont.	Alta.	Yukon
	#	#	#	#	#	#
CRIMINAL CODE OFFENCES						
OFFENCES AGAINST THE PERSON						
1 Manslaughter	—	—	16	51	6	—
2 Robbery	6	52	768	895	452	8
3 Sexual assault—weapon/bodily harm	2	3	18	43	27	1
4* Sexual assault	14	98	276	808	371	15
5 Aggravated assault	—	22	54	194	188	2
6 Assault with weapon/bodily harm	22	284	936	2,620	1,884	41
7* Assault	220	1,267	5,505	16,444	6,789	244
8* Assaulting peace officer	10	99	521	1,264	482	14
9 Forcible confinement	—	3	27	37	27	—
10* Sexual touching of child under 14	6	24	232	307	160	2
11 Uttering threats of bodily harm	34	149	1,394	1,564	527	—
12 Harassing/indecent phone calls	12	57	357	342	199	—
13 Other offences against person	10	45	264	1,073	135	17
FIREARMS, OTHER WEAPONS						
14 Use of firearm during offence	—	—	21	30	1	—
15 Careless/dangerous use of firearm	6	153	283	955	713	20
16* Possession firearms/other weapons	5	49	362	1,079	524	3
17 Other weapon/explosive offences	2	28	90	269	100	—
OFF. AGAINST PROPERTY, FRAUD						
18 Break and enter	137	647	3,292	4,581	3,217	47
19 Possession of break—in instrument	—	4	115	150	86	—
20 Possession stolen goods > \$1,000	—	57	844	976	1,242	1
21* Possession stolen goods < \$1,000	5	136	1,024	1,878	1,660	2
22 Possession stolen goods — other	32	240	275	2,837	323	29
23 Theft over \$1,000	21	147	1,537	1,438	1,167	7
24* Theft under \$1,000	199	2,016	9,616	20,454	13,880	122
25 Theft — amount unspecified	16	147	1,437	2,414	57	7
26* Theft/forgery of credit card	5	43	467	1,219	652	—
27 Forgery	36	105	773	967	823	2
28 Personation with intent	1	13	659	286	260	3
29 Fraud over \$1,000	16	55	389	1,156	586	—
30* Fraud under \$1,000	7	216	2,237	2,289	886	—
31 Fraud — amount unspecified	5	127	158	902	341	5
32 False pretences	31	166	640	1,608	1,286	12
33* Mischief — prop. damage > \$1,000	13	84	9	1,520	93	5
34* Mischief — prop. damage < \$1,000	148	841	3,229	4,804	3,735	80
35 Other property, fraud offences	30	139	575	1,282	491	16

* Represents "hybrid" offence

**TABLE 12B. NUMBER OF CASES BY OFFENCE GROUP BY JURISDICTION,
ADULT PROVINCIAL COURT, 1991 & 1992 (1)**

Most Serious Offence (Case-based)	Jurisdiction					
	P.E.I.	N.S.	Que.	Ont.	Alta.	Yukon
	#	#	#	#	#	#
MOTOR VEHICLE OFFENCES						
36 Impaired driving – bodily harm	–	17	69	185	120	1
37* Impaired driving/over .08	621	3,712	19,926	29,932	23,589	479
38* Refuse provide breath/blood sample	131	1,073	513	1,173	2,156	52
39 Dangerous op. of m.v. –bodily harm	–	7	7	71	59	3
40* Dangerous op. of motor vehicle	19	122	214	920	1,223	4
41* Fail to stop at scene of accident	18	43	425	761	352	3
42* Driving while disqualified	46	331	934	2,433	3,221	15
43 Other motor vehicle offences	6	20	40	110	27	17
PROSTITUTION / MORAL OFFENCES						
44 Procuring for prostitution	–	–	15	21	8	–
45 Keeping common bawdy-house	–	–	73	29	5	–
46 Soliciting / obtaining services	–	–	51	3,283	1,973	–
47 Indecent acts/exposure	4	57	319	1,148	251	1
48 Gaming and betting offences	2	7	222	462	25	–
49 Other morals offences	–	6	319	244	11	–
OFFENCES AGAINST ADMIN. OF LAW						
50 Obstructing justice	–	7	59	270	52	–
51* Providing false info. to peace officer	8	124	398	933	431	4
52* Obstructing peace officer	20	190	1,197	1,840	1,845	19
53* Escape custody	4	24	279	309	342	2
54* Unlawfully at large	10	50	1,607	696	1,536	6
55 Fail to appear in court	29	222	5,102	9,124	6,131	55
56 Fail to comply with probation order	52	630	7,563	3,917	2,363	105
57 Breach of recognizance	3	350	56	241	6	17
58 Other offences against admin. of law	11	14	133	1,065	95	27
OTHER CRIMINAL CODE OFFENCES						
59 Causing disturbance, trespassing	181	573	1,148	1,974	1,346	19
60 All other Criminal Code offences	18	77	1,761	1,135	465	28
TOTAL CRIMINAL CODE	2,234	15,172	80,830	141,012	91,002	1,562
OTHER FEDERAL STATUTES						
61 Narcotic Control Act(NCA) –traffick	9	127	1,219	2,125	1,144	17
62* NCA – possession	60	702	3,766	8,054	3,563	53
63 Other NCA offences	1	34	201	343	174	45
64 Food and Drugs Act	6	28	85	264	182	8
65 Other federal statutes	131	1,701	14,011	26,929	1,958	12
TOTAL OTHER FEDERAL STAT.	207	2,592	19,282	37,715	7,021	135
TOTAL C.C. + OTHER FED. STAT.	2,441	17,764	100,112	178,727	98,023	1,697

(1) See Table "A" for standard footnotes and explanation of symbols used in tables.

**TABLE 13. MEDIAN (1) SENTENCE LENGTHS IMPOSED IN SIX JURISDICTIONS,
ADULT PROVINCIAL COURT, 1991 & 1992 (2)**

Most Serious Offence (Case-based)	Jurisdiction					
	P.E.I.	N.S.	Que.	Ont.	Alta.	Yukon
	(in days)					
CRIMINAL CODE OFFENCES						
OFFENCES AGAINST THE PERSON						
1 Manslaughter	..	..	3,525	1,260	..	..
2 Robbery	..	905	730	540	729	..
3 Sexual assault—weapon/bodily harm	..	..	1,260	429	1,095	..
4* Sexual assault	45	135	270	90	180	75
5 Aggravated assault	..	365	365	270	180	..
6 Assault with weapon/bodily harm	32	90	90	60	60	60
7* Assault	15	30	60	30	30	30
8* Assaulting peace officer	..	36	30	30	30	..
9 Forcible confinement	..	..	450	300	180	..
10* Sexual touching of child under 14	..	60	120	90	90	..
11 Uttering threats of bodily harm	90	30	90	30	30	..
12 Harassing/indecent phone calls	..	..	30	30	25	..
13 Other offences against person	17	729	365	60	270	60
FIREARMS, OTHER WEAPONS						
14 Use of firearm during offence	..	..	365	365	..	..
15 Careless/dangerous use of firearm	..	30	90	45	30	..
16* Possession firearms/other weapons	..	..	90	30	38	..
17 Other weapon/explosive offences	..	..	135	60	53	..
OFF. AGAINST PROPERTY, FRAUD						
18 Break and enter	240	180	240	120	180	90
19 Possession of break—in instrument	..	..	90	60	60	..
20 Possession stolen goods > \$1,000	..	120	180	90	90	..
21* Possession stolen goods < \$1,000	..	60	90	30	45	..
22 Possession stolen goods – other	105	45	90	60	90	75
23 Theft over \$1,000	..	90	180	90	90	..
24* Theft under \$1,000	30	30	60	30	30	30
25 Theft – amount unspecified	..	30	75	30	..	..
26* Theft/forgery of credit card	..	30	90	30	60	..
27 Forgery	37	60	180	60	60	..
28 Personation with intent	..	..	90	30	30	..
29 Fraud over \$1,000	..	135	195	90	90	..
30* Fraud under \$1,000	..	30	90	30	30	..
31 Fraud – amount unspecified	..	30	60	30	7	..
32 False pretences	55	30	90	30	30	..
33* Mischief – prop. damage > \$1,000	..	90	..	30	38	..
34* Mischief – prop. damage < \$1,000	15	30	30	30	30	30
35 Other property, fraud offences	30	60	90	60	45	..

* Represents "hybrid" offence

**TABLE 13. MEDIAN (1) SENTENCE LENGTHS IMPOSED IN SIX JURISDICTIONS,
ADULT PROVINCIAL COURT, 1991 & 1992 (2)**

Most Serious Offence (Case-based)	Jurisdiction					
	P.E.I.	N.S.	Que.	Ont.	Alta.	Yukon
	(in days)					
MOTOR VEHICLE OFFENCES						
36 Impaired driving – bodily harm	..	90	90	90	90	..
37* Impaired driving/over .08	4	30	30	21	45	90
38* Refuse provide breath/blood sample	7	30	60	21	60	45
39 Dangerous op. of m.v. –bodily harm	..	..	..	90	135	..
40* Dangerous op. of motor vehicle	25	60	90	60	90	..
41* Fail to stop at scene of accident	..	..	60	30	60	..
42* Driving while disqualified	22	30	30	30	30	30
43 Other motor vehicle offences	..	..	365	30	729	30
PROSTITUTION / MORAL OFFENCES						
44 Procuring for prostitution	..	..	..	135	..	..
45 Keeping common bawdy –house	..	..	..	..	..	..
46 Soliciting / obtaining services	..	..	..	10	30	..
47 Indecent acts/exposure	..	30	60	15	30	..
48 Gaming and betting offences	..	..	..	..	..	..
49 Other morals offences	..	..	68	2	..	..
OFFENCES AGAINST ADMIN. OF LAW						
50 Obstructing justice	..	..	30	30	90	..
51* Providing false info. to peace officer	..	75	50	30	30	..
52* Obstructing peace officer	..	21	30	20	30	15
53* Escape custody	..	53	60	30	30	..
54* Unlawfully at large	..	15	16	30	30	..
55 Fail to appear in court	7	15	15	15	1	7
56 Fail to comply with probation order	21	30	30	30	30	21
57 Breach of recognizance	..	..	..	15	..	..
58 Other offences against admin. of law	..	..	90	30	60	15
OTHER CRIMINAL CODE OFFENCES						
59 Causing disturbance, trespassing	5	30	15	14	1	..
60 All other Criminal Code offences	14	90	180	60	60	45
TOTAL CRIMINAL CODE	14	45	60	30	30	30
OTHER FEDERAL STATUTES						
61 Narcotic Control Act(NCA) –traffick	..	90	180	90	60	53
62* NCA – possession	..	15	30	20	30	..
63 Other NCA offences	..	..	270	270	90	90
64 Food and Drugs Act	..	..	90	52	60	..
65 Other federal statutes	20	14	30	10	15	..
TOTAL OTHER FEDERAL STAT.	30	90	90	30	45	45
TOTAL C.C. + OTHER FED. STAT.	14	45	60	30	30	30

(1) The median represents the middle value when all values are ordered in terms of magnitude.

(2) See Table "A" for standard footnotes and explanation of symbols used in tables.

**TABLE 14. MEDIAN (1) FINE AMOUNTS IMPOSED IN ADULT PROVINCIAL COURT,
SIX JURISDICTIONS, 1991 & 1992 (2)**

Most Serious Offence (Case-based)	Jurisdiction					
	P.E.I.	N.S.	Que.	Ont.	Alta.	Yukon
	\$	\$	\$	\$	\$	\$
CRIMINAL CODE OFFENCES						
OFFENCES AGAINST THE PERSON						
1 Manslaughter	..	..	..	400	..	..
2 Robbery	..	..	200	250	350	..
3 Sexual assault—weapon/bodily harm	..	..	..	..	..	..
4* Sexual assault	..	..	300	500	500	..
5 Aggravated assault	..	..	..	500	500	..
6 Assault with weapon/bodily harm	..	350	300	500	400	..
7* Assault	500	200	125	300	250	300
8* Assaulting peace officer	..	300	150	350	275	..
9 Forcible confinement	..	..	..	..	..	..
10* Sexual touching of child under 14	..	..	300	500	600	..
11 Uttering threats of bodily harm	..	275	200	300	300	..
12 Harassing/indecent phone calls	..	200	100	300	200	..
13 Other offences against person	..	275	250	400	500	..
FIREARMS, OTHER WEAPONS						
14 Use of firearm during offence	..	..	..	..	..	..
15 Careless/dangerous use of firearm	..	275	200	300	300	325
16* Possession firearms/other weapons	..	125	100	250	150	..
17 Other weapon/explosive offences	..	..	100	250	225	..
OFF. AGAINST PROPERTY, FRAUD						
18 Break and enter	500	500	250	495	350	..
19 Possession of break—in instrument	..	..	200	325	300	..
20 Possession stolen goods > \$1,000	..	500	350	500	500	..
21* Possession stolen goods < \$1,000	..	200	150	250	250	..
22 Possession stolen goods — other	300	225	200	300	325	..
23 Theft over \$1,000	..	500	300	500	400	..
24* Theft under \$1,000	325	100	100	150	150	150
25 Theft — amount unspecified	..	150	100	175	200	..
26* Theft/forgery of credit card	..	250	150	250	300	..
27 Forgery	250	200	100	250	300	..
28 Personation with intent	..	150	200	300	300	..
29 Fraud over \$1,000	..	..	300	500	500	..
30* Fraud under \$1,000	..	100	100	200	150	..
31 Fraud — amount unspecified	..	100	50	100	100	..
32 False pretences	200	100	100	150	125	..
33* Mischief — prop. damage > \$1,000	..	200	..	250	300	..
34* Mischief — prop. damage < \$1,000	300	100	100	200	200	150
35 Other property, fraud offences	500	250	150	300	300	..

* Represents "hybrid" offence

**TABLE 14. MEDIAN (1) FINE AMOUNTS IMPOSED IN ADULT PROVINCIAL COURT,
SIX JURISDICTIONS, 1991 & 1992 (2)**

Most Serious Offence (Case-based)	Jurisdiction					
	P.E.I.	N.S.	Que.	Ont.	Alta.	Yukon
	\$	\$	\$	\$	\$	\$
MOTOR VEHICLE OFFENCES						
36 Impaired driving – bodily harm	..	..	1000	900	750	..
37* Impaired driving/over .08	800	600	300	500	600	600
38* Refuse provide breath/blood sample	900	600	300	400	500	600
39 Dangerous op. of m.v. –bodily harm	..	..	..	1000	750	..
40* Dangerous op. of motor vehicle	..	600	400	500	500	..
41* Fail to stop at scene of accident	1000	350	300	500	350	..
42* Driving while disqualified	900	500	500	500	400	..
43 Other motor vehicle offences	..	500	125	350	175	..
PROSTITUTION / MORAL OFFENCES						
44 Procuring for prostitution	..	..	500	..	..	..
45 Keeping common bawdy –house	..	..	500	400	..	..
46 Soliciting / obtaining services	..	..	150	125	200	..
47 Indecent acts/exposure	..	250	150	200	250	..
48 Gaming and betting offences	..	..	200	100	550	..
49 Other morals offences	..	..	200	250	..	..
OFFENCES AGAINST ADMIN. OF LAW						
50 Obstructing justice	..	..	200	300	500	..
51* Providing false info. to peace officer	..	250	200	300	250	..
52* Obstructing peace officer	500	200	100	300	200	..
53* Escape custody	..	..	100	300	200	..
54* Unlawfully at large	..	200	100	200	200	..
55 Fail to appear in court	..	113	50	200	100	200
56 Fail to comply with probation order	300	138	100	200	200	200
57 Breach of recognizance	..	..	..	300	..	..
58 Other offences against admin. of law	..	..	100	300	300	..
OTHER CRIMINAL CODE OFFENCES						
59 Causing disturbance, trespassing	500	100	100	150	150	250
60 All other Criminal Code offences	..	100	200	250	200	..
TOTAL CRIMINAL CODE	700	450	300	385	300	500
OTHER FEDERAL STATUTES						
61 Narcotic Control Act(NCA) –traffick	..	750	500	750	500	..
62* NCA – possession	500	300	125	250	200	150
63 Other NCA offences	..	500	300	750	600	150
64 Food and Drugs Act	..	300	200	300	300	..
65 Other federal statutes	350	50	75	79	150	..
TOTAL OTHER FEDERAL STAT.	400	100	100	79	200	150
TOTAL C.C. + OTHER FED. STAT.	600	400	200	250	300	450

(1) The median represents the middle value when all values are ordered in terms of magnitude.

(2) See Table "A" for standard footnotes and explanation of symbols used in tables.

**TABLE 15A. INCARCERATION RATES IN SIX MAJOR CITIES, ADULT PROVINCIAL COURT
1991 & 1992 (1)**

Most Serious Offence (case-based)	City					
	QC	MTL	OTT	TOR	EDM	CAL
	%	%	%	%	%	%
CRIMINAL CODE OFFENCES						
OFFENCES AGAINST THE PERSON						
1 Manslaughter	..	..	..	..	..	..
2 Robbery	81	82	93	90	88	85
3 Sexual assault—weapon/bodily harm	..	..	..	87	..	..
4* Sexual assault	33	39	43	46	63	53
5 Aggravated assault	..	..	88	85	78	87
6 Assault with weapon/bodily harm	32	33	58	66	56	45
7* Assault	7	19	23	29	23	16
8* Assaulting peace officer	12	30	47	61	41	22
9 Forcible confinement	..	..	..	60	..	..
10* Sexual touching of child under 14	67	49	46	52	55	62
11 Uttering threats of bodily harm	30	34	36	40	39	34
12 Harassing/indecent phone calls	17	23	..	10	7	11
13 Other offences against person	21	37	67	56	58	61
FIREARMS, OTHER WEAPONS						
14 Use of firearm during offence	..	..	..	..	..	..
15 Careless/dangerous use of firearm	7	33	40	41	52	42
16* Possession firearms/other weapons	14	20	54	50	26	24
17 Other weapon/explosive offences	..	..	..	26	8	54
OFF. AGAINST PROPERTY, FRAUD						
18 Break and enter	67	64	73	78	76	65
19 Possession of break—in instrument	..	42	40	64	70	78
20 Possession stolen goods > \$1,000	46	35	53	51	78	70
21* Possession stolen goods < \$1,000	38	45	28	30	36	34
22 Possession stolen goods – other	..	23	39	45	..	74
23 Theft over \$1,000	43	48	32	55	69	66
24* Theft under \$1,000	20	49	16	22	22	16
25 Theft – amount unspecified	30	31	..	24	6	40
26* Theft/forgery of credit card	25	27	27	32	44	40
27 Forgery	42	46	35	42	60	63
28 Personation with intent	27	38	33	55	68	58
29 Fraud over \$1,000	47	33	35	41	64	65
30* Fraud under \$1,000	36	38	24	23	17	23
31 Fraud – amount unspecified	31	48	29	28	18	16
32 False pretences	31	42	16	27	36	34
33* Mischief – prop. damage > \$1,000	..	..	19	32	..	..
34* Mischief – prop. damage < \$1,000	17	28	19	23	19	14
35 Other property, fraud offences	30	33	32	40	41	27

* Represents "hybrid" offence

**TABLE 15A. INCARCERATION RATES IN SIX MAJOR CITIES, ADULT PROVINCIAL COURT
1991 & 1992 (1)**

Most Serious Offence (case-based)	City					
	QC	MTL	OTT	TOR	EDM	CAL
	%	%	%	%	%	%
MOTOR VEHICLE OFFENCES						
36 Impaired driving – bodily harm	..	..	71	71	78	47
37* Impaired driving/over .08	6	5	22	18	23	13
38* Refuse provide breath/blood sample	14	6	33	16	25	13
39 Dangerous op. of m.v. –bodily harm	..	..	60	..	62	53
40* Dangerous op. of motor vehicle	20	21	38	48	37	18
41* Fail to stop at scene of accident	3	11	41	26	21	6
42* Driving while disqualified	58	23	58	47	52	34
43 Other motor vehicle offences	..	..	..	..	..	..
PROSTITUTION / MORAL OFFENCES						
44 Procuring for prostitution	—	..	..	45	..	..
45 Keeping common bawdy-house	12	..	..	38	..	..
46 Soliciting / obtaining services	23	..	11	20	13	4
47 Indecent acts/exposure	16	33	14	16	15	10
48 Gaming and betting offences	2	—	..	1	—	..
49 Other morals offences	9	4	..	15	..	..
OFFENCES AGAINST ADMIN. OF LAW						
50 Obstructing justice	..	..	..	73	76	..
51* Providing false info. to peace officer	4	14	18	20	12	10
52* Obstructing peace officer	18	35	29	41	27	21
53* Escape custody	..	95	76	84	82	41
54* Unlawfully at large	95	90	100	82	88	87
55 Fail to appear in court	27	52	56	65	32	35
56 Fail to comply with probation order	54	37	49	61	35	49
57 Breach of recognizance	—	..	—	..	..	..
58 Other offences against admin. of law	8	52	69	63	26	53
OTHER CRIMINAL CODE OFFENCES						
59 Causing disturbance, trespassing	19	28	11	16	7	14
60 All other Criminal Code offences	32	49	38	43	64	52
TOTAL CRIMINAL CODE	25	42	31	35	33	25
OTHER FEDERAL STATUTES						
61 Narcotic Control Act(NCA) –traffick	80	69	73	93	92	78
62* NCA – possession	12	13	20	42	14	11
63 Other NCA offences	59	30	..	46	79	70
64 Food and Drugs Act	..	5	40	34	49	58
65 Other federal statutes	—	4	—	11	16	14
TOTAL OTHER FEDERAL STAT.	3	17	1	49	33	29
TOTAL C.C. + OTHER FED. STAT.	18	37	9	36	33	26

(1) See Table "A" for standard footnotes and explanation of symbols used in tables.

**TABLE 15B. NUMBER OF CASES BY OFFENCE GROUP BY MAJOR CITY,
ADULT PROVINCIAL COURT, 1991 & 1992 (1)**

Most Serious Offence (Case-based)	City					
	Quebec	Montreal	Ottawa	Toronto	Edm.	Calgary
	#	#	#	#	#	#
CRIMINAL CODE OFFENCES						
OFFENCES AGAINST THE PERSON						
1 Manslaughter	2	4	5	7	2	2
2 Robbery	48	221	95	390	209	151
3 Sexual assault—weapon/bodily harm	—	9	5	15	9	6
4* Sexual assault	15	44	47	176	80	70
5 Aggravated assault	1	7	16	47	68	38
6 Assault with weapon/bodily harm	47	147	130	496	536	327
7* Assault	571	399	734	4,467	1,959	1,357
8* Assaulting peace officer	41	114	32	394	138	138
9 Forcible confinement	1	2	3	10	8	5
10* Sexual touching of child under 14	12	35	26	60	44	34
11 Uttering threats of bodily harm	83	233	59	290	161	117
12 Harassing/indecent phone calls	60	44	6	73	56	53
13 Other offences against person	29	41	79	211	38	28
FIREARMS, OTHER WEAPONS						
14 Use of firearm during offence	2	6	1	9	—	—
15 Careless/dangerous use of firearm	14	39	42	222	190	118
16* Possession firearms/other weapons	21	87	37	476	110	144
17 Other weapon/explosive offences	2	9	2	27	25	13
OFF. AGAINST PROPERTY, FRAUD						
18 Break and enter	157	397	222	1,084	875	657
19 Possession of break—in instrument	4	36	15	50	54	23
20 Possession stolen goods > \$1,000	54	167	131	349	466	309
21* Possession stolen goods < \$1,000	135	212	124	695	639	344
22 Possession stolen goods — other	9	22	31	394	7	19
23 Theft over \$1,000	127	328	84	373	363	266
24* Theft under \$1,000	2,494	1,376	1,226	6,065	5,968	4,160
25 Theft — amount unspecified	44	32	9	1,288	18	10
26* Theft/forgery of credit card	57	244	84	588	299	222
27 Forgery	36	214	31	179	281	197
28 Personation with intent	48	64	12	65	72	33
29 Fraud over \$1,000	30	80	62	411	199	155
30* Fraud under \$1,000	385	254	94	760	336	408
31 Fraud — amount unspecified	13	29	17	249	150	73
32 False pretences	26	135	61	230	186	219
33* Mischief — prop. damage > \$1,000	—	3	31	570	1	3
34* Mischief — prop. damage < \$1,000	357	510	177	895	1,118	743
35 Other property, fraud offences	56	91	63	385	63	81

* Represents "hybrid" offence

**TABLE 15B. NUMBER OF CASES BY OFFENCE GROUP BY MAJOR CITY,
ADULT PROVINCIAL COURT, 1991 & 1992 (1)**

Most Serious Offence (Case-based)	City					
	Quebec	Montreal	Ottawa	Toronto	Edm.	Calgary
	#	#	#	#	#	#
MOTOR VEHICLE OFFENCES						
36 Impaired driving – bodily harm	6	4	14	17	18	38
37* Impaired driving/over .08	2,271	1,282	1,263	4,503	5,449	4,641
38* Refuse provide breath/blood sample	44	47	66	232	887	315
39 Dangerous op. of m.v. –bodily harm	–	1	10	8	13	17
40* Dangerous op. of motor vehicle	10	19	37	225	158	202
41* Fail to stop at scene of accident	34	47	29	125	52	193
42* Driving while disqualified	90	74	64	304	929	434
43 Other motor vehicle offences	3	3	3	5	1	5
PROSTITUTION / MORAL OFFENCES						
44 Procuring for prostitution	10	1	1	11	3	4
45 Keeping common bawdy –house	17	2	2	16	–	4
46 Soliciting / obtaining services	13	2	154	2,565	788	1,162
47 Indecent acts/exposure	51	15	35	719	109	67
48 Gaming and betting offences	48	57	5	349	13	8
49 Other morals offences	34	23	5	160	2	4
OFFENCES AGAINST ADMIN. OF LAW						
50 Obstructing justice	4	9	9	157	25	9
51* Providing false info. to peace officer	51	37	33	195	113	88
52* Obstructing peace officer	73	299	95	520	505	440
53* Escape custody	9	87	21	97	182	39
54* Unlawfully at large	164	829	40	360	765	363
55 Fail to appear in court	362	1,168	272	2,959	1,602	2,107
56 Fail to comply with probation order	1,315	721	128	849	642	317
57 Breach of recognizance	30	5	147	8	–	–
58 Other offences against admin. of law	12	21	32	478	23	15
OTHER CRIMINAL CODE OFFENCES						
59 Causing disturbance, trespassing	48	71	27	271	282	342
60 All other Criminal Code offences	139	412	173	233	157	97
TOTAL CRIMINAL CODE	9,819	10,871	6,458	37,366	27,446	21,434
OTHER FEDERAL STATUTES						
61 Narcotic Control Act(NCA) –traffick	86	327	151	927	435	306
62* NCA – possession	277	1,658	271	2,703	1,118	655
63 Other NCA offences	17	23	7	28	19	77
64 Food and Drugs Act	9	21	10	35	49	36
65 Other federal statutes	4,035	769	16,309	557	430	466
TOTAL OTHER FEDERAL STAT.	4,424	2,798	16,748	4,250	2,051	1,540
TOTAL C.C. + OTHER FED. STAT.	14,243	13,669	23,206	41,616	29,497	22,974

(1) See Table "A" for standard footnotes and explanation of symbols used in tables.

**TABLE 16. MEDIAN (1) SENTENCE LENGTHS IMPOSED IN SIX MAJOR CITIES,
ADULT PROVINCIAL COURT, 1991 & 1992 (2)**

Most Serious Offence (Case-based)	City					
	QC	MTL	OTT	TOR	EDM	CAL
	(in days)					
CRIMINAL CODE OFFENCES						
OFFENCES AGAINST THE PERSON						
1 Manslaughter	..	..	..	..	..	..
2 Robbery	730	730	408	510	730	729
3 Sexual assault—weapon/bodily harm	..	..	..	365	..	..
4* Sexual assault	..	270	150	60	318	90
5 Aggravated assault	..	..	360	270	180	90
6 Assault with weapon/bodily harm	180	35	75	60	60	30
7* Assault	90	30	30	21	30	30
8* Assaulting peace officer	..	15	40	30	30	1
9 Forcible confinement	..	..	..	..	..	..
10* Sexual touching of child under 14	..	120	105	90	90	180
11 Uttering threats of bodily harm	90	30	90	30	60	2
12 Harassing/indecent phone calls	165	22	..	..	..	..
13 Other offences against person	..	180	120	75	365	729
FIREARMS, OTHER WEAPONS						
14 Use of firearm during offence	..	..	..	..	..	..
15 Careless/dangerous use of firearm	..	30	90	30	30	6
16* Possession firearms/other weapons	..	60	60	30	60	30
17 Other weapon/explosive offences	..	..	..	..	..	..
OFF. AGAINST PROPERTY, FRAUD						
18 Break and enter	300	180	180	120	180	120
19 Possession of break—in instrument	..	90	..	30	30	105
20 Possession stolen goods > \$1,000	180	120	90	60	120	90
21* Possession stolen goods < \$1,000	90	90	30	30	60	30
22 Possession stolen goods – other	..	..	75	30	..	165
23 Theft over \$1,000	180	120	90	60	120	60
24* Theft under \$1,000	90	60	30	30	30	30
25 Theft – amount unspecified	45	105	..	21	..	..
26* Theft/forgery of credit card	210	60	60	30	60	60
27 Forgery	180	135	30	45	60	45
28 Personation with intent	120	30	..	30	30	10
29 Fraud over \$1,000	318	318	90	90	120	120
30* Fraud under \$1,000	120	90	30	30	60	30
31 Fraud – amount unspecified	..	30	..	14	10	6
32 False pretences	..	120	22	30	30	45
33* Mischief – prop. damage > \$1,000	..	..	..	30	..	..
34* Mischief – prop. damage < \$1,000	60	30	15	15	30	30
35 Other property, fraud offences	180	90	135	35	5	90

* Represents "hybrid" offence

**TABLE 16. MEDIAN (1) SENTENCE LENGTHS IMPOSED IN SIX MAJOR CITIES,
ADULT PROVINCIAL COURT, 1991 & 1992 (2)**

Most Serious Offence (Case-based)	City					
	QC	MTL	OTT	TOR	EDM	CAL
	(in days)					
MOTOR VEHICLE OFFENCES						
36 Impaired driving – bodily harm	..	..	90	90	120	75
37* Impaired driving/over .08	30	30	21	21	90	30
38* Refuse provide breath/blood sample	..	..	21	14	90	30
39 Dangerous op. of m.v. –bodily harm	..	..	..	..	..	..
40* Dangerous op. of motor vehicle	..	..	90	60	90	90
41* Fail to stop at scene of accident	..	..	38	15	45	45
42* Driving while disqualified	90	60	20	30	45	30
43 Other motor vehicle offences	..	..	90	..	..	..
PROSTITUTION / MORAL OFFENCES						
44 Procuring for prostitution	..	..	..	..	..	..
45 Keeping common bawdy –house	..	..	..	..	..	..
46 Soliciting / obtaining services	..	..	14	7	30	1
47 Indecent acts/exposure	..	..	..	7	43	..
48 Gaming and betting offences	..	..	..	..	..	..
49 Other morals offences	..	..	..	1	..	..
OFFENCES AGAINST ADMIN. OF LAW						
50 Obstructing justice	..	..	..	30	120	..
51* Providing false info. to peace officer	..	..	..	30	60	..
52* Obstructing peace officer	90	15	30	15	30	10
53* Escape custody	..	60	38	30	30	30
54* Unlawfully at large	15	30	45	30	30	30
55 Fail to appear in court	60	7	21	14	10	1
56 Fail to comply with probation order	60	15	30	20	30	14
57 Breach of recognizance	..	..	..	..	..	..
58 Other offences against admin. of law	..	32	30	30	..	..
OTHER CRIMINAL CODE OFFENCES						
59 Causing disturbance, trespassing	..	11	..	1	1	1
60 All other Criminal Code offences	120	180	60	60	90	60
TOTAL CRIMINAL CODE	90	30	30	30	45	30
OTHER FEDERAL STATUTES						
61 Narcotic Control Act(NCA) –traffick	180	90	90	120	90	60
62* NCA – possession	30	15	25	15	30	21
63 Other NCA offences	590	..	..	75	180	90
64 Food and Drugs Act	..	..	..	30	75	30
65 Other federal statutes	30	15	30	30	20	5
TOTAL OTHER FEDERAL STAT.	90	30	60	30	60	30
TOTAL C.C. + OTHER FED. STAT.	90	30	40	30	45	30

(1) The median represents the middle value when all values are ordered in terms of magnitude.

(2) See Table "A" for standard footnotes and explanation of symbols used in tables.

**TABLE 17. MEDIAN (1) FINE AMOUNTS IMPOSED IN SIX MAJOR CITIES, ADULT
PROVINCIAL COURT, 1991 & 1992 (2)**

Most Serious Offence (Case-based)	City					
	QC	MTL	OTT	TOR	EDM	CAL
	\$	\$	\$	\$	\$	\$
CRIMINAL CODE OFFENCES						
OFFENCES AGAINST THE PERSON						
1 Manslaughter	..	..	..	..	..	..
2 Robbery	..	..	..	..	300	400
3 Sexual assault—weapon/bodily harm	..	..	..	..	500	..
4* Sexual assault	..	250	..	500	..	400
5 Aggravated assault	..	..	..	..	..	400
6 Assault with weapon/bodily harm	275	300	375	400	350	350
7* Assault	125	200	250	300	250	250
8* Assaulting peace officer	150	150	..	300	250	250
9 Forcible confinement	..	..	..	..	..	..
10* Sexual touching of child under 14	..	..	..	..	..	..
11 Uttering threats of bodily harm	200	225	..	350	250	250
12 Harassing/indecent phone calls	150	..	..	300	200	200
13 Other offences against person	300	400	375	300	..	..
FIREARMS, OTHER WEAPONS						
14 Use of firearm during offence	..	..	..	..	..	..
15 Careless/dangerous use of firearm	..	200	200	450	350	300
16* Possession firearms/other weapons	113	200	225	250	250	250
17 Other weapon/explosive offences	..	..	..	..	150	..
OFF. AGAINST PROPERTY, FRAUD						
18 Break and enter	250	350	400	500	300	400
19 Possession of break—in instrument	..	..	..	325	250	..
20 Possession stolen goods > \$1,000	300	500	450	460	700	500
21* Possession stolen goods < \$1,000	150	200	200	200	200	200
22 Possession stolen goods — other	..	300	..	300	..	..
23 Theft over \$1,000	300	300	300	400	450	500
24* Theft under \$1,000	75	200	100	150	150	150
25 Theft — amount unspecified	125	300	..	150	250	..
26* Theft/forgery of credit card	88	200	200	250	300	300
27 Forgery	100	250	190	325	300	350
28 Personation with intent	200	200	..	..	300	250
29 Fraud over \$1,000	..	500	..	500	750	500
30* Fraud under \$1,000	100	200	200	200	150	200
31 Fraud — amount unspecified	..	..	..	100	75	100
32 False pretences	50	250	100	250	100	150
33* Mischief — prop. damage > \$1,000	..	..	..	225	..	..
34* Mischief — prop. damage < \$1,000	100	150	193	200	150	200
35 Other property, fraud offences	175	250	275	300	400	325

* Represents "hybrid" offence

**TABLE 17. MEDIAN (1) FINE AMOUNTS IMPOSED IN SIX MAJOR CITIES, ADULT
PROVINCIAL COURT, 1991 & 1992 (2)**

Most Serious Offence (Case-based)	City					
	QC	MTL	OTT	TOR	EDM	CAL
	\$	\$	\$	\$	\$	\$
MOTOR VEHICLE OFFENCES						
36 Impaired driving – bodily harm	..	..	..	..	..	650
37* Impaired driving/over .08	300	325	475	450	500	500
38* Refuse provide breath/blood sample	300	300	400	300	500	500
39 Dangerous op. of m.v. –bodily harm	..	..	..	..	..	..
40* Dangerous op. of motor vehicle	..	450	500	500	500	350
41* Fail to stop at scene of accident	300	300	500	400	400	300
42* Driving while disqualified	500	300	400	500	350	350
43 Other motor vehicle offences	..	..	..	..	..	..
PROSTITUTION / MORAL OFFENCES						
44 Procuring for prostitution	450	..	..	..	..	..
45 Keeping common bawdy-house	500	..	..	..	..	..
46 Soliciting / obtaining services	..	..	100	100	250	200
47 Indecent acts/exposure	150	..	..	100	250	250
48 Gaming and betting offences	400	100	..	100	..	..
49 Other morals offences	300	250	..	300	..	..
OFFENCES AGAINST ADMIN. OF LAW						
50 Obstructing justice	..	..	..	200	..	..
51* Providing false info. to peace officer	200	400	300	400	250	250
52* Obstructing peace officer	150	150	223	250	150	150
53* Escape custody	..	..	..	..	250	200
54* Unlawfully at large	..	75	..	200	200	200
55 Fail to appear in court	25	100	100	189	100	100
56 Fail to comply with probation order	75	100	200	200	150	200
57 Breach of recognizance	..	..	..	..	..	..
58 Other offences against admin. of law	..	..	..	250	400	..
OTHER CRIMINAL CODE OFFENCES						
59 Causing disturbance, trespassing	75	100	100	150	100	150
60 All other Criminal Code offences	190	250	200	300	300	300
TOTAL CRIMINAL CODE	200	300	300	300	300	250
OTHER FEDERAL STATUTES						
61 Narcotic Control Act(NCA) –traffick	500	500	550	725	500	400
62* NCA – possession	100	100	250	300	200	250
63 Other NCA offences	..	..	..	..	..	500
64 Food and Drugs Act	..	300	..	400	275	400
65 Other federal statutes	40	262	41	100	150	125
TOTAL OTHER FEDERAL STAT.	40	150	50	250	200	200
TOTAL C.C. + OTHER FED. STAT.	100	200	79	300	250	250

(1) The median represents the middle value when all values are ordered in terms of magnitude.

(2) See Table "A" for standard footnotes and explanation of symbols used in tables.

TABLE 18. COMPARISON OF SENTENCES IMPOSED ON HYBRID—SUMMARY AND HYBRID—INDICTABLE OFFENCES, ADULT PROVINCIAL COURT, FOUR JURISDICTIONS, 1991 AND 1992 (1)

Hybrid Offence (Case-based)	No. of Convictions (2)	Incarceration Rate		No. of (2) Incarceral Sentences	Median Sent. Length(3)	
		Sum- mary	Indic- table		Sum- mary	Indic- table
	#	%	%	#	# days	# days
Sexual assault	403	21	69	213	60	240
Assault	7,236	8	25	855	30	60
Assaulting peace officer	644	18	26	120	30	60
Sexual touching of child under 14	264	45	62	138	90	180
Possession firearms/other weapons	419	6	29	52	30	90
Possession stolen goods < \$1,000	1,167	12	41	310	60	90
Theft under \$1,000	11,953	9	44	2,325	30	90
Theft/forgery of credit card	515	28	39	138	90	180
Fraud under \$1,000	2,460	16	39	714	60	120
Mischief – prop. damage > \$1,000	111	11	29	22	..	30
Mischief – prop. damage < \$1,000	4,298	11	28	600	30	60
Impaired driving/over .08	24,738	9	47	2,136	28	90
Refuse provide breath/blood sample	1,769	18	35	285	20	105
Dangerous op. of motor vehicle	359	20	50	91	60	105
Fail to stop at scene of accident	489	8	33	46	30	75
Driving while disqualified	1,326	31	55	495	30	60
Providing false info. to peace officer	534	6	13	34	30	..
Obstructing peace officer	1,426	8	14	207	30	..
Escape custody	309	90	95	273	60	90
Unlawfully at large	1,673	91	96	1,526	16	15

(1) The four jurisdictions include Prince Edward Island, Nova Scotia, Quebec and Yukon.

(2) Total "no. of convictions" and "no. of incarceral sentences" includes "unknown" procedure.

(3) The median represents the middle value when all values are ordered in terms of magnitude.

APPENDIX "B"

**LIST OF CRIMINAL CODE SECTIONS AND MAXIMUM PENALTIES
FOR THE 65 SELECTED OFFENCES**

APPENDIX "B" – LIST OF C.C. SECTIONS AND MAXIMUM PENALTIES

OFFENCE	SECTION	MAX. PEN. ON INDICT.
CRIMINAL CODE OFFENCES		
OFFENCES AGAINST THE PERSON		
1 Manslaughter	234, 236	Life
2 Robbery	343, 344	Life
3 Sexual assault with weapon/bodily harm	272	14 yrs.
4* Sexual assault	271	10 yrs.
5 Aggravated assault	268	14 yrs.
6 Assault with weapon/bodily harm	267, 269	10 yrs.
7* Assault	265, 266	5 yrs.
8* Assaulting peace officer	270	5 yrs.
9 Forcible confinement	279(2)	10 yrs.
10* Sexual touching of child under 14	151, 152	10 yrs.
11 Uttering threats of bodily harm	264.1(1a,2)	5 yrs.
12 Harassing/indecent phone calls	372(2,3)	6 mths.
13 Other offences against person	153–159, 214–248, 260–320 not included above	...
FIREARMS, OTHER WEAPONS/EXPLOSIVES		
14 Use of firearm during commission of offence	85	* (min=1 yr) * 14 yrs.
15 Careless/dangerous use of firearm	86, 87	5/10 yrs.
16* Possession of firearms/offensive weapons	89, 90, 91	5 yrs.
17 Other weapon/explosive offences	78–117 not included above	...
OFFENCES AGAINST PROPERTY, FRAUD		
18 Break and enter	348	Life
19 Possession of break–in instrument	351(1)	10 yrs.
20 Possession of stolen goods over \$1,000	355(a)	10 yrs.
21* Possession of stolen goods under \$1,000	355(b)	2 yrs.
22 Possession of stolen goods – amt. unspec.	354, 355(no subsection), 356	...
23 Theft over \$1,000	334(a)	10 yrs.
24* Theft under \$1,000	334(b)	2 yrs.
25 Theft – amount unspecified	322–333, 334(no subsection)	...
26* Theft/forgery of credit card	342	10 yrs.
27 Forgery	366, 367, 368	14 yrs.
28 Personation with intent	403	14 yrs.
29 Fraud over \$1,000	380(1a)	10 yrs.
30* Fraud under \$1,000	380(1b)	2 yrs.
31 Fraud – amount unspecified	381–396, 380(no subs or (1)no par)	...
32 False pretences	362, 363, 364	10/5/0.5 yrs
33* Mischief – property damage over \$1,000	430(3)	10 yrs.
34* Mischief – property damage under \$1,000	430(1,4), 430(no subsection)	2 yrs.
35 Other property, fraud offences	321–447 not included above	...

* Represents "hybrid" offence

APPENDIX 'B' – LIST OF C.C. SECTIONS AND MAXIMUM PENALTIES

OFFENCE	SECTION	MAX. PEN. ON INDICT.
MOTOR VEHICLE OFFENCES		
	* (Sections 253–255: min \$300 fine) *	
36 Impaired driving causing bodily harm	255(2)	10 yrs.
37* Impaired driving/over .08	253, 255(1) or 255(no subject)	5 yrs.
38* Refuse to provide breath/blood sample	254	5 yrs.
39 Dangerous operation of m.v. – bodily harm	249(3)	10 yrs.
40* Dangerous operation of motor vehicle	249(1,2) or 249(no subject)	5 yrs.
41* Fail to stop at scene of accident	252	2 yrs.
42* Driving while disqualified	259(4)	2 yrs.
43 Other motor vehicle offences	249–259 not included above	...
PROSTITUTION / MORAL OFFENCES		
44 Procuring for prostitution	212(1,2) or 212(no subject)	14 yrs.
45 Keeping common bawdy–house	210(1)	2 yrs.
46 Soliciting for prostitution / obtaining services	213	6 mths.
47 Indecent acts/exposure	173, 175(1b)	6 mths.
48 Gaming and betting offences	201–209 inclusive	2 yrs.
49 Other moral offences	160–174, 197–213 not incl. above	...
OFFENCES AGAINST ADMIN. OF LAW		
50 Obstructing justice	139(2,3)	10 yrs.
51* Providing false information to peace officer	140	5 yrs.
52* Obstructing peace officer	129	2 yrs.
53* Escape custody	145(1a)	2 yrs.
54* Unlawfully at large	145(1b)	2 yrs.
55 Fail to appear in court	145(2–5)	2 yrs.
56 Fail to comply with probation order	740	6 mths.
57 Breach of recognizance	810, 811	6 mths
58 Other offences against administration of law	118–149 not included above	...
OTHER CRIMINAL CODE OFFENCES		
59 Causing disturbance, trespassing	175(1a,c,d), 175(no subsec), 177	6 mths.
60 All other Criminal Code offences	1–77, 176–196, 448–809	...
	not included above	
TOTAL CRIMINAL CODE		
OTHER FEDERAL STATUTES		
61 Narcotic Control Act(NCA) – trafficking	NCA – 4	Life
62* NCA – possession	NCA – 3	7 yrs.
63 Other NCA offences	NCA – 3.1, 5–27	...
64 Food and Drug Act	FDA – 1–51	...
65 Other federal statutes	all fed. stat. not included above	...

APPENDIX "C" - METHODOLOGY

APPENDIX "C" - METHODOLOGY

1. Scope

The Sentencing Study represents sentencing characteristics of Criminal Code and other federal statute charges resulting in conviction (including "discharge") during 1991 and 1992 in adult provincial courts in six jurisdictions.

2. Coverage/Data Sources

This study uses provincial court data from six jurisdictions: Prince Edward Island, Nova Scotia, Quebec, Ontario, Alberta and the Yukon. The caseload represented by these six jurisdictions comprises approximately two-thirds of the annual provincial court caseload in Canada.

CCJS Adult Criminal Court Survey (ACCS) - The Canadian Centre for Justice Statistics administers the ACCS. The objective of this survey is to develop and maintain a national adult criminal court database of statistical information on appearances, charges and cases. The data collection method involves accessing automated criminal court databases in each province or territory. Interface programs are developed to extract the required data and re-structure them into a standard format. Provincial court locations are the initial focus of the survey, to be followed by Section 96 courts at a later date.

The ACCS consists of two components: case characteristics and caseload. The "caseload" component collects aggregate data on pending, initiated and disposed-of charges, appearances and cases for federal statute, provincial statute and municipal by-law offences in adult provincial criminal courts.

This study utilizes data from the "case characteristics" component, which collects unit-record data in the form of appearance records for each federal statute charge (including the Criminal Code) disposed of in adult provincial criminal courts. Each record contains detailed information on: the appearance (eg. court dates, date of offence and initiation, type of appearance and legal representation); the charge (statute, section, subsection and paragraph); nature of the offence; crown election; plea; type of disposition; sentencing information (eg. type and quantum of sentence); and the age and sex of the accused.

Currently, four jurisdictions are fully implemented on ACCS:

- **Prince Edward Island** - all five provincial court locations reported during the entire reference period.
- **Nova Scotia** - 38 provincial court locations reported during the reference period. Halifax city court and Liverpool provincial court, representing approximately 15% of Nova Scotia's annual caseload, are currently not providing data to ACCS.

- **Quebec** - all 54 provincial court locations reported during the entire reference period. Quebec's municipal courts are not included in the survey. Quebec has empowered 133 municipal courts to hear **summary** federal charges, primarily traffic offences. The existence of these courts may result in Quebec's provincial courts hearing proportionally "more serious" cases than provincial courts in other provinces.
- **Yukon** - all 18 territorial court locations reported during the entire reference period.

For ACCS data, the "other" sentence field has been converted to represent "forfeiture / prohibition" orders. This was done after consultation with each of the jurisdictions in terms of the type of sanctions included under the "other" category. It was felt that approximately 99% of sanctions contained in this category were for sanctions such as driver's license suspensions, restrictions and confiscation of firearms, and peace bonds. Therefore, in order to make sentencing data for ACCS jurisdictions comparable with that for Ontario and Alberta, this assumption has been made.

Ontario's Integrated Court Offences Network (ICON) - The ICON system was developed by the Ministry of the Attorney General during 1987-88 to automate all court offices' administrative functions, such as case management, scheduling, financial tracking, monthly reconciliation and enforcement. The system is now installed in all provincial criminal and family court offices.

An extraction of provincial court data was made available to Centre staff, who then "converted" the data into the standard Sentencing File format. This required sub-setting the file for "convictions" only, having a sentence date in 1991 or 1992. The ICON file structure was then converted to collapse charges with multiple sentences onto one charge record so as to match the Sentencing File format. Intermediate sanctions may be under-counted due to court system's limitations for the reporting of multiple sanctions.

The reference period for Ontario data ranged from June 1, 1991 to Aug. 31, 1992. However, not all provincial court locations were on the ICON system as of June 1:

- starting July 1991: Smiths Falls, Brockville, Napanee, Cornwall, Alexandria and Morrisburg
- starting Aug. 1991: L'Original
- starting Sept. 1991: Orangeville, Owen Sound and Guelph
- starting Oct. 1991: Cochrane North, Timmins and Kirkland Lake
- starting Nov. 1991: Kenora, Dryden, Fort Frances and Thunder Bay

Alberta's Criminal Justice Information System (CJIS) - The CJIS system was completed in 1989 by the Attorney General's Department as a criminal case management information system to facilitate the efficient processing and tracking of criminal cases for the Criminal Justice Division. The system has been implemented province wide.

An extract of all closed cases in adult provincial court in Alberta was sent to the Centre. Similar to the procedure developed for Ontario, CCJS staff then converted the data to the Sentencing File format.

3. Time Period

The strategy followed was to request sentencing data from each jurisdiction beginning January 1991 and ending with the most recent data available. Data are available from each jurisdiction beginning January 1, 1991, with the exception of Ontario which begins in June 1991. A minimum of six months of 1992 data are available from all jurisdictions, with Ontario and Alberta providing more than six months.

The following represents the time period available from each jurisdiction. Dates refer to the date of sentencing or "final appearance":

P.E.I., N.S., Qc. and Yuk.:	Jan. 1 '91 - June 30 '92
Ontario:	June 1 '91 - Aug. 31 '92
Alberta:	Jan. 1 '91 - Oct. 26 '92

4. Units of Count

Charge - One record exists for each charge resulting in conviction. Each charge will have at least one sentence recorded against it. All sentences imposed for the charge are collected.

Case - A "case" is defined in this study as **all charges resulting in conviction for one accused with the same sentence date in the same court**. This definition differs from the ACCS definition of "case", which refers to all charges **beginning** on the same day in the same court for one accused. It is possible to have more than one information number in the same case.

Four specific types of cases have been identified:

- (a) **Single charge/count** - Regardless of the number of charges when the accused first appears in court, only one charge in the case results in conviction.
- (b) **Multiple charge** - More than one charge in a case results in conviction, but all convictions are for **different offences**.
- (c) **Multiple Count** - More than one charge in a case results in conviction, and all convictions are for the **same offence**.
- (d) **Multiple charge/multiple count** - An accused is convicted of at least 2 different charges, of which at least one has multiple counts.

Most serious sentence (MSS): Rather than showing all the sanctions imposed for a particular offence on conviction, the data can also be displayed by selecting a "most serious sentence" for each charge. Sentences are ordered from most severe to least severe as follows:

- imprisonment
- probation
- forfeiture/prohibition orders
- community service order
- fine
- compensation/restitution
- conditional discharge
- absolute discharge

Most Serious Offence (MSO): For each case, a "most serious offence" can be identified to represent the case. This has been identified as the offence receiving the most serious sentence (see list above for ranking of MSS). If more than one charge receives the same "most serious sentence", then the sentence length (for prison or probation) or the amount (for fines or compensation/restitution) is used to determine which offence is the most serious.

Table C-1 compares three different methods of examining sentencing data (charge level; single charge cases only; and, the MSO representing each case), and the resultant differences in sentencing characteristics for each method.

5. Measures of Central Tendency

In terms of measuring the average sentence length or fine amount, there are a variety of options from which to choose. This report uses the mean, median and mode in order to enable the reader to see the differences between all three methods. However, for reasons described below, the **median** has been chosen as the best indicator of central tendency.

Median - The median is defined to be the middle value in a set of numbers arranged according to magnitude. In other words, 50% of the sentence lengths are greater than or equal to the median, and 50% of the values are less than or equal to the median. The median is not influenced by very high or very low values, as is the mean. The only drawback to the median as an indicator of sentence length is the tendency for certain sentence lengths to be much more common than others. For example, sentences of 30, 60 or 90 days are quite common, while sentences of 31-59 days or 61-89 days are relatively uncommon. This tends to produce a "spiked" frequency distribution. It is possible that the addition of only a few cases could switch the median value from one common category (eg. 30 days) to the next common category (eg. 60 days).

TABLE C-1. COMPARISON OF THREE OPTIONS OF EXAMINING CONVICTION DATA, SIX JURISDICTIONS, 1991 & 1992 (1)

Offence	Method Of Analysis	No. of Convic- tions #	Frequency of Sentence Type									
			Prison %	Probathn %	Forfeiture/ Prohib.(2) %	Fine %	Rest./ Comp. %	Susp. Sent. %	Cond. Dischg %	Abs. Dischg %		
ASSAULT												
	(i) All charges(3)	36,950	25	63	14	35	2	23	10	3		
	(ii) Case – MSO(4)	30,469	21	64	12	37	2	24	12	4		
	(iii) Single Charge/ Count Cases (5)	24,277	15	64	11	39	2	25	14	5		
B & E												
	(i) All charges(3)	24,133	74	54	30	7	7	16	1	—		
	(ii) Case – MSO(4)	11,921	66	59	22	11	12	20	1	—		
	(iii) Single Charge/ Count Cases (5)	5,983	54	62	17	16	15	26	1	—		
TOTAL C.C.												
	(i) All charges(3)	521,773	40	38	35	41	4	12	4	2		
	(ii) Case – MSO(4)	331,812	29	37	35	51	5	11	5	3		
	(iii) Single Charge/ Count Cases (5)	250,247	21	34	36	57	4	11	6	4		

(1) Jurisdictions include Prince Edward Island, Nova Scotia, Quebec, Ontario, Alberta and Yukon.

(2) This group includes all disability and prohibitory orders, forfeiture, confiscation, and community service orders.

(3) All charges resulting in conviction are included, regardless of the existence of multiple charges or counts in a single case.

(4) Includes single charge cases and, in the case of multiple charges, the charge (MSO) receiving the most serious sentence.

(5) Only single charge count cases are included.

Mean - The mean represents the sum of all values divided by the total number of values. The major limitation of the mean for sentencing data is that it can be influenced by only a few extreme values, such as sentences of life or fines exceeding \$1 million.

Mode - The mode is defined as the value which occurs most frequently. Although this can still be a useful indicator of sentencing characteristics, it is limited in its measurement of central tendency if it does not occur near the centre of the data (eg. frequent sentences of 1 day).

6. Measures of Dispersion

Just as important as the calculation of central tendency is the analysis of the range and variation of the data. Once again, there are a variety of options available from which to choose.

Range: mid-80 percentile - The mid-80 percentile is the range of values, excluding the highest and lowest 10%. This provides an indication of the "typical" range of sentence lengths imposed for a particular offence, without extreme values being included.

Variation: coefficient of variation - The coefficient of variation is a unitless measure of relative variability and is defined as the **ratio of the standard deviation to the mean**. The higher the coefficient of variation, the greater the variability of the distribution.

7. Limitations

- (a) No data on recidivism - The previous criminal history of the offender is one of the most significant factors in sentencing variation.
- (b) No data on aggravating or mitigating circumstances - Some common "aggravating factors" which may influence sentencing include actual or threatened violence, vulnerability of the victim, multiple victims and breach of trust. Typical "mitigating factors" include the impairment of the offender (drugs, alcohol, mental problems), remorse shown by the offender, provocation by the victim, and evidence of a "minor role" (accessory) played by the offender in an incident.
- (c) Lack of time-series data - The consistency of findings from this study cannot be explored, nor the identification of emerging trends in sentencing. However, this study could actually initiate future time-series analysis.

- (d) Lack of information on all types of sanctions - For most jurisdictions, the sanctions of forfeiture/confiscation, disability and prohibition orders, and community service orders are grouped together and cannot be isolated for analytical purposes. With the emergence of the use of "intermediate sanctions" as a major issue, this aggregation limits the analysis of individual intermediate sanctions being used as alternatives to imprisonment.

- (e) Coding limitations - For certain offences, data are not coded at the level required (eg. paragraph) to be able to distinguish certain important characteristics. Three examples of this are as follows:
 - impaired driving offences are rarely coded under the sections required to identify whether or not the offender is guilty of a first, second or subsequent offence (all of which have different penalties);
 - break and enter offences are rarely coded under the sections required to be able to identify "residences" (max. penalty of life) from "non-residences" (max. penalty of 14 years); and,
 - robbery offences are rarely coded under the sections required to distinguish "armed" robbery from "unarmed" robbery.

- (f) Limited number of data elements collected - As all automated systems are limited in the size and scope of information that can be collected, there are always some areas of interest that cannot be examined. For instance, "family violence" cannot be addressed in this study as there is no victim/offender relationship field.

- (g) Limitations of the Criminal Code and other federal statutes - Two examples of these types of limitations are as follows:
 - the Narcotic Control Act does not specify the narcotic under its possession, trafficking or importing/cultivating sections. This does not allow the distinction to be made between possession of marijuana and possession of cocaine, for example;
 - the "object" of a theft is generally not specified in the Criminal Code. For example, it is not possible to determine convictions related to motor vehicle theft, although there is a section of the code (s.335) that is commonly used for cases of joyriding.

- (h) No data from Section 96 courts - Although superior courts tend to hear the most serious cases, they represent a relatively small percentage of jurisdictional caseload. **It should be noted that previous research has demonstrated that average sentence lengths imposed in superior courts were generally higher than those imposed in provincial courts for equivalent offences.**¹⁴
- (i) No data from appeal courts - Appeal court decisions are often regarded as the "best" jurisdictional indicators of appropriate sentences. However, appeal courts represent a very small percentage of overall caseload.

¹⁴ Sentences Given in The Toronto Courts, Robert G. Hann and Faigie Kopelman, 1988, p.23

APPENDIX "D"

SENTENCING DEFINED

APPENDIX "D" - SENTENCING DEFINED

The Canadian Sentencing Commission has defined "sentencing" as the judicial determination of a legal sanction imposed on a person found guilty of an offence.¹⁵ While the Criminal Code (and other federal statutes) sets out a range of sanctions generally available, it gives little guidance respecting either the type of sanction to be imposed or the appropriate range of such a sanction, except in respect of minimum and maximum sentences. The Code currently does not contain a statement of "purpose and principles of sentencing".

The following principles of sentencing are extracted from a 1990 Department of Justice report entitled "Sentencing - Directions For Reform"¹⁶. This report formed part of a consultation package and reflects general sentencing principles common to many countries. However, it should be noted that the document reflects the views of the federal government concerning sentencing, and is not necessarily representative of the views of the provinces nor of the judiciary.

Purpose of Sentencing

The fundamental purpose of sentencing is to contribute to the maintenance of a just, peaceful and safe society through the imposition of just sanctions.

Objectives of Sentencing:

- a. denouncing blameworthy behaviour;
- b. deterring the offender and others from committing offences;
- c. separating the offender from society, where necessary;
- d. providing for redress for the harm done to individual victims or to the community; and,
- e. promoting a sense of responsibility on the part of offenders and providing for opportunities to assist in their rehabilitation.

¹⁵ Sentencing Reform, A Canadian Approach - Report of the Canadian Sentencing Commission, 1986, p.xxvii

¹⁶ Directions For Reform - Sentencing, Department of Justice Canada, 1990, pp. 7-8

Principles of sentencing:

- a. a sentence should be proportionate to the gravity of the offence, the degree of responsibility of the offender, and any other aggravating or mitigating circumstances;
- b. a sentence should be the least onerous alternative in the circumstances;
- c. a sentence should be similar to sentences imposed on other offenders for similar offences committed in similar circumstances;
- d. the maximum punishment prescribed should be imposed only in the most serious cases;
- e. the court should consider the total effect of all sentences imposed on the offender; and
- f. a term of imprisonment should be imposed **only**:
 - to protect the public from crimes of violence;
 - where any other sanction would not sufficiently reflect the gravity of the offence or the repetitive nature of the criminal conduct of an offender;
 - to penalize an offender for wilful non-compliance with the terms of any other sentence that has been imposed on the offender.

APPENDIX "E"

**EXPERIENCE WITH SENTENCING GUIDELINES
IN THE UNITED STATES**

APPENDIX "E" - EXPERIENCE WITH SENTENCING GUIDELINES IN THE UNITED STATES

This report has examined sentencing variation in adult provincial courts. From time to time, the notion of creating "sentencing guidelines" in Canada has been debated. There are many philosophical arguments both for and against implementing sentencing guidelines. As more and more sentencing information becomes available, this issue may be raised again. As context for this issue, it may be appropriate to examine the American experience with guidelines. The following discussion is a summary of an article in the New York Times from April 1992¹⁷.

Sentencing guidelines took effect in Federal courts in the United States in November 1987. Although they are termed "guidelines", the courts are bound to follow them. The purpose of instituting these guidelines was to make prison sentences more uniform throughout the country. In the U.S., the bulk of criminal cases are heard in state courts (similar to Canada's provincial courts). To date, only a few states have adopted sentencing guidelines for their state courts, although their guidelines are more modest and flexible than those for the Federal system described below.

How Guidelines Work

The current guidelines used in the Federal courts are rather complex. All crimes are ranked on a scale from 1 to 43, with the more serious offences assigned higher numbers. Each base score then rises or falls depending on a number of aggravating and mitigating factors. For example, robbery has a base score of 20, but if a bank or post office is robbed, the score rises to 22. If a firearm was fired, the score rises a further 7 points. The final "score" determines the range of sentences which must be imposed.

Arguments Against the use of Guidelines:

- guidelines ignore specific offender characteristics such as age, education, employment and family ties;
- by discouraging plea bargains and raising innumerable interpretive questions, guidelines have clogged both the trial and appellate courts;
- rather than eliminating discretion from the sentencing process, guidelines have merely moved it from judges who exercised it in open court, to prosecutors privately deciding who to charge and how serious a crime to charge them with;
- guidelines take the hope out of the system: a defendant cannot hope to get a break, and a judge cannot hope to give him one;

¹⁷ Chorus of Judicial Critics Assail Sentencing Guides, New York Times, April 12 1992, pp. 39,40.

- guidelines are complex to establish and maintain: 434 amendments have already been made to the original set of criteria and rankings.

Arguments in Favour of Guidelines:

- guidelines have succeeded in making sentences less capricious, more uniform and more understandable;
- the problem of unwarranted disparity - that two similarly situated offenders could go into two different courtrooms and come out with two substantially different sentences - has been eliminated from the system;
- the perception of bias against minority and underprivileged groups is eliminated;
- guidelines control the almost wholly unchecked and sweeping powers of judges.

Not surprisingly, Federal judges in the United States generally have not been in favour of sentencing guidelines, and feel that they are too constraining. They have complained that the new approach has taken the judging out of judging and replaced it with an oppressively mechanistic regime. Conversely, proponents of the new sentencing system counter that it has achieved its stated goal of reducing unwarranted disparity.

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