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# Criminal Justice Processing of Sexual Assault Cases

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## Errata

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### Criminal Justice Processing of Sexual Assault Cases

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#### 1) Page 69, Table 34 - "Jurisdictions Ranked by Clearance Rates, Sexual Assault I, Canada, 1992.

The clearance rate for Sexual Assault I for British Columbia should be 43%, not 67%. This change produces the following modifications to the text:

**Page 10**, Third Highlight, second sentence: "For sexual assault I, this statistic (for 1992) varies from a low of 34% in Prince Edward Island to a high of 67% in the Northwest Territories."

**Page 26**, Second paragraph, first sentence: "Table 34 provides a rank-order of 1992 provincial clearance rates for sexual assault (level I) showing substantial variation across the country from a low of 34% in Prince Edward Island to a high of 67% in the Northwest Territories."

#### 2) Page 22, Section C, first paragraph, line 4 - "Over the five-year period, there was little change (an increase of 5%) in the rate of sexual assaults reported to the police in British Columbia. The increase in Alberta (33%) was close to the national average while other jurisdictions experienced more marked increases."





Statistics Canada

Canadian Centre for Justice Statistics  
Integration and Analysis Program

# Criminal Justice Processing of Sexual Assault Cases

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## Highlights of the Report

- The purpose of this report is to compile recent statistics on the incidence of sexual assault reported to the police across Canada and to provide a descriptive portrait of the criminal justice response to reports of sexual assault. We focus on police statistics derived from the Uniform Crime Reporting (UCR) survey, and on court statistics from the Sentencing Study. These databases are maintained by the Canadian Centre for Justice Statistics.
- Since rape reform legislation was passed in Canada in 1983, there has been a great deal of interest in the new offences of sexual assault which replaced indecent assault and rape. This report examines criminal justice statistics relating to sexual assault in Canada. In the first chapter we discuss the latest developments in the area of sexual assault. We describe the offences created in 1983, and present recent findings from the research literature.
- In Chapter 2 we present recent statistics derived from the aggregate and revised UCR databases. Specifically, we explore the incidence of sexual assaults reported to the police over the past few years. As well, comparisons are made between the crimes of sexual aggression and other serious personal injury offences. Chapter 3 presents sentencing trends for crimes of sexual aggression.

### Police Statistics

- Rates of sexual assault (all levels combined per 100,000 population) reported to the police across Canada rose by 12% from 1991 to 1992, the most recent 12-month period for which data are available. The increase in the rate of assaults reported to the police was only 4% over the same period.
- Historical analysis of the increase in reports of both categories of offences shows that the incidence of sexual assaults reported to the police increased at a faster rate than the incidence of assaults over the period 1983-1992. However, the difference is diminishing, and in recent years the rates of increase have been comparable. One interpretation of the difference between the two categories of assault after 1983 is that the publicity surrounding the passage of rape reform legislation encouraged a larger number of victims of sexual aggression to report to the police, and that this initial effect has diminished since that period.
- There is a great deal of variation across jurisdictions in terms of recent changes in the rates of sexual assaults reported to the police. Increases in reporting rates of sexual assault over the period 1988 to 1992 varied from 5% in British Columbia to 105% in Saskatchewan. There is also variation in the reporting statistics for assault offences, although it is less marked. Changes in the rates of assault recorded by the police ranged from a decrease of 6% in the Yukon to an increase of 55% in Nova Scotia.
- The increase in reports of sexual assault has largely been accounted for by incidents classified by the police at the least serious level (s. 271).
- Fully 96% of all reports of sexual assault in 1992 were classified by the police as sexual assault level I. The proportion of all reports classified by the police as sexual assault level I has risen steadily, from 88% in 1983 to 96% in 1992. By contrast, in 1992, 82% of all assault reports were classified at the first level of seriousness. There has been little change in the distribution of assault reports across the three levels since the offences were created in 1983.
- There has been little change in the percentage of reports of sexual aggression declared by the police to be "founded". The unfounded rate for sexual offences (rape and indecent assault) was 14% in 1982 (the last year prior to the reform) and this figure has not changed by more than two percentage points since then.

- The unfounded rate for sexual assault level I in 1992 was almost double the unfounded rate for assault level I (14% versus 8%).
- The rate by which reports of sexual assault are cleared by the laying of a charge varies systematically by the level of seriousness. The clearance rates for these offences in 1992 were 49% for sexual assault I, 57% for sexual assault II, and 64% for sexual assault III. The clearance rate is slightly higher for sexual assault level I than for assault level I (49% vs. 47%).
- There is also considerable variation across Canada in terms of the percentage of cases cleared by charge. For sexual assault I, this statistic (for 1992) varies from a low of 34% in Prince Edward Island to a high of 67% in the British Columbia and the NorthWest Territories.
- These data demonstrate that reports of sexual assault report have a slightly higher attrition rate ("funneling" of cases through the criminal justice system) than reports of assault (57% compared to 53%) in 1992. This higher attrition rate arises because of differences in the founding rate, not in the rate by which founded incidents are cleared by the laying of a charge.
- Most victims are young; over 60% of female victims and over 80% of male victims were under 18 years of age at the time of the offence.
- Members of the Aboriginal community accounted for 8% of victims of Sexual Assault, while this community accounted for 3% of the Canadian population.
- Approximately two-thirds of the sexual assaults and assaults reported to the police took place in a private dwelling unit.
- Weapons were rarely used in the commission of sexual assault offences reported to the police. Physical force was used in almost all cases.

### **Sentencing Statistics**

- Systematic sentencing statistics have not been routinely available in Canada for some time. Researchers have had to rely upon special studies that have examined a limited number of jurisdictions over a brief period of time. The last such study of this kind examined sentencing data from the late 1970s (see Hann, 1983). The Sentencing Study, recently completed by the Canadian Centre for Justice Statistics, represents the first comprehensive examination of sentencing trends in more than a single jurisdiction for over a decade.
- The Sentencing Study provides information for six jurisdictions across Canada (Prince Edward Island, Nova Scotia, Quebec, Ontario, Alberta and the Yukon) covering approximately 75% of the national case-load. The period covered varies, but ranges from January 1991 to October 1992.
- Incarceration rates recorded in the sentencing database were as follows: sexual assault I, 60%; sexual assault II, 94%; sexual assault III, 89%; assault I, 25%; assault II, 54%; aggravated assault, 81%.
- Suspended sentences were imposed in 20% of the convictions for sexual assault. This is somewhat higher than found in earlier research (see Roberts, 1990a).
- Comparisons of maximum penalties and 90th percentile sentences of imprisonment revealed substantial discrepancies between the two for all offences. While the maximum penalty for aggravated assault is 14 years imprisonment, 90% of sentences of imprisonment were less than three years. For sexual assault I, the maximum penalty is 10 years imprisonment, yet 90% of custodial terms were under two years in length.

## Chapter 1: The Context

### 1.1 Introduction and Background

Twenty years ago, research into crimes of sexual aggression was of interest to a limited number of groups, which included researchers, practitioners and rape crisis centre workers. In 1972, rape reform legislation was a full decade away, and the topic generated a relatively small number of academic publications. Today, all this has changed: criminal sexual aggression has become one of the most important research issues in criminal justice. This is true in Canada (see for example, Deskeredy and Hinch, 1991; Roberts and Grossman, 1991; Roberts and Mohr, 1994) and other countries<sup>1</sup> as well. There has been a surge of research and scholarly writing on this issue; those wishing to keep abreast of the literature now have a great deal of reading to do.

Sexual assault has also become an important social and political issue of concern to more than just criminal justice researchers and professionals. Several events have taken place over the past few years which have kept the issue in the public eye. First there was the rape reform legislation of 1983 (details to be summarized later in this report). This was followed by an extensive evaluation of the legislation, conducted by the federal Department of Justice. More recently there has been the controversial Supreme Court of Canada decision in the *Seaboyer* appeal, relating to the so-called "rape-shield" provisions of the sexual assault law. That decision provoked a great deal of debate and polemic, and in 1992 the Minister of Justice introduced new federal legislation (Bill C-49) dealing with the use, during a trial, of information regarding a complainant's previous sexual history. This bill has now become law.

The Canadian Panel on Violence Against Women has kept the issue on the front pages of the nation with nation-wide consultations and a final report released in the summer of 1993 (see Canadian Panel on Violence Against Women, 1993). Finally, in 1993, Statistics Canada released preliminary findings from the Violence Against Women Survey (see Statistics Canada, 1993).<sup>2</sup>

Since the reforms of 1983, there has been considerable scholarly and popular attention paid to the central question of the incidence and prevalence of crimes of sexual aggression, particularly (but not exclusively) sexual assault and child sexual abuse. Criminal justice researchers are concerned with the number and nature of cases of sexual assault that come to the attention of the police, and also the treatment of those cases by the criminal justice system. This is the principal focus of this report.

It is important to note at this point that the report does not address the incidence of sexual aggression in Canada, but rather the trends in, and treatment of, crimes of sexual assault reported to the criminal justice system.<sup>3</sup> Chapter 1 provides an introduction to recent events in the area of sexual assault in Canada. Chapter 2 examines the nature and progress of incidents reported to the police to the point at which a charge is laid against a known suspect.

Chapter 3 addresses the "deep-end" rather than the "front-end" of criminal justice processing - the sentencing of offenders convicted of sexual assault. In this latter respect the report breaks new ground, for sentencing statistics have not been routinely available to researchers (with a couple of exceptions) since Statistics Canada stopped publishing them over twenty years ago. Since then, sentencing has become the single most important issue in the area of sexual assault.

### 1.2 Comparative Analyses

An overlooked issue in the literature - and one that will be addressed in this report - concerns the treatment of sexual assault cases compared to the treatment of other serious offences against the person. Going back to Clark

<sup>1</sup> Many American states have introduced rape reform legislation over the past 15 years, and this has generated a great deal of evaluation research (see for example Marsh, Geist and Caplan, 1982; Horney and Spohn, 1990).

<sup>2</sup> Additional results from this land-mark survey will be published in a special issue of the *Canadian Journal of Criminology* in July, 1995.

<sup>3</sup> For further information about the incidence of sexual aggression, the reader is directed to the report of the Canadian Panel on Violence Against Women (1993).

and Lewis (1977), reference has continually been made in the research literature to the unique treatment of sexual offences, particularly rape cases. We refer to this as the "unique processing" hypothesis. It has been argued that crimes of sexual aggression are treated differently, from beginning to end in the criminal justice process. Reference has been made to the fact that a higher percentage of sexual assault cases are filtered out throughout the system.

Missing from the research literature has been any empirical data to quantify the unique processing hypothesis.<sup>4</sup> A central purpose of this report therefore, is to identify the stages in criminal justice processing at which sexual assault reports are treated differently from reports of other serious personal injury offences, such as aggravated assault and manslaughter. Whenever we examine a criminal justice statistic - be it the founding or charging rate - we shall present comparable data for other serious crimes of violence. By quantifying these differences, we hope to identify variations and discrepancies in the criminal justice processing of these offences.

### **1.3 Recent Events Affecting Sexual Assault in Canada**

The decade of social and legal change began in 1983, when Bill C-127 abolished the offences of rape, attempted rape and indecent assault and introduced three new crimes of sexual aggression. The reform legislation was the result of many years of consultation and study, and was heralded as a breakthrough for women in this country. The crimes of sexual aggression were transferred from the *Criminal Code* section dealing with sexual offences to the section containing crimes against the person (see Mohr and Roberts, 1994). At this point we review the crimes of sexual aggression created by the 1983 legislation, and the crimes of assault created at the same time, which will form the basis of comparison throughout this report.

### **1.4 Crimes of Sexual Aggression in Canada**

For the purposes of this report, criminal sexual aggression is defined as being one of the three crimes of sexual assault that were introduced by the rape reform legislation of 1983 (Bill C-127). The three offences are:

- (a) Sexual assault (s. 271);**
- (b) Sexual assault with a weapon, threats to a third party or causing bodily harm (s. 272);**
- (c) Aggravated sexual assault (s. 273).**

The maximum penalties of the sexual assault offences are: ten years imprisonment, fourteen years imprisonment and imprisonment for life.<sup>5</sup>

The tripartite structure of the sexual assault offences is also found in the crimes of assault:

- (a) Assault (s. 266)**
- (b) Assault with a weapon or causing bodily harm (s. 267).**
- (c) Aggravated assault (s. 268).**

The maximum penalties of the assault offences are: five, ten and fourteen years imprisonment, respectively.<sup>6</sup>

For the sake of brevity, we shall refer to these three levels of offences in this report as assault and sexual assault I, II and III. The definitions of these offences were left for the courts to resolve; it is an issue that they have been grappling with ever since (for further information see Boyle, 1984; Watt, 1986).

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<sup>4</sup> While this is true in Canada, in the United States there have been some studies that compare directly the treatment of sexual and non-sexual crimes of violence - see for example, Caringella-MacDonald, 1985; Steffensmeier, 1988.

<sup>5</sup> The first level of sexual assault is a hybrid offence. If the Crown proceeds by way of summary conviction, the maximum penalty is six months imprisonment. In this sense, it might be more accurate to describe the structure of these two offences as having four, rather than three levels.

<sup>6</sup> The first level of assault is also a hybrid offence (see preceding footnote).

These offences (sexual assault I, II, III and assault I, II, III) are the principal offences in terms of caseload. There are other assault and sexual offences contained in the *Criminal Code*. (e.g. unlawfully causing bodily harm (s. 269) or bestiality (s. 160) but they account for small numbers of cases.) The offences of child sexual abuse created in 1988 by Bill C-15 are not explored in depth in this report.

The sweeping reforms contained in the 1983 legislation were the object of an evaluation initiative, the results of which will be discussed later (see also Begin, 1989). At this point we turn to the next significant event affecting sexual assault in Canada.

### 1.5 The Supreme Court Decision in *Seaboyer and Gayme*

Seaboyer and Gayme were two young men charged with sexual assault. Before their cases came to trial, they launched an appeal for the right to introduce evidence relating to the complainant's sexual history. These appeals went all the way to the Supreme Court of Canada. In 1991, the Supreme Court effectively struck down provisions of the sexual assault legislation which prevented a defendant from introducing evidence regarding the complainant's previous sexual conduct. In essence, the majority decision of the Court decided that a blanket prohibition upon the introduction of such evidence was too restrictive and jeopardized a defendant's rights to a fair trial. The Court's decision was denounced by many advocacy groups, and lauded by the Defence Bar. The former argued that the effect of the decision would be to return Canada to the days when the rape victim had to undergo probing questions about previous sexual history.

The result, in their view, would be a "chilling" effect upon reporting rates. That is, in the wake of the decision in *Seaboyer and Gayme*, women would be less likely to come forward and report victimizations to the police, for fear of the consequences in an eventual trial. The Supreme Court decision and reaction to it were widely publicized by the news media across Canada. If there was a "chilling" effect, it might be visible in the pattern of sexual assaults reported immediately following the publication of the decision. This hypothesis has been tested in the present study, by examining the number of sexual assault reports made to the police on a monthly basis. (For further information on the Supreme Court decision, and the likely impact of the federal government's legislative response, see Boland, 1994; Roberts and Mohr, 1994).

### 1.6 Purpose of the Report

Empirical data are central to much of the discussion about sexual assault in Canada. The Canadian Centre for Justice Statistics is well positioned to provide a great deal of information about this vital topic. Drawing upon a variety of CCJS databases (described later), this report explores recent criminal justice statistics on this important social issue. We present an examination of recent statistical trends of sexual assault *reported to the criminal justice system* (and other crimes of violence) from 1983 to the most recent year for which data are available at the time of writing (1992).

In Chapter 2 we examine statistics gathered by the police across Canada and entered into the Uniform Crime Reporting (UCR) survey database. By studying these data we can answer questions about the incidence of assaults reported to the police and the processing of cases by the criminal justice system. Specifically, we address questions such as the following:

- \* **How many incidents of sexual assault and assault are reported to the police across Canada annually?**
- **Has there been an increase in the rate of sexual assaults reported to the police in recent years?**
- **What is the profile of victims and suspects in cases of sexual assault reported to the police?**
- **How much variation is there in sexual assault reporting rates across the country?**
- **Has the increase in the reporting of sexual assault exceeded the increase in reports of other serious crimes of violence?**
- **What percentage of sexual assault reports are dismissed by the police as being "unfounded"?**

- **Is the "founded" rate higher for sexual assault than for other serious crimes of violence?**
- **In what percentage of sexual assault cases do the police lay a charge against a known suspect? Is this statistic higher for sexual assault than for other serious personal injury offences?**

For information about criminal justice statistics relating to crimes of sexual aggression prior to 1983, the reader is directed to Renner and Sahjapaul (1986), Roberts (1990a), Roberts (1990b) and Roberts and Pires (1992).

Chapter 3 draws upon two other databases to explore recent sentencing trends in cases of sexual assault. The Adult Criminal Court Survey (ACCS), the Sentencing Study and the Youth Court Survey (YCS) are now capable of providing comprehensive data about sentencing trends in several Canadian provinces.

The findings of the present study supplement those reported in two recent CCJS publications: "*Sentencing in Adult Criminal Provincial Courts: A Study of Six Canadian Jurisdictions - 1991 and 1992*" (Turner, 1993) and "*Adult Criminal Court Statistics*" (Canadian Centre for Justice Statistics, 1993). Among the questions addressed in this report are the following:

- **What kinds of dispositions are imposed on offenders convicted of sexual assault?**
- **How do these dispositions compare to sentences imposed on offenders convicted of other serious crimes of violence?**

Why focus on the reporting and sentencing statistics? We would argue that these are critical points in the process which begins when a crime occurs and ends when the warrant for a sentence is discharged (in those cases that result in the imposition of a sentence). As well, one cannot fully understand sentencing patterns unless one has an idea about the nature and volume of cases that enter the criminal justice system through the police.

There is also a pragmatic reason for selecting these two stages of the criminal justice process. The statistics regarding the police response to reports (drawn from the Uniform Crime Reporting survey) are among the best data available, for reasons that will become clear later in this report. At the present time in Canada, we do not have conviction data available on a national basis. While this is changing, for the present we must rely on special studies (see below, previous research on sexual assault).

### **1.7 Public Knowledge Of, and Attitudes Toward, Sexual Assault in Canada**

It is a common assumption that legal reform will have an impact only if society is aware of the changes introduced. However, the public is not always aware of important law reform legislation. To cite an American example, in 1990, the Ohio legislature passed a bill which increased the penalties for drug offences in the state. The aim was to deter offenders by significantly increasing the severity of penalties. However, months after passage of the bill, 89% of Ohio residents (including, presumably, some illegal drug users) were unaware of the changes (see Roberts, 1992). It is important, therefore, to know whether, and to what extent information about the sexual assault legislation has been assimilated by the public. Changes in police statistics regarding sexual assault may reflect a change in victims' attitudes rather than changes in the actual rates of sexual offending and public survey data can tell us about public attitudes towards reporting.

Public knowledge and opinion is also relevant to the issue of sentencing, for unless people understand the nature of the new offences, they cannot reasonably evaluate the appropriateness of sentencing trends. For this reason we shall briefly discuss the results of recent research in the area. In 1988, five years after the passage of Bill C-127, the Department of Justice Canada commissioned a public opinion survey in Canada which posed a series of questions about sexual assault. The aim was to find out what the Canadian public knew about the new legislation.

#### **(a) Change in Legal Terminology: Rape Becomes Sexual Assault**

As noted earlier, Canada's rape reform legislation made several important changes to the definition of sexual offences. The old terminology of rape was abandoned in favour of the term "sexual assault" which carries less stigma for victims, and stresses the assaultive rather than the sexual nature of the offence.<sup>7</sup> According to the public opinion

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<sup>7</sup> See Grossman (1990) for the results of experimental research upon the change in terminology.

survey, only a small minority of respondents was aware of this change in terminology. When asked the following question: "*Do you happen to know what the crime of rape is now called?*" only 16% of respondents were able to respond correctly. This suggests that by 1988, passage of the reform legislation had done little to bring home to the public the assaultive nature of the crime formerly known as rape.

To the public, criminal sexual aggression was still understood to be rape. Differences as a function of the gender of the respondent were minimal, but curiously, male respondents were marginally *more* likely than were females to be aware of the change (18% versus 15%). A predictable relationship emerged in terms of education: over one-third of respondents with at least some university training were aware of the change compared to only 9% of those with high school education. Younger respondents were more likely to be familiar with the new legislation: 19% of the 18-34 age group, 15% of the 35-54 age group, and 12% of the 55-plus group responded correctly.

#### **(b) Change in Legal Definition**

More important perhaps than the current terminology is the question of public awareness of substantive changes to the law. Despite the fact that the public seems unaware of the change in terminology, it is at least aware of the more important substantive changes engineered by the 1983 reform legislation. The public opinion survey contained several questions dealing with the substantive legal changes. Overall, the results indicated widespread awareness. Over three-quarters (77%) of the sample were aware that both sexes could now be charged with committing a sexual assault (under the pre-1983 legislation, rape consisted exclusively of the penetration of a female by a male). Once again, sex differences were small, with awareness of this change slightly higher among male respondents (79% versus 74% of the samples). Awareness was clearly correlated with the educational level of respondent: 83% of the university-trained sample answered correctly, compared to only 65% of those with a high-school education. Age differences were minimal.

An even higher percentage (83%) of respondents was aware that a man can be charged with sexually assaulting his wife, with a higher percentage (86%) of males than females (81%) responding correctly. Those reporting more education were also more likely to be correct. The elimination of spousal immunity was known to 89% of the young sample, 83% of the middle-aged sample and 72% of the 55-plus group. A similar percentage (84%) indicated that sexual assault can take place without lasting injury or the use of a weapon, with identical percentages for men and women. Fully 94% of the university sample responded correctly, compared to 75% of the high-school sample. Here too younger respondents were more likely to be correct: 89% were aware of the change compared to only 68% of the older group.

Over three-quarters (76%) were aware that a sexual assault can occur even in the absence of sexual intercourse (under the rape legislation, rape occurred only where there was penetration of the vagina). On this question there was a slightly greater gap between the sexes: 79% of men provided the correct response, compared to only 72% of women. Once again, the university-trained sample contained a higher percentage of respondents with the correct answer (88% versus 80% for the category "some university training" and 64% for those with a high-school education).

The last question dealt with the role of past sexual behaviour, and is perhaps the most critical. Specifically, respondents were asked: "*In general, can a victim be asked about past sexual behaviour in a sexual assault trial?*". There were no sex differences: 50% of both samples thought, erroneously, that the answer to this question was "yes"; 35% said "no" and the remaining 15% did not know. This pattern of results is important to note, as one reason inhibiting victims in the past from reporting to the police was the apprehension that, in the event of a trial, they would be subject to intense questioning about their previous sexual history.

It is clear that in 1988 the public were confused about the extent to which questions about previous sexual conduct can be asked during a sexual assault trial. This confusion has probably grown to include an even higher percentage of people since this survey was conducted on account of the publicity surrounding the Supreme Court decision in *Seaboyer and Gayme*, and the subsequent "rape shield" legislation.

These results suggest that while the Canadian public may still cling to the old label of rape, it is at the same time aware of some of the most important substantive changes in terms of the definition (and scope) of crimes of sexual aggression, and this awareness may have important consequences for reporting rates.

#### **(c) Perceptions of the Incidence of Sexual Assault in Canada**

The Canadian public perceived sexual assault to be a widespread offence, one that is committed in many cases with impunity. Eighty-three percent of the respondents believed that "many" sexual assaults occur in Canada.

A clear gender difference emerged in response to this question: women were more likely than men to subscribe to the view that many sexual assaults occur (88% compared to 75% of males).

**(d) Perceptions of the Criminal Justice Response to Sexual Assault**

Most members of the public have a negative opinion of the way the criminal justice system in Canada responds to the problem of sexual assault. Fully 84% of the sample indicated that sexual offenders are "rarely" caught. Men were slightly more likely than women to express the view that sex offenders are "frequently caught" (13% versus 9%). In terms of education, a higher percentage of respondents with only high school training were of the opinion that sex offenders were frequently caught (15%) than the university sample (5%). Moreover, most respondents (60%) felt that the percentage of unpunished offenders was higher for sexual assault than for other crimes of violence. (For further information about the survey, see Department of Justice, 1988; Roberts and Gebotys, 1992).

**1.8 Likelihood of Reporting to the Police**

In this report, we will describe the variability in reporting rates for sexual assault across Canada. Public opinion surveys indicate the importance of not interpreting this variance as suggestive of variable crime rates; they may indicate differential willingness to report crimes. One example will suffice to illustrate the point. The lowest rate of sexual assault in Canada (reported to the police) is to be found in the province of Quebec, with a rate less than half the national level. Does this indicate a lower incidence of aggression against women in Quebec than other regions of Canada? The public opinion data offer an alternative explanation. When asked whether they would report a sexual assault, respondents from Quebec were significantly less likely (than respondents elsewhere in Canada) to provide an affirmative response.

This suggests that at least part of the explanation of why the sexual assault rate in Quebec is so low has to do with attitudes towards reporting rather than simply the actual incidence of assaults. In order to know the extent to which attitudes to reporting are responsible for these differences, we would need to see the results from a national victimization survey. In this regard (and many others), Statistics Canada's Violence Against Women survey, the results of which were published in 1994, will be of great assistance to researchers working in this area.

## Chapter 2: An Analysis of Police Statistics

### 2.1 Overview

The principal statistics examined in this chapter concern the reporting, classifying, founding and charging decisions associated with sexual assault and other serious crimes against the person. At this point we review the principal issues covered in Chapter 2 of this report, summarize recent findings from the research literature, and present analyses of Uniform Crime Reporting Survey data in the context of these issues.

It is a truism that the police seldom apprehend offenders *in flagrante delicto*, but instead have to rely upon victims or witnesses to bring crimes to the attention of the criminal justice system. This is particularly true for crimes that seldom take place in public. A crime is recorded whenever someone calls the police and states that an offence has taken place. The exact offence under which an incident is recorded may not be determined until later, after an "on-the scene" investigation has been completed (Canadian Centre for Justice Statistics, 1988).

Once an incident of sexual assault has been reported to the police it is classified at one of the three levels of seriousness (i.e., s. 271, s. 272 or s. 273). The former offences of rape and indecent assault had a degree of conceptual clarity that is absent from the sexual assault offences. If a victim reported a forced sexual act involving penetration of the vagina, the incident was, by definition, rape and not indecent assault. Sexual assault, however, is not defined in the *Criminal Code* of Canada, leaving the courts free to resolve the question of what kinds of behaviours are included in the various levels of the offence (see Boyle, 1993; Watt, 1986).

Similar questions confront police officers who must classify incidents reported at one of the three levels of sexual assault. The absence of a direct correspondence between the old and new offences means that the police cannot simply re-classify what would have been a rape as a case of sexual assault I (see Roberts and Pires, 1992). Moreover, classifications by police may conflict with the perceptions of victims, who might regard the incident as falling into a higher level than the classification adopted by the police. An issue of interest, then, is the police classification of reports across the three levels of sexual assault.

The next step in the criminal justice process after the classification of reports is the founding decision. Once an incident is reported to the police, a preliminary investigation is conducted, as a result of which a percentage of all reports of any crime are classified as "unfounded". Not a great deal is known about this process, although some information is available through the Uniform Crime Reporting Manual (see Canadian Centre for Justice Statistics, 1988), which reflects police practices across the country.

According to that manual, unfounded means that *according to the investigating officer(s)*, a crime did not take place or was not attempted. The CCJS manual distributed to police forces states the following:

*To unfound an incident is to indicate that no violations of the law took place at that time or location. An unfounded incident is not an incident where someone is committing mischief by reporting a violation that did not take place. These incidents should be re-classified.*

In reality, the process by which reports are declared "unfounded" is more complicated than this would imply. An earlier version of the manual gives an example of incidents that should be "unfounded":

*For example, a report of a house-breaking is received. The investigation indicates that a man climbed through a window in his home. He had locked himself out by mistake. A neighbour thought he was a burglar and called the police. This should be scored as one reported residential break and enter and then unfounded.*

Considerable criticism has been directed at the process of founding cases (see, for example, Gunn and Minch, 1988). In the past, the unfounded rate for crimes of sexual aggression such as rape was higher than for other personal injury offences. In 1982, the last year under the previous legislation, the unfounded rate for rape was 30%. This is considerably higher than the unfounded rate for the general category of crimes of violence, which at the time was only 6% (Canadian Centre for Justice Statistics, 1983). Accordingly, one of the explicit aims of the 1983 reform legislation was to decrease the percentage of reports of sexual aggression that are declared by the police to be "unfounded".

The final statistic examined in this chapter of the report relates to charges laid against an accused. Once unfounded reports have been screened out, those that remain are classified as "actual offences". All actual offences become the subject of a police investigation, but in only a percentage of these cases are charges laid against a suspect. It is possible for reports to be cleared without a charge laid against a suspect. These reports are designated as "cleared otherwise", which means that circumstances intervened to prevent the laying of a charge, such as when a complainant refuses to sign a complaint, or, less frequently, when it is impossible to lay a charge because the suspect dies, leaves the country, or is immune from prosecution due to diplomatic status. Cases of this nature are very small in number.

Thus, a charge is laid against a suspect in only a proportion of "actual" offences and in an even smaller proportion of all reported incidents. The rate at which cases of the earlier offence of rape were cleared by charge was decried by many observers who asserted that the police were more reluctant to lay charges in rape cases than in other personal injury offences. It was anticipated that one of the collateral benefits of stressing the assaultive rather than the sexual aspect of crimes of sexual aggression would be an increase in the percentage of cases "cleared by charge". As with the issue of reporting, the experience with rape reform legislation in the U.S. is discouraging. Polk (1985) for example found that the clearance rates for rape remained relatively unchanged after reform legislation was passed (see also Loh, 1981, and Marsh *et al.*, 1982).

## **2.2 Research on the Criminal Justice Processing of Sexual Assault Reports**

It is impossible in a brief introduction to summarize all the research on sexual assault that has accumulated in Canada over the past few years (see Roberts and Grossman, 1991, for an annotated bibliography of sexual assault since 1977). However, we shall summarize some of the findings of research directly relevant to the issues explored in this chapter. (Discussion of previous findings on the issue of sentencing can be found in Chapter 3 of this report.)

### **(a) The Incidence of Sexual Assault**

Critical to any discussion of sexual assault statistics is the question of the so-called "dark figure" of crime, namely the percentage of incidents that are not reported to the police. A great deal has been written on the unreported incidence of sexual assault (for a recent summary of this literature, see DeKeseredy and Hinch, 1991). The best way of establishing the percentage of assaults that are not reported to the criminal justice system is to conduct a victimization survey in which members of the public are approached directly and asked about recent victimizations.

An earlier such study in Canada, the Canadian Urban Victimization Study, was conducted in 1982, the year before the rape reform legislation was passed. This survey found that more than half of all sexual assaults committed (62%) were not reported to the police. Different surveys (see, for example, Brickman and Briere, 1980) have suggested that the percentage of reports that remain unreported is even higher. While the General Social Survey, conducted in 1988, explored victimization in Canada, the sample size was too small to provide reliable estimates of sexual assault (see Sacco and Johnson, 1990).

The most recent research into the incidence of sexual assault in Canada is the Women's Safety Project, conducted in Toronto and sponsored (in part) by the Canadian Panel on Violence Against Women. This survey found rates of sexual victimization to be even higher than many previous studies had suggested. For example, just over half (51%) of the sample reported at least one experience of sexual assault at the level of rape or attempted rape at or after 16 years of age. While it is difficult to extrapolate from a single study to national statistics of victimization, these results make it clear that the incidence of sexual aggression reported to the police represents but a fraction of the true incidence of this crime in Canada (see Appendix A of the Panel's final report for further details of the survey). The latest estimates come from the Violence Against Women Survey, which revealed that only 6% of sexual assaults were reported to the police (Statistics Canada, 1993).

### **(b) The Effects of Rape Reform Legislation in Canada**

What effects did the sexual assault legislation have on reporting trends? A national evaluation of reports made to the police over a 15-year period revealed several important findings. First, that there was a significant increase in the rate of reports of sexual aggression made to the police following passage of the rape reform legislation of 1983. In 1982, the rate of reports of sexual aggression (rape; attempt rape; indecent assault against a male or a female) was 52 per 100,000 population. By 1988, this rate had more than doubled to 112 per 100,000 population for all levels of sexual assault combined (see Roberts, 1990a).

In terms of numbers of incidents, in 1982, there were 10,285 reports of sexual aggression made to the police in Canada. This rose to 29,111 incidents in 1988. This increase in reporting was significantly greater than the increase

found for other crimes of violence including assault. There are several possible interpretations of this increase, but the most likely seems to be that the law reform encouraged a greater number of victims to come forward and report to the police (see Roberts and Gebotys, 1992; also Renner and Sahjpaul, 1986).

Another significant finding from that research was that a great deal of variation exists among provinces in sexual assault reporting rates. The 1988 sexual assault reporting rates in Canada vary from a low of 57 per 100,000 population in Quebec to 594 per 100,000 in the Northwest Territories. The rate in Ontario was approximately double the rate found in the neighbouring province of Quebec. It is not clear from these facts alone whether these differences reflect variation in actual offending or variability in the willingness of victims to report to the police.

If Bill C-127 had a positive effect upon the attitudes and subsequent behaviour of victims, the impact on the processing of reports by the criminal justice system was less marked. Research conducted for the Department of Justice (e.g., University of Manitoba, 1988) suggested that the unfounded rate had declined from pre to post reform legislation. Other research, using national data, indicated that the unfounded rate did not change over the period 1983-1988 (see Department of Justice, 1990; Roberts, 1990a). The unfounded rate for crimes of sexual aggression was 14% in 1982 and 15% in 1988. However, legal reforms sometimes take considerable time before they have a detectable effect upon criminal justice professionals.

One of the purposes of this report, then, is to see if the unfounded rates for the three levels of sexual assault have declined at all since 1988. The Department of Justice research found considerable variation across the country: in Quebec the unfounded rate was 7% while in the Yukon almost one-third of sexual assault reports were dismissed by police as being unfounded (Roberts, 1990a).

Similar results emerge for the clearance rates for sexual assault. Although there was an increase in the clearance rate for the crimes of sexual aggression from 1982 to 1988, there was a comparable increase in the clearance rates for other crimes against the person, suggesting that factors other than the rape reform legislation were responsible for this change. Once again, variation across the country was marked. The clearance rates varied from a low of 38% in New Brunswick to 72% in the Northwest Territories.

A central aim of the rape reform legislation of 1983 was to increase the efficiency of the justice system in the processing of sexual assault cases. Here too, the impact of Bill C-127 appears to have been minimal. The federal Department of Justice commissioned studies in several sites across the country, and the results indicated little change in conviction rates (see Department of Justice, Canada, 1990, Table 16). In some sites there was actually a decline in the conviction rate: in Winnipeg it fell to 47% from 64% prior to the implementation of the rape reform legislation. In Vancouver the conviction rate in the pre-reform period was 56%; in the post-reform period it was 53%.<sup>8</sup>

### **(c) Sexual Homicide**

We briefly describe one other recent study conducted for the Department of Justice Canada. This descriptive research employed the Homicide database (also located in the Canadian Centre for Justice Statistics) to compile a picture of the most serious form of sexual assault: sexual homicide. This is defined by CCJS as a homicide committed during the commission of a sexual assault. Drawing on homicide returns completed by police officers across Canada, researchers examined all such homicides committed during the period 1974-1989.

In 1989, three percent of all homicides had occurred during the commission of a sexual offence. This figure has remained stable over the past twenty years. In 1974, there were 22 sexual homicide victims across Canada; in 1989 there were 21 sexual homicides recorded. Fully 85% of sexual homicide victims were female. This corresponds to the percentage of all sexual assault victims who are female.

There has been a change in the age of sexual homicide victims, however. In the period 1961-1970, only one victim in five was under 21 years of age; in the period 1971-1989, this age category accounted for fully half of all sexual homicide victims. The suspect was a stranger to the victim in 30% of sexual homicide cases recorded. This is higher than the percentage of other kinds of homicide that are committed by strangers. (For further information on the sexual homicide study, see Roberts and Grossman, 1992. For further information on the sexual assault evaluation initiative, and a listing of the research reports available see Department of Justice, Canada, 1990. A concise summary of the principal findings can be found in Biesenthal, 1991.)

<sup>8</sup> The evaluation was not able to use national data to study conviction rates.

### Summary

In summary, interest in the incidence of, and criminal justice response to sexual assault has generated a great deal of research over the past decade. Some of this work has drawn on various databases located at the Canadian Centre for Justice Statistics. Examination of reporting trends since the rape reform legislation was passed in 1983 reveals a significant increase in the number of victims coming forward to report to the police. Reporting rates for sexual assault vary considerably across the country, but public opinion research suggests that part of this variance may be accounted for by differences in attitudes towards reporting these crimes. At the same time, the UCR survey data show no change in the percentage of cases classified as "unfounded", or the percentage of cases cleared by the laying of a charge. Evaluation research by the Department of Justice also found little change in the conviction rate for sexual offences following the passage of Bill C-127. Finally, public opinion surveys suggest that the Canadian public holds outdated notions about what constitutes a sexual assault.

## **2.3 The Uniform Crime Reporting Survey**

The database drawn upon for analyses of police-reported sexual assaults is the Uniform Crime Reporting Survey (UCR), implemented in 1962 to produce a standardized index of the incidence of crime in contemporary Canadian society. Local law enforcement agencies submit completed forms or automated datatapes to the Canadian Centre for Justice Statistics, a repository for criminal justice statistics located at Statistics Canada. The UCR survey is based upon occurrence reports submitted by federal, provincial and municipal police forces across the country (see Canadian Centre for Justice Statistics, 1988 for a further description of the UCR survey). Statistics examined in this report derive from the aggregate UCR as well as the revised UCR survey which has been designed to capture greater detail about criminal incidents.

The aggregate UCR survey is the source of the annual Statistics Canada publication *Canadian Crime Statistics* (see Canadian Centre for Justice Statistics, 1994). The term "aggregate" refers to the fact that it collects data on an aggregate, summary basis in a format that does not allow for detailed data analysis. In addition, it does not provide information about variables such as the relationship between the victim and the suspect. In fact, there is no information about the characteristics of victims. The aggregate database is useful for generating a truly national picture of the incidence of crimes reported to police forces, but it cannot provide in-depth information about key variables relating to the offence, the suspect and the victim.

The aggregate UCR survey follows the Most Serious Offence rule. This means that if a criminal incident contains more than a single violation, only the most serious is recorded. In the present context, if a sexual assault and a less serious offence occurred during the same incident, the less serious offence will not be counted. Since sexual assault is one of the most serious offences against the person, this rule does not undermine our analyses to any great degree.

Data from the aggregate UCR can tell us a great deal about national and provincial trends in complaints to the police. For example, they can document differences between unfounded rates for various offences. However, they cannot shed light upon variation that exists in characteristics of individual victims and suspects, for example, whether the unfounded rate is higher for reports of sexual assault in which the victim and the suspect were known to one another. For this we will turn to a micro-level database, such as the incident-based or revised UCR survey.<sup>9</sup>

Also known as UCR II, this micro-level database captures many of the data elements necessary for an understanding of sexual assault processing. For example, it provides information on victims and suspects (such as age and sex), on the circumstances surrounding the commission of the offence (whether alcohol or drugs played a role) and on the nature of the assault (such as whether a weapon was used, and the location of the assault). The revised UCR has now moved from a developmental phase to the stage of actual implementation.

The new UCR survey is designed to produce both an indicator of the incidence of crime in Canada and a description of the characteristics of criminal incidents. Police departments across Canada at the federal, provincial and municipal levels collect data and forward them via datatape to the Canadian Centre for Justice Statistics which compiles, edits and disseminates the information publicly.

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<sup>9</sup> Neither the aggregate nor the micro-level UCR survey can answer more detailed questions concerning the *cause* of variation in these statistics. For example, if the unfounded rate is significantly higher for sexual assault than for other crimes of violence, does this reflect stereotypical treatment of the sexual assault victim, or actual differences in terms of the incidents reported to the police? Resolving these questions would require in-depth analysis of police and crown files, as well as interviews with police officers and victims.

One important limitation to the new UCR survey is that, at time of writing, it is not fully national in scope, meaning that not all police forces across Canada are "on-line". For the calendar year 1991, approximately 12% of the crime incidents reported to the police were captured by UCR II. The findings should be viewed as indicators only and care should be used in drawing conclusions on the basis of these data. The issue of representativeness will be discussed later in the report. For additional information about the UCR survey, see the Uniform Crime Reporting Manual (Incident-based Survey) available from the Canadian Centre for Justice Statistics.

Finally, we add a qualification about the definition of an incident. According to the UCR manual, *two or more violations of the law (and their related victims and accused persons) are grouped into the same unique incident if, and only if, they are committed by the same person or group of persons*. This means that an incident may not be a discrete "transaction" in the sense that a single statute has been violated (for further information, see Canadian Centre for Justice Statistics, 1991a).

Notwithstanding these limitations, the two versions of the UCR survey together provide a great deal of information about the number and nature of sexual assault cases reported to the police across the country.

## 2.4 The Aggregate UCR Survey

As the primary purpose of the aggregate UCR survey is to provide a portrait of the incidence of various crimes across the country and over time, this is where we begin our examination of the incidence of crimes of sexual assault reported to the police. We proceed through the data beginning with the stage at which a report is recorded by a police officer and ending at the point at which a case is cleared in some way, either by the laying of a criminal charge or in one of the other ways that a criminal incident is "resolved" by the police.

### (a) Rates of assault and sexual assault reported to the police

As previously noted, two rates of reported offences are provided by the UCR survey: the rate of reports made to the police, including incidents later classified by the police as "unfounded", and the rate of "actual" offences, a term used by CCJS to designate the rate of incidents that have been determined to be "founded". *We have chosen to present here the rate of actual incidents rather than reports made to the police*. The reason for this is to maintain consistency with other Statistics Canada publications. For example, the annual publication "Canadian Crime Statistics" presents the rate of actual incidents, not all cases reported to the police.

Data for all levels of sexual assault are presented in Table 1, for Canada, the provinces and territories. The national rate of reports of sexual assault in 1992 was 126 per 100,000 residents, a 12% increase over the previous year and a 31% increase over the period 1988-1992. Nationally, there has been a 168% increase (from 47 to 126 incidents per 100,000 population) since the sexual assault legislation was passed (in 1983), although as previously noted, the major increase came in the first few years. By dividing the decade in two it can be seen that the increase in the sexual assault rate for the first period (1983-1987) was 87%, but only 31% for the second period (1988-1992).

As shown in Table 2, the national assault rate statistics reveal a different pattern, with an increase of 38% between 1983-1987 and 27% between 1988 and 1992. The 1992 assault rate data represent a 4% increase over the preceding year. The national and provincial assault rates are provided in Table 2, from which it can be seen that the rates of assault reported to the police are much higher than the rates of sexual assault: 803 per 100,000 population in 1992 compared to 126 for sexual assault. The overall increase in assault rates was 81% from 1983 to 1992. Thus the rate of assault has also climbed steeply, but not to the extent noted for sexual assault.

Table 3 ranks the jurisdictions in sexual assault rates. These figures show considerable inter-provincial variation, ranging from a low of 65 per 100,000 residents in Quebec to 923 per 100,000 in the Northwest Territories (all levels of sexual assault combined). It should be pointed out, however, that the actual numbers of incidents in the smaller jurisdictions are quite low making the rates therefore subject to wide fluctuation (see subsequent tables). While it can be argued that these two jurisdictions are not comparable in size of population, even adjoining provinces of comparable size show substantial variation: the Quebec rate of 65 is half the Ontario rate of 116. These figures should be interpreted in light of the preceding discussion about rates of offending and victims' willingness to report crimes to the police.

Table 4 provides a similar ranking for the assault rates. As the table shows, assault rates are also highly variable, ranging from 499 per 100,000 in Quebec to 4,945 per 100,000 population in the Northwest Territories (all levels of assault combined).

A statistical analysis was conducted to determine the degree of association between the two offence hierarchies to examine whether jurisdictions with the highest rates of assault also have the highest rates of sexual assault. Rankings of rates of reported incidents were compared by means of a Spearman Rank-Order Correlation ( $\rho$  - see Bruning and Kintz, 1968). The analysis showed that there was, in fact, a significant degree of association between the rankings for assault and sexual assault (at the .05 level of significance,  $\rho = +.67$ ). Not surprisingly perhaps, jurisdictions with the higher rates of sexual assault also tend to have higher rates of non-sexual assault.

Table 5 provides a breakdown of rates for Canada for the three levels of sexual assault and assault for the period 1983 to 1992. It shows that the offences of sexual assault, particularly the higher levels of seriousness, account for few incidents per 100,000 residents, relative to the assault offences.

#### (b) Number of Reports of Sexual Assault and Assault, Canada and the Provinces

Having presented the rates of sexual assault and assault per 100,000 population, we now provide statistics on the number of reports of these crimes made to the police. At this point we shall analyze the number of reports made to the police, not just the number of "actual" offences. The reason for presenting the total number of reports (not just the number of "actual" offences) is that we shall deal with unfounded incidents in a subsequent section of this report.

Table 6 presents the number of reports of sexual assault made to the police on a national level and by province or territory. This table shows that in 1992, the most recent year for which data are available, 39,829 reports of sexual assault I, II or III were made to the police across the country. This figure represents a 12% increase over the 35,570 reports recorded by the police in the preceding year. By comparison, there were 233,420 reports of the three assault offences made in the same year, which represents a 4% increase over 1991 (see Table 7).

If we go back over a longer period of time, we can see that the number of sexual assault reports increased by 37% over the five-year period 1988 to 1992 (from 29,114 to 39,829 incidents). Here too the trend is comparable to the data for assault, where the increase was 33% (from 175,252 in 1988 to 233,240 in 1992) over the five-year period (see Table 7). At the national level then, it is clear that while the number of sexual assault reports has increased over the past five years, it has not increased at a faster rate than the number of reports of assault.

It is also apparent from these data that the dramatic increase in the number of reports of sexual assault which took place after the rape reform legislation of 1983 has now levelled off. This can be seen by once again dividing the decade 1983-1992 into two periods of five years. In the first five years (1983-1987), the number of sexual assault reports rose by 91% (13,851 to 26,443). In the second quinquennium (1988-1992), reports rose at a considerably slower rate of 37% (29,114 to 39,829). The difference is of the magnitude of -54% (91%-37%).

The data for assault (all levels combined) are rather different: the increase for the first period (1983-1987) was similar to the increase in the second half. In the period 1983-1987, there was an increase of 43% (from 116,768 to 167,258 reports). In the second there was an increase of 33%, from 175,252 to 233,420 reports. The difference is of the magnitude -10%. These findings are important, for they suggest the possibility that part of the increase in reports of sexual assault in the 1980s was due to a change in victims' attitudes: victims may have become more sensitive to the issue of reporting as a result of the publicity surrounding the passage of the rape reform legislation.

Analysis of the reporting statistics for Canada on a monthly basis for the period 1983-1992 sheds light on an hypothesis advanced at the time of the decision of the Supreme Court in the appeals of *Seaboyer and Gayme* in 1991 (see introduction). It was argued that the court's decision would result in a decline in the number of reports of sexual assault made to the police. Examination of the actual statistics reveals no such decline.

#### (c) Inter-provincial Variation

As with other criminal justice statistics, there is a fair degree of inter-provincial variation in the sexual assault and assault statistics. We shall examine data on rates of reports made to the police from the most recent period (1988-1992). As already noted (see above), the increase in the reporting rate of sexual assault (all levels combined) over that period was 29%. Over the five-year period, there was little change (an increase of 3%) in the rate of sexual assaults reported to the police in British Columbia. The increase in Alberta (30%) was close to the national average while other jurisdictions experienced more marked increases. In Saskatchewan and Prince Edward Island, the rates of sexual assault doubled over the same period (see Table 8).

It should be pointed out that these rates of increase are fairly volatile from year to year. If a longer or shorter time period were used to compare different jurisdictions, the rates of increase as well as the rankings of jurisdictions

would change considerably. It is also unclear from these data whether these variable increases reflect variations in offending or differences in victims' willingness to report crimes to the police in different parts of the country.

There is less variation in the increase in the rates of assaults recorded in different parts of the country. The increase at the national level was 26% (from 633 in 1988 to 792 reports per 100,000 in 1992, all three levels of assault combined). Table 9 provides a rank-ordering of the jurisdictions in percentage increases in assault statistics for the period 1988-1992. Changes ranged from a decrease of 6% in the Yukon to an increase of 55% in Nova Scotia. This is a range of 61%, compared to a range of 100% for sexual assault rate increases over the same period (see Table 8).

#### (d) Distribution of Reports Across Three Levels of Seriousness

At this point we examine the number of reports of sexual assault across the three levels of seriousness. First, we note that in 1992, fully 96% of reports of sexual assault were classified by police as level I, 3% as level II, and 1% as level III. The changes in numbers of reports of the individual offences over the past year are the following: sexual assault (level I), 13%; sexual assault with a weapon (level II), -5%; aggravated sexual assault (level III), -12%. The national and provincial data for the three levels of sexual assault are presented in Tables 10 through 12. These tables reveal a 39% increase over the five-year period (1988-1992) for sexual assault I, little change (<1%) for sexual assault II, and an 11% increase for sexual assault III (see Tables 10 through 12).

The statistics for the most serious level are interesting, because unlike sexual assault I, they had actually fallen, from a high of 685 in 1983 (the year Bill C-127 was passed) to a low of 417 in 1988. This represented a decline of 39% over the five-year period (1983-1988), which is all the more remarkable since at the same time the numbers of all other kinds of assault were increasing. In 1989 there was a slight increase over the preceding year; followed by a modest decline in 1990 and a significant increase to the most recent year.

It seems unlikely that the actual *incidence* of this most serious crime can have declined consistently and precipitously, only to rebound in the period 1990-1991. More likely there has been some change in several jurisdictions in either the classification process by which police officers record victims' accounts of an incident at one of the three levels of sexual assault or in the willingness of victims to report. At this point therefore we turn to an examination of the recent trends in the breakdown of reports across the three levels.

Obviously victims do not report incidents in terms of *Criminal Code* section numbers; the task of classifying incidents must be undertaken by the police officer. And, since the *Code* provides no definition of sexual assault, and little guidance as to when an incident should be classified as level III rather than level I, a great deal of discretion is accorded the police officer in this regard. Some interesting trends emerge when we examine the breakdown of reports of sexual and non-sexual assault in Canada. The data are presented in Table 13, which shows rather different patterns for sexual assault and assault. In 1983, the first year under the new legislation, 88% of all reports of sexual assault were classified by the police at the lowest level of seriousness. This was higher than the assault figure (75%). The averages for the period 1983 to 1992 are 79% for assault and 94% for sexual assault.

The percentage of incidents classified as sexual assault I began to rise systematically after 1983 so that by 1989, fully 96% of all sexual assault reports were classified at level I (compared to only 80% of reports of assault). Naturally this was accompanied by a decline in the total percentage classified at levels II or III, which fell to 3% and 1%, respectively, from 7% and 5% in 1988. This phenomenon has been explored elsewhere (see Roberts, 1990; Roberts and Pires, 1992) but *it is likely that this trend does not represent simply a higher increase in reports occurring at the first level of seriousness, but probably has more to do with a change in police practices.*

The police may be more likely to classify reports (and thereafter lay a charge in founded incidents) at the first level of seriousness. The consequence of this is that some incidents that in 1983 would have been classified at levels II or III are now being classified at level I. This tendency may have important consequences for the treatment of sexual assault cases and the experiences of both the victim and the accused, and warrants further research.

Whatever the cause of this tendency for level I cases to expand to account for an increasingly greater percentage of the total number of incidents reported, it appears to have reached a plateau: it has been at 96% for four consecutive years now (1989 to 1992). It is also worth noting that a similar trend can be observed for non-sexual assault, although it is far less pronounced: in 1983 the percentage of all reports classified at level I was 75%; this has risen about one percentage point each year to the current level of 82% in 1992 (see Table 13). The averages over the period 1983-1992 are: 79% for level I, 19% for level II and 2% for level III (see Table 13).

Where does this increase come from? Since the number of reports of sexual assault III are so small in the less populous provinces (fewer than 10 in Prince Edward Island, Newfoundland, Nova Scotia, New Brunswick, Manitoba, the Yukon and the Northwest Territories), the answer must lie in Quebec and Ontario (see Table 12).

Between 1990 and 1991, the number of sexual assault level III reports rose by 126% in Ontario and by 32% in Quebec. The Ontario data are very striking, and clearly warrant further investigation at the provincial level. The Ontario level has since declined in 1992 to 88, practically the same as it was in 1990. Data on reports of sexual assault level II in these two provinces do not show the same pattern. There was a 10% *decline* in the number of sexual assault level II reports in Quebec, and a modest increase of 13% in Ontario (see Table 11).

Why was there such a marked increase in reports in Ontario in the year 1991? One hypothesis is that this increase in the number of aggravated sexual assaults in that province reflects a change in classification practices by some police officers in that province. Whether this is the case can only be established by micro-level research, but these statistics offer evidence consistent with this hypothesis. The increase in reports at levels I and II was significantly lower from 1990 to 1991 than from 1989 to 1990. Thus at the time when sexual assault reports I and II were less frequently recorded, there was a significant rise of reports classified at level III. This finding warrants further exploration.

Expressed in a different way, the percentage of all reports in Ontario classified at level III rose from less than 1% in 1990 to 2% in 1991, at a time when the national trend was in the other direction (i.e., the percentage of all reports classified at level III declined from 5% to 1%). The point we simply make here is that the increase at the national level of 20% masks a great deal of variation across the country, and that provincial level analysis no doubt masks important variation at the municipal or local level.

Tables 14 through 16 present statistics for reports of assault in Canada and the jurisdictions broken down across the three levels of assault. Little comment will be made on these data, except to say that they generally display greater uniformity across the country in terms of increases over the past few years.

#### (e) The Founding Process

Table 17 provides the unfounded rates for Canada and the jurisdictions, for sexual assault level I over the period 1983-1992. Tables 18 and 19 provide similar statistics for levels II and III. Table 20 provides a historical analysis of the trends in the unfounded rates for the three levels of sexual assault from 1983 to 1992. Several observations can be made. First, in terms of the first level of sexual assault (which, it will be recalled, accounts for up to 96% of all reports) there has been very little fluctuation from the year in which these offences were created. In 1983, the unfounded rate for sexual assault level I was 14% (see Roberts, 1990a) and has not deviated by more than two percentage points since that year (see Table 20). There has been greater variability for the second level of sexual assault, where the unfounded rate ranges from a low of 7% in 1988 to a high of 12% in 1985. In the most recent year (1992), the national rate was 9%.

It would be reasonable to expect the unfounded rate to be somewhat lower for sexual assault II than for the first level. The reason is that the *Code* does give some indication of what comprises a second level assault<sup>10</sup>. This *Criminal Code* definition is likely to provide more guidance to police officers, and this would lead to a lower unfounded rate. And in fact the data bear out this expectation: over the ten-year period (1983-1992), the average unfounded rate for sexual assault level II was 10%, compared to 15% for sexual assault level I. The greatest degree of variability in the unfounded rates occur for aggravated sexual assault (level III). The rate varies from a low of 10% in 1987 to 23% in 1985. Some stabilization in these trends appears to have taken place recently, however: the unfounded rate for aggravated sexual assault has not varied more than a percentage point since 1988.

These data may shed light on the pattern of reports noted earlier. It was observed that the *number* of reports of aggravated sexual assault across Canada had declined steadily and consistently, from a high of 685 in 1983 to a low of 417 in 1988. It is perhaps no coincidence that the unfounded rate was declining at the same time: thus the average unfounded rate in the first three years of the period covered was 20%, compared to an average unfounded rate over the following three year period of 11%. This suggests that the police were less likely, as time wore on, to classify an incident as level III, with the result that when they did use this category, they were more confident that the incident was "founded", and this resulted in a much lower unfounded rate for the period 1986-1988.

<sup>10</sup> Sexual assault level II is defined as a sexual assault committed by means of a weapon, or imitation thereof, by means of threats of bodily harm to a third party, involving bodily harm to the complainant, or when someone is a party to a sexual assault.

Tables 21, 22, and 23 provide similar statistics for the three principal assault offences. Table 24 provides an historical analysis of unfounded rates for the three levels of assault for the period 1983 to 1992. Several features of this table are worth noting. First, the unfounded rates for assault offences are systematically lower than for the crimes of sexual assault. The average unfounded rates were as follows: level I, 7%; level II, 4%; and, level III, 3%. One criticism of criminal justice processing of crimes of sexual aggression in the pre-reform period, that the unfounded rate for sexual offences was higher than for assault offences, is still true today. Has the gap diminished at all since the reform? The unfounded rate for rape and indecent assault in 1982 (the last year pre-reform) was 14%; it remains unchanged in 1992.

A second observation about the unfounded data for assault is that they present a more systematic pattern than for sexual assault. This is apparent in at least two ways. First, there is far less variation from year to year. In fact, the unfounded rate for assault varies at most by two percentage points across the entire period (see Table 24). Second, there is a tendency for the unfounded rate to decline with the level of seriousness. As noted earlier, this is the pattern one would expect: as the crime becomes more serious, it is probably natural for a police officer to become somewhat more conservative in his or her classifications of incidents, and this would result in a lower unfounded rate. In short, the higher levels of assault are less ambiguous.

Tables 25 and 26 present rankings of sexual assault and non-sexual assault rates (level I in both cases) for 1992. These tables are presented to see whether jurisdictions with the highest unfounded rates for sexual assault are also the ones with the highest unfounded rates for non-sexual assault. Once again, a Spearman Rank-Order Correlation ( $\rho$ ) was computed. On this occasion however, the results indicated that there was at best a marginally significant relationship between the rankings ( $\rho = .50$ ,  $p < .10$ ). This suggests that there is not a uniform police response to reports of sexual and non-sexual assault across the country.

These data are also relevant to the unique processing hypothesis, for they reveal that while the unfounded rates vary considerably for sexual assault, they are as variable for the offence of assault. Thus the unfounded rates for sexual assault vary by 16% across the country, while the unfounded rates for assault vary by 12%.

#### (f) Clearance Rates

Finally, we turn to what many writers identify as the most critical criminal justice statistic relating to the police: the percentage of incidents in which a case is cleared by the laying of a charge against a known suspect. The following three tables (27, 28 and 29) present the clearance data for sexual assault (I, II and III) since the rape reform legislation was introduced in 1983. Tables 30, 31 and 32 provide comparable data for assault. These statistics represent the percentages of founded incidents cleared by charge. The percentage of total reports cleared by charge will obviously be lower. These data will be discussed later in this report.

Table 33 summarizes the historical trends in the clearance rates<sup>11</sup> for the three levels of sexual assault and assault. As can be seen in this table, the clearance rate generally rises with the seriousness of the crime: the ten-year averages are 47%, 53% and 58% for the three levels of sexual assault and 41%, 61% and 67% for the three levels of assault.

Exactly why the more serious offences should have higher clearance rates is unclear, although it may be related to the unfounded rates: if police officers are more careful about assigning certain cases to the higher categories of seriousness, they may be more confident about the probability of eventually laying a charge. It is possible, for example, that a higher proportion of aggravated sexual assault incidents involves a clear identification of the assailant when the victim first comes to the police. Another possible explanation is that the nature of the harm involved makes it less likely that the complainant will withdraw from the case, or decline to testify, and this enhances the likelihood that a charge will be laid against a suspect.

Table 33 also indicates that the clearance rate has been rising for sexual assault since these offences were created in 1983. Over the first two years, the clearance rate for sexual assault level I was 41% and rose to 51% by 1990.<sup>12</sup> This should not be taken as an indication that the reforms have had an effect: rather it is simply part of an overall increase in the percentage of cases cleared by the laying of a charge for all crimes of violence (see Roberts,

<sup>11</sup> The "clearance rate" is the percentage of "actual" cases which are either "cleared by charge" or "cleared otherwise".

<sup>12</sup> We focus upon the clearance rate for the first level of seriousness because, as will be recalled, fully 96% of reports of sexual assault are classified at this level of seriousness.

1990b; Roberts and Pires, 1992). Clearance rates for all three levels of assault have also increased steadily over this period.

It is interesting to compare the changes in clearance rates for the two categories of offences. In 1983, the clearance rate for sexual assault I was ten percent higher than the clearance rate for assault I. Both clearance rates rose over the decade, although the clearance rates for assault rose faster. Thus if we divide the decade once again, we find that in the first five years (1983-1987) the average clearance rate for sexual assault was 45%, compared to 37% for assault. In the second half of the decade the gap between diminishes to 3% (sexual assault: 49%; assault: 46%). This reflects the fact that clearance rates for assault were rising to the same level as clearance rates for sexual assault.

Table 34 provides a rank-order of 1992 provincial clearance rates for sexual assault (level I) showing substantial variation across the country from a low of 34% in Prince Edward Island to a high of 67% in British Columbia. Why the police response to reports of sexual assault should be so varied across jurisdictions is unclear, but clearly warrants further in-depth investigation.

Table 35 places sexual assault in the context of other assault offences. This table shows clearance rates for assault (level I) across the country, and shows that variation in police response is also to be found in the assault statistics, which vary from a clearance rate of 33% in the province of British Columbia to 60% in Manitoba. The range in clearance rates in 1992 was 33 percentage points for sexual assault and 27 percentage points for assault. Clearance rates for sexual assault, then, are variable across the country, but no more so than for other crimes of violence.

We return, in Table 36, to a direct comparison between the two categories of assault and all crimes of violence. Restricting ourselves for the moment to the first level of seriousness, we can see that the clearance rate for sexual assault in 1992 was slightly higher (by two percentage points) than the clearance rate for non-sexual assault (49% versus 47%) and is the same as the clearance rate associated with crimes of violence in general. Thus the criticism that fewer sexual assaults are cleared by charge would appear to lack empirical foundation for the least serious level of sexual assault.

However, when we compare the higher levels of seriousness, we find the opposite to be true: the more serious forms of assault have slightly higher clearance rates than comparable levels of the sexual assault offences. Thus 72% of cases of assault III are cleared by charge, compared to 64% of sexual assault III.

#### (g) Case Attrition

The final empirical issue to be explored using the aggregate UCR survey database concerns the attrition of cases as they pass through the system. This was a major criticism of the treatment of rape cases in the pre-reform period. It was argued that the attrition rate was significantly higher for sexual offences, notably rape. By the term "attrition" (or funnelling) most commentators mean events affecting the prosecution of the case from the initial complaint made to the police through to the point at which a sentence is imposed. The UCR survey does not permit an analysis of attrition through to "deep-end" events such as conviction and sentencing. Nevertheless, we can examine the issue to the point of the laying of a charge.

In the discussion that follows, we examine all reports of sexual assault or assault made to the police, not just founded incidents. Thus by attrition we mean the process which begins when a member of the public makes a report of a crime, not the point at which the police have screened out a certain percentage of incidents.

Table 37 provides an indication of the degree of attrition for sexual assault reports made to the police in 1992. **In this table, we examine attrition from the initial pool of reports, not from the pool of founded incidents.** There were 39,829 reports of sexual assault made to the police (all levels combined). Of these, 14% or 5,477 cases were declared to be unfounded, leaving a sample of 34,352 (designated "actual offences" by CCJS). This sample is further depleted by 10,840 cases - those in which police were unable to lay a charge (27% of the original pool of 39,829). A further 16% of the original sample (6,466) were cleared "otherwise". A charge was laid in 17,046 cases, which represent 43% of the original total of reports (see Table 37<sup>13</sup>). The attrition rate was therefore over half: 57% were filtered from the original sample.

<sup>13</sup> The percentage of cases in which a charge was laid is lower in this table than in previous tables. The reason for this is that the data in Table 37 are based upon total reports, not just founded incidents. Thus for sexual assault, a charge was laid in 43% of all reports made, and 47% of all founded incidents.

Table 37 presents comparative data which reveal that the cleared by charge rate is slightly higher for the offences of assault and total crimes of violence. There were 233,420 reports of levels I, II or III assault made to the police in 1992. Of these, 7% or 16,683 were classified as unfounded, leaving a sample of 216,737 "actual" offences. This sample was further reduced by 42,658 (cases in which police were unable to lay a charge). An additional 63,643 were cleared by means other than the laying of a charge. A charge was laid in 110,436 cases, which represent 47% of the original pool of assault reports made to the police. Thus the attrition rate was 53%.

In this analysis we are interested in determining the percentage of all initial reports in which a criminal charge is eventually laid, that is, the percentage of reports "cleared by charge". However, it is important to point out that a significant percentage (16%) of the initial reports are "cleared otherwise". This category includes cases in which the police were unable to lay a charge because the suspect was already serving a sentence, or had left the country. This category is not comparable to the category of incidents in which the police were unable to clear the case. From the perspective of the criminal justice system, "cleared otherwise" means that the case has been resolved, although without the laying of a charge.

Table 38 compares attrition rates (in 1992) for sexual assault to other violent offences in detail. We can see that the sexual assault offences have one of the highest attrition rates. *Earlier sections of this report have demonstrated that the source of the higher attrition rate is differential founding rates, rather than differential clearance rates.*

Two additional conclusions may be drawn from this table. First, a lower percentage of initial reports of crimes of sexual aggression result in the laying of a charge against a known suspect (relative to other serious crimes of violence), and second, in this respect, the sexual assault statistics are similar to non-sexual assault.

The aggregate UCR survey can provide information about gross trends in criminal justice statistics. For a more refined and detailed portrait of the phenomenon of sexual assault as reported to and recorded by the police, we now turn to the revised UCR survey database.

## 2.5 The Incident-based UCR

The incident-based UCR survey is useful for obtaining a detailed portrait of the kinds of cases reported to, and subsequently processed by the police. Two stages of selection have shaped this database. First, this sample represents not all sexual assaults committed, but only those reported to the police (see earlier sections of this report). And second, it does not include reports of crimes made to the police but then classified as "unfounded". In short, incidents included here represent but a fraction of all incidents actually taking place. As well, as we pointed out in an earlier section on data limitations associated with the revised, incident-based UCR survey, only about 12% of cases are currently captured; the revised UCR is a new survey, and will take some time to be fully operational.

Nevertheless, validation comparisons made by CCJS personnel suggest that there is nothing atypical about this 12%, and that the characteristics of this sample reflect the characteristics of the population from which they have been drawn. These data are drawn from reports made the period 1990-1992. A picture of sexual assault cases which draws upon a longer period may result in different patterns of victim and accused characteristics, as these may change over time due to a number of factors including changes in victims' attitudes towards reporting to the criminal justice system. Finally, we note that the breakdowns presented here are based on victims, and not incidents. A single incident may involve more than one victim.

### (a) Victim Characteristics

The first interesting trend that emerges from UCR II is that males account for a larger percentage of sexual assault victims than previous research has indicated. Eighteen percent of sexual assault victims recorded in this survey were male and 82% were female. Nevertheless, the vast majority of sexual assault victims are female, and the percentage of female victims is significantly higher for sexual assault than for assault (47%) or for the general category of "other violent crimes" (42%).

Sexual assault victims in this data base are most likely to be young. This is true for both males and females: 61% of female victims of sexual assault were under 18 years of age, and an even higher percentage of males were in this age category (81%). This fact distinguishes sexual assault from assault, and from other offences of violence, as can be seen in Table 39. This table shows that victims of crimes of violence *other* than sexual assault are distributed fairly evenly across the age categories, and that those under 18 constitute a minority.

Eight percent of the female victims of sexual assault in this database were Aboriginal People; this is higher than the percentage of Aboriginal People in the general population (approximately 3%<sup>14</sup>; see Statistics Canada, 1992). The percentage of assault victims and victims of other violent crimes that were Aboriginal People is also higher than the national average (10% for assault; 5% for other violent crimes).

**(b) Relationship between Victim and Accused**

A critical variable in the research literature is the nature of the relationship between the victim and the suspect or accused in sexual assault cases. As with other factors, significant differences emerge between sexual assault and other crimes of violence. Table 40 shows that the relationship category accounting for the highest percentage (37%) of victims of sexual assault is "casual acquaintance" (this category includes "business colleague"). In comparison, casual acquaintances accounted for only 21% of assault cases.

For the category "other violent crimes", casual acquaintances accounted for 10% of cases. Spouses accounted for the highest percentage of non-sexual assault cases (43%), while strangers accounted for the highest percentage of other violent crimes (47%). It is worth noting that spouses accounted for only 4% of sexual assault cases, which suggests that the rape reform legislation (which made it possible for a man to be charged with sexually assaulting his wife) has not resulted in a significant number of cases of this nature coming to the attention of the police.

The patterns differ little for male victims: 42% of sexual assault victims and 39% of assault victims were assaulted by casual acquaintances. The category of spouses/ex-spouses accounted for only 3% of cases of assault involving a male victim. Casual acquaintances or strangers together accounted for almost four cases out of five (76%)<sup>15</sup>. These data reflect the fact that male-to-male violence is more likely to take place in public, and to involve strangers or acquaintances resolving arguments by resorting to force (see Table 40).

**(c) Degree of Physical Injury to the Victim**

Another variable included on the incident-based UCR survey is the extent of physical injury to the victim. Before discussing these data, several caveats should be made.

Three categories are provided: no injuries, minor physical injuries and major physical injuries. This is a rather unsophisticated classification, having two levels of injury, plus the absence of injury. It also should be pointed out that it is a subjective decision based on the perception of the police as to level of injury suffered by the victim. **By failing to consider the possibility of psychological injury, these data may convey a misleading image of the relative seriousness of the crime, particularly for sexual assault offences.**

The psychological impact of a sexual assault has been widely acknowledged for some time. The psychological sequelae of a sexual assault can last for years, particularly when, as is often the case for this sample of incidents, the victim was young at the time the offence was committed. Clearly, a comprehensive crime report should at least consider the possibility of psychological harm. (Whether a police officer would be the most appropriate person to assess the degree of psychological or physical harm inflicted upon the victim is a separate but important issue.)

Without considering the psychological component to the harm inflicted, the data in this table may convey the impression that assault is a more serious offence than sexual assault. Finally, the nature and true extent of physical injuries may be much clearer in cases of non-sexual assault. A victim of sexual assault may have sustained physical injuries that might not be apparent at the time of the attack with the full extent of the injury becoming known only later after a more extensive medical examination. This information would not appear in a police report. *Accordingly the data on the extent of physical injury sustained by the victim may well under-estimate the extent of harm to victims of sexual assault, relative to victims of assault.*

Bearing in mind these important caveats, we turn to Table 41 which presents data on the level of physical injury for male and female victims of assault and sexual assault. As can be seen in this table, no evidence of physical injuries was recorded in almost two-thirds (65%) of the cases of sexual assault involving female victims and 72% of cases involving male victims. This finding is consistent with other in-depth, micro-level research on the topic carried

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<sup>14</sup> Of these, 53% report only Aboriginal origins; 47% report both Aboriginal and Non-Aboriginal origins.

<sup>15</sup> This figure excludes the 11% of cases in which the relationship between the victim and the accused was unknown. If these were included the acquaintance-stranger category would in all probability be even higher.

out for the Department of Justice, Canada as part of the evaluation of Bill C-127 (see Department of Justice Canada, 1990).

Minor physical injuries<sup>16</sup> were noted in 18% of female victims and 11% of male victims of sexual assault. Major physical injuries<sup>17</sup> were recorded in 1% of female victims of sexual assault and less than 1% of sexual assaults involving a male victim. (In fact, there was only one male victim in this category out of a total of almost 500). It should be pointed out however that in a significant percentage of these cases the extent of physical injury was unknown (16% of incidents involving female victims and 17% of incidents involving males).

This table reveals a higher degree of physical injury for the assault sample. Only 35% of female victims sustained no injury, 54% minor injury, and 4% major physical injury. For male assault victims, 33% were recorded as having no injury, 50% as having minor injury and 9% as having major physical injury.

#### **(d) Use of Weapons and/or Force**

Weapons were not often used in cases of sexual assault reported to the police. In fact, a weapon was used in 7% of cases involving both male and female victims (Table 42). When a weapon was noted in violent incidents, in the majority of cases it was a knife of some description. Weapons were slightly more likely to be used in cases of assault. The other violent crime category saw more widespread use of weapons, the majority of which were handguns and knives.

Cases not involving weapons were described as using physical force alone. For sexual assault, physical force alone was used in 93% of cases involving both male and female complainants; for assault, physical force was used in 88% of cases involving a female and 79% of cases involving a male victim. The third category (other violent crime) generated a lower percentage of cases in which physical force was used. This reflects a correspondingly higher percentage of cases in which some type of weapon was present for these offences.

#### **(e) Location of the Offence**

Where did these incidents occur? Consistent with the finding that a large proportion of sexual assaults are committed by acquaintances, approximately two-thirds of victims of sexual assault (males and females) were victimized in a private dwelling unit (Table 43). Public locations such as streets, parking lots, or public transportation together accounted for 25% of cases involving females and 17% of cases involving males. Other research suggests that sexual assaults involving people known to each other are less likely to be reported to the police than similar assaults committed by strangers. If this is true, we can conclude that this figure of two-thirds under-estimates the extent to which sexual assault occurs in a location such as the residence of the accused or the complainant.

Turning to assault, we find an interesting distinction between offences committed against males and females. Two-thirds of female victims of assault were victimized in a residence of some kind, while this was true for less than one-third of male victims. In short, male-to-male violence that comes to the attention of the police typically involves acquaintances and strangers and is far more likely to take place in a public place than violence against a female.

#### **(f) Association with Alcohol or Drugs**

Alcohol and drugs have long been recognized as a precipitating or risk factor for all kinds of crimes, up to and including homicide. Before presenting data on this question, it should be noted that in a high percentage of cases, this information was missing from the UCR II returns. For sexual assault (both sexes combined), 44% of cases had no information on the presence of alcohol or drugs. For assault, the figure was 28%, while for the other violent crime category, the information was missing for 64% of female victims and 36% of the male victims. When information about drug or alcohol consumption by the suspect was present, it was far more likely to be alcohol that was consumed. This was particularly true for sexual assaults against a female.

Drugs alone or in combination with alcohol were found in fewer than 10% of cases involving a female victim. However, sexual assault is not unique in this regard: alcohol was also more likely than drugs to be present in cases

<sup>16</sup> According to the UCR survey manual, this means "physical injury that required no professional medical treatment or only some first aid (e.g., band aid)" (p. 85).

<sup>17</sup> According to the UCR survey manual this means physical injury that is more than "trifling" or "transient" in nature and that required professional medical attention at the scene or transportation to a medical facility" (p. 85).

of assault against males or females. For victims of assault, drugs alone or in combination with alcohol were observed in 3% of cases involving a female victim, and a similar percentage involving a male victim.

**(g) Characteristics of the Accused**

Fully 98% of victims of sexual assault involved a male accused. The percentage of accused persons responsible for assault and other violent crimes that were male was almost as high (88% and 92% respectively).

Table 44 presents a breakdown of the age of males and females charged by the police with violent offences. As there were only 26 women accused of sexual assault, making the distribution unreliable, the data have been summarized for assault only. This table indicates that women charged with violent incidents tend to be considerably younger, on average, than men charged with the same offences.

Where the Aboriginal status of the accused was known, 6% of males accused of sexual assault, 8% of males accused of assault, and 11% of males accused of other violent offences were Aboriginal People. Thus Aboriginal People are slightly over-represented in all three categories, relative to their representation in the population (approximately 3%).

**(h) Micro-level UCR: Summary of Trends**

We can summarize the data by providing the following profile of the two kinds of assault:

Sexual assault is most likely to involve a female victim, under the age of 18, who is assaulted by an acquaintance in a private residence. If the victim is a male, he is also likely to be under 18. The most likely means by which sexual assault is accomplished is through the application of physical force, rather than the use or threat of a weapon such as a firearm or knife.

Cases of assault are more evenly divided between male and female victims. Individuals in the 25-34 age group are most likely to be victims of this crime. Over two-thirds of assaults involving female victims took place in a residence of some kind and involved a spouse or ex-spouse. For male victims, assault was most likely to occur in a public location and to involve an acquaintance or a stranger.

**(i) Discussion**

**a. Reporting Rates**

Incidents reported to the police represent only a part of the entire picture of offending. This is particularly true for the crimes of sexual aggression which traditionally have been under-reported. The degree to which sexual assault is under-reported relative to other serious crimes of violence is at present unknown: the 1982 Canadian Urban Victimization Study, which suggests that 62% of sexual assaults are not reported to the police, covered only urban centres and is now out of date. The results of the Violence against Women survey suggest the reporting rate is much lower than this. Although criminal justice statistics represent but part of the picture of sexual offending, they are nevertheless a vital part. In this report we have attempted to summarize recent trends in the assault and sexual assault statistics.

The aggregate UCR data show that the number of incidents of sexual assault reported to the police have increased steadily since the early 1980s, but that this increase has levelled off in recent years, and is now comparable to the increase in the number of non-sexual assaults. Since it is unlikely that the actual incidence of sexual assault rose sharply in the early 1980s, only to decline as the decade ended, we interpret this trend to mean that Bill C-127 provoked a change in victims' attitudes towards reporting to the police.

While there is a great deal of public concern about the incidence of sexual assault in contemporary Canadian society, the sexual assault rates should be seen in the context of general increases in the numbers of crimes of violence reported to the police. These data also make it clear that one cannot talk about a uniform increase in reporting across all jurisdictions in Canada. Some parts of the country have experienced a more marked increase in the rate of sexual assaults reported to the police.

Considerable variability is observed in the rates of sexual assault reported to the police in different jurisdictions across the country. However, two further observations must be made about this finding. First, rates vary substantially for all kinds of crimes, including assault. In this respect sexual assault is not a unique offence. Second, we have no

way of knowing, on the basis of these data alone, whether this variability reflects variable rates of aggression against women or variable responses on the part of victims to reporting to the police (or some combination of the two). If rates of sexual assault do reflect differential willingness to report crimes, what underlies these attitudes? Do people in some provinces have more negative opinions of the criminal justice system? This issue requires further research. Research conducted in a single location is of little use in this regard, which is why the national survey on Violence Against Women will be of great interest to researchers working in the area.

#### b. First contact: classification of reports by the police

Another feature emerging from the aggregate UCR that warrants further attention is the breakdown in classification of sexual assault reports over the three levels of seriousness. In the most recent year for which data are available, almost all reports made to the police (96%) were classified at the first, least serious level. In addition, the percentage of reports classified at the first level has risen substantially in recent years. This phenomenon is not apparent in the assault statistics. It is important to understand why such a high proportion of incidents are classified at level I, and to know whether these initial classifications are appropriate. The research conducted by Nuttall in Toronto in 1989 provides a useful point of departure in this regard.

#### c. Founding reports of sexual assault

In contrast to the reporting data, there has been little change in the rate at which reports of sexual assault are declared by the police to be "unfounded". The unfounded rate for sexual assault I was 14% in 1983 and has not deviated by more than two percentage points since that time. The same is true for the higher levels of seriousness. *The founding data provide support for the notion that reports of sexual assault are treated differently by the police than are reports of assault.* The unfounded rate for the assault offences has been consistently lower than the unfounded rate for sexual assault. Founding rates vary somewhat from crime to crime; the question to be resolved is whether police officers apply stricter criteria to reports of sexual assault. This question cannot be resolved by examining the UCR database but would require in-depth analysis of police files of crime reports. This is clearly an important topic for future research in this area.

#### d. Clearance rates

Another critical statistic identified in the literature is the clearance rate. Here the data fail to support the view that police officers respond differently to cases of sexual assault. We had anticipated a lower clearance rate for the sexual assault offences, but found the opposite to be true. Comparing the first levels of assault and sexual assault (accounting for the vast majority of reports) we found that a higher percentage of sexual assault reports were cleared by the laying of a charge against a suspect. Thus the fact that the attrition rate is higher for sexual assault than assault is explained by the higher unfounded rate, not by differences in the clearance rates of the two kinds of assault.

To conclude, we return to questions raised by the unique processing hypothesis. What light do the data examined here shed upon this hypothesis? The major discrepancy in treatment lies in the area of the founding decision: the unfounded rate for sexual assault is now, and has been for some time, significantly higher than the unfounded rate for offences of non-sexual assault. Clearance rates for the two types of offences are comparable. The higher unfounded rate results in a higher degree of attrition in the processing of sexual assault reports by the police.

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## Chapter 3: An Analysis of Sentencing Statistics

This chapter deals with sentencing issues relating to sexual assault in Canada. We begin with some brief comments on the sentencing process in Canada, followed by a review of recent research on the treatment of sexual offenders by the courts, and analysis of available Canadian sentencing data.

### 3.1 Sentencing Structure in Canada

Since the majority of accused persons in Canada plead guilty at some stage in the trial process (Griffiths and Verdun-Jones, 1989), the sentencing hearing is a vital stage in the criminal justice process. The structure of sentencing in Canada permits judges a great deal of discretion, while at the same time providing little statutory guidance, either in terms of the purposes of sentencing or the nature of the specific disposition that is appropriate in any particular case. For many high-volume offences contained in the *Criminal Code* of Canada, the only guidance is a maximum penalty, one that is in most cases unrealistically high. The current statutory maxima are anachronisms that have existed for some time. Having been derived from the terms of banishment over a century ago, they bear very little relation to sentencing practices at the trial court level, and are internally inconsistent. An example will illustrate the point.

The maximum penalty for break and enter<sup>18</sup> is life imprisonment. However, the 90th percentile<sup>19</sup> for dispositions imposed for this crime is only a few years. In addition, the maximum penalty for this offence is significantly more severe than for other, more serious offences, such as sexual assault. The result is that the maximum penalty structure, which could and should serve as a guide for judges in the imposition of sanctions, lacks proportionality.

The *Code* also offers no guidance regarding the purpose sentencing is supposed to serve. There are many possible sentencing aims. The list includes, but is not restricted to: general and specific deterrence, rehabilitation, incapacitation and punishment (see Ashworth, 1992). In the absence of any real guidance in sentencing goals, judges must rely on their own personal preferences in this regard. And, since the nature of the sentencing purpose determines in large part the quantum of punishment imposed (McFatter, 1982), a consequence may be unwarranted disparity in sentencing practices. There are many other problems associated with the sentencing process in Canada (see the report of the Canadian Sentencing Commission, (1987) for further information); recognition of these problems has prompted the government to introduce reform legislation: Bill C-90<sup>20</sup> was reviewed by Parliamentary committee in May, 1993. A revised version (Bill C-41) was introduced in 1994.

### 3.2 Previous Research on Sentencing in Cases of Sexual Assault

Unlike some other areas of sexual assault, there is not a great deal of published research on sentencing patterns. The reason for this is that sentencing statistics have not been routinely published in Canada for some years. This has meant that the only indication we have of sentencing trends for sexual assault (or any other offence) comes from special studies, in which a "snap-shot" is taken of sentences reported in one or more jurisdictions. In fact, there are only a couple of studies in the past 20 years that have focused exclusively on sentencing patterns in cases of sexual assault. Our knowledge in this area comes from general studies in which sexual assault has been one of many offences examined. The result has been that little detailed information has been available.

A second consequence of the absence of detailed sentencing statistics is that those studies that have been conducted have been rather crude in nature, focusing on indices of punitiveness such as incarceration rates. In light of the statistics available to them, researchers have not been able to conduct more refined analyses on the relationship between various legal or extra-legal factors and the eventual disposition imposed. Finally, it is also important to note that several of the sentencing studies in this area have had to rely upon samples of questionable representativeness. When dealing with sentencing statistics, representativeness is vital: if the results are not based upon either the universe

<sup>18</sup> Private dwelling; S. 348.

<sup>19</sup> The 90th percentile is the sentence that encompasses 90 percent of cases: a 90th percentile sentence of 6 months means that 90 percent of cases in the jurisdiction studied were under 6 months, while the remaining 10 percent were longer than 6 months.

<sup>20</sup> Bill C-90 contained a statutory statement of the purpose and principles of sentencing, along with a number of other provisions. For a description and review of the bill, see Roberts and von Hirsch (1992).

of sentences imposed in a particular jurisdiction, or at least a random or representative sample, the findings cannot be generalized to the broader population.

A number of reports dealing with sentencing in sexual assault cases have recently appeared, but more from a legal than a sociological perspective. For example, the Manitoba Association of Women and the Law released a report in 1991 entitled "Gender Equality in the Courts. Criminal Law". That report noted that:

*sentences for crimes of violence against women and children are disproportionately low in comparison with sentences for other crimes, especially crimes against property. (p. 5-15)*

The report provides a number of cases in which lenient sentences were imposed, and where judges cited inappropriate mitigating and aggravating factors, yet no distributions of sanctions for sexual assault and assault are given. We have no way of telling how representative these sentences are of all dispositions imposed in that province or in the rest of Canada. The report states that:

*Due to economic constraints, it was impossible to undertake a statistical type of review of sexual assault cases. (p. 5.22)*

In the same year, the Nova Scotia Advisory Council on the Status of Women also published a report on this topic. Entitled *Issues in Sexual Assault Sentencing in Nova Scotia*, this document does contain some systematic sentencing statistics. The authors included dispositions provided by the Department of the Attorney General in that province, as well as sentences noted by the *Nova Scotia Law News* and some dispositions reported in the news media (which are likely to be unrepresentative by virtue of their inclusion in a news story). None of these sources is totally satisfactory; as the authors of the report note, the provincial court data were restricted to those that were automated at the time, and only about 10% of decisions are reported by the *Nova Scotia Reports*. And, although comparative data are provided regarding the reporting of sexual (and non-sexual) assault, no comparative sentencing data are provided.

The authors note that "even among the most horrific cases in this study, the harshest sentences imposed by Nova Scotia judges are generally well below the maximums outlined by Parliament" (p. 12). This tells us little about sexual assault however; the maximum penalties contained in the *Criminal Code* are all so unrealistically high, that for almost every offence there is a great discrepancy between the maximum penalty for which the offender is liable, and the average sentence imposed at the trial court level. Very few defendants receive the maximum penalty for any offence in the *Criminal Code*.

Sentencing statistics for break and enter cases illustrate the discrepancy between maximum penalties and sentencing practices at the trial court level. Break and enter is one of a number of offences in the *Code* that carry a maximum penalty of life imprisonment. A study by Hann in 1982 found that only half the offenders convicted of break and enter went to jail, almost all for under two years (Hann, 1982). From the perspective of the public, the maximum penalties for sexual assault are misleading in that they bear little relation to actual sentencing trends, but this is probably true for all other crimes as well.

A third report on sexual assault sentencing entitled "Sexual Assault Sentencing in the Yukon" (Pasquali, 1991) is the most comprehensive of these studies. Unlike the other research reviewed here, it presents sentencing statistics for all cases sentenced in the Yukon over an 18-month period, and is not therefore susceptible to the problems of representativeness that are associated with the other studies. Of the 15 adult offenders sentenced for sexual assault during this period, all were incarcerated, with sentence lengths running from less than one month to three years. The 100% incarceration rate is higher than that found in other empirical studies (Roberts, 1990b).

In 1990, as part of an evaluation of the sexual assault legislation (Bill C-127), the federal Department of Justice commissioned an empirical sentencing study in cases of sexual assault (see Roberts, 1990b). This study was a secondary analysis: it reviewed sentencing statistics that had been collected by earlier researchers. Five sources of data were employed, providing information from a number of provinces at different times over the period 1984 to 1988.

The following issues were addressed in that report.

(a) *What percentage of sexual assault offenders are incarcerated?*

The incarceration rate for the first level of sexual assault across the different databases from the period 1984-1986 ranged from 55% to 78%.

**(b) How much variability exists across jurisdictions in Canada?**

In terms of sentence length, a great deal of variability was uncovered. For example, the 90th percentile sentence ranged from one year in Newfoundland to five years in Ontario. Moreover, the amount of variation was greater for sexual assault than for other crimes of violence, notably non-sexual assault (see Roberts, 1990a, p.75).

**(c) How do sentences for sexual assault compare with sentences for other crimes of violence?**

Limited comparisons between the incarceration rates for sexual assault and other crimes of violence indicated that in British Columbia at least, sexual assault (level 1) was punished less harshly than manslaughter, robbery and attempt murder, and criminal negligence causing death, but more harshly than break and enter and all forms of assault including aggravated assault.

**(d) Did the 1983 legislation have any effect on the severity of sentences for crimes of sexual aggression?**

In terms of overall severity, the general conclusion to be drawn from the sentencing data in that study was that there had been little change in overall punitiveness since the reform legislation of 1983 (Bill C-127). It should be pointed out however, that while sentencing has become the focus of a great deal of attention recently, it was not one of the explicit aims of Bill C-127 to change sentencing practices.

The findings of the present report must be read with caution: they are based upon an incomplete picture of sentencing and do not necessarily represent sentencing trends in 1993, or for the country as a whole. For additional information on current sentencing trends, the reader is directed to the CCJS publication cited earlier, which presents further data on other offences, and explores other important issues in the area (see Turner, 1993).

Finally, there is also a substantial body of legal literature accumulating in Canada on the judicial philosophy underlying sentencing in cases of sexual assault. Much of this research consists of an analysis of reported decisions exploring the aggravating and mitigating factors taken into account (see for example, Boyle, 1984; Department of Justice, 1993; Mohr, 1993; Marshall, 1988). Since the focus of the present report is on dispositional patterns, the legal literature will not be reviewed here.

In summary, researchers working in the area of sexual assault sentencing have to date been hampered by the absence of representative, comprehensive sentencing statistics. The result has been special studies that provide, at best, a partial picture of sentencing trends for the crimes of sexual assault. Another consequence of the lack of empirical data has been the restricted range of information available: most researchers have been unable to examine the influence on sentencing patterns of important variables such as prior record.

**3.3 Databases used in Chapter 3**

The databases used in the following analysis of sentencing patterns include the Sentencing Study, which draws upon the Adult Criminal Court Survey and other sources, and the Youth Court Survey, all maintained by the CCJS.

**(a) The Sentencing Study<sup>21</sup>**

The Sentencing Study draws on the Adult Criminal Court Survey (ACCS) together with provincial information systems (e.g. the Ontario Integrated Court Offences Network (ICON)). The reporting period was January 1991 to October 1992, although it varies slightly among jurisdictions. The start date is constant and a minimum of six months of 1992 data were available from all jurisdictions, with Ontario and Alberta providing more than six months.

The study includes provincial court data from six jurisdictions across the country: Prince Edward Island, Nova Scotia, Quebec, Ontario, Alberta, and the Yukon. These jurisdictions generate approximately three-quarters of the annual provincial court caseload in Canada.

The following study limitations should be noted:

1. No data are available on relevant mitigating or aggravating circumstances.
2. No time-series data are available.

<sup>21</sup> Information in this section was provided by CCJS personnel.

3. No data from superior courts are available at this time.
4. There are some missing court locations in Nova Scotia.
5. No data are included from municipal courts in Quebec.

(For more detailed information, see Turner, 1993, Appendix C).

**(b) Adult Criminal Court Survey**

The purpose of the ACCS is indicated in a recent CCJS publication:

*The objective of the Adult Criminal Court Survey is to develop and maintain a national adult criminal court database of statistical information on appearances, charges and cases. The survey is intended to be a census of federal and provincial/territorial statute charges and municipal by-law infractions heard in criminal courts across Canada. (Canadian Centre for Justice Statistics, 1993, p. i.)*

The ACCS collects detailed information on all completed charges involving adult offenders in Canada. At the present time, four jurisdictions are fully implemented on the ACCS (Prince Edward Island; Nova Scotia; Quebec and the Yukon). Local court systems across Canada submit information on the accused in every court appearance. This information is compiled at the provincial level and then sent to CCJS. The data in this survey derive from provincial courts only, although there are plans to implement coverage of the other, higher courts (i.e., Queen's Bench, Supreme, District, Provincial Courts of Appeal and the Supreme Court) at some future date. Each record includes information about the appearance (jurisdiction, level of court, date, etc.); the charge against the accused (statute, section number, nature of plea, etc.) and the accused (sex, date of birth, etc.).

The ACCS has two components, the case characteristics survey and the caseload survey. The latter collects aggregate data on cases relating to *Criminal Code*, provincial statute and municipal bylaw violations. This study uses data from the case characteristics component of the ACCS. Each record includes detailed information on the appearances, the charge(s), the offence, crown decision-making, plea, type of disposition (including sentencing information) and the age and sex of the accused. (for further information on the ACCS, see Canadian Centre for Justice Statistics, 1993).

**(c) Data Limitations**

a. Restricted number of variables.

The first (and most important) concerns the restricted number of variables available in the ACCS. This limitation is relevant to the internal validity of research based upon these data. Internal validity refers to the ability of the researcher to draw valid conclusions about the causal relationships in a data-set. If there are a large number of unmeasured variables, this weakens the researcher's ability to draw unequivocal inferences about the relationships between variables that are measured. In the present context, the limit on the number of variables measured places restrictions upon the kinds of analyses that can be performed. Complex analyses such as those found in studies such as Hogarth's (1971) research are not possible here.

The limited number of variables also restricts the number of issues that can be explored. For example, no information is provided about the relationship between the victim and the accused or suspect. This is an important variable in terms of identifying family violence cases. (In fact, family violence variables are of necessity excluded because there is no victim-offender relationship field.) This database does not have information on the criminal record of offenders. Obviously this is a severe restriction, as criminal history is the second most important variable (after the seriousness of the crime) affecting sentence severity in Canada and elsewhere. Nor is there any information on relevant aggravating or mitigating factors.

b. Restricted number of jurisdictions.

The second limitation arises from the number of jurisdictions currently participating in the survey. This limitation is relevant to the issue of external validity (see Campbell and Stanley, 1966; Cook and Campbell, 1979). External validity refers to the problem of generalizing from the data to a larger population. The findings in the present research cannot be applied to Canada as a whole, but only to the jurisdictions that provided data. This would not be the case if we had data from all jurisdictions, or if a random or systematic sample had been possible from all jurisdictions.

c. Restricted time period.

A similar restriction exists with regard to the time period covered. We do not have sentences from a sustained period of time. And since sentencing patterns may change over time, as a result in judicial attitudes or changes in the crime rate, findings derived from a one-year period may not be applicable some years later. Since this database has not been operational for a sustained period of time, time-series analyses are not possible. We cannot make comparisons between sentencing trends in 1991 and 1981, for example, although henceforth comparisons should become possible.

d. Restricted number of courts.

Another limitation is that the ACCS covers only provincial courts. Thus no information is available from the higher courts. These courts will hear the most serious cases, and accordingly, sentences imposed in superior courts will be more severe than sentences for the same *Criminal Code* offences heard in provincial courts. *The consequence of this is that the portrait of sentencing which emerges from this study, is likely to under-estimate slightly the severity of penalties imposed, as a number of the more severe sentences are not included.* Data from appeal courts are not included. However, since very few sentences are appealed in Canada (see Report of the Canadian Sentencing Commission, 1987), this restriction is not critical.

e. Restricted Information about specific sanctions.

Information about sanctions imposed is not exhaustive. That is, sanctions such as forfeiture or confiscation are aggregated with other less severe sanctions of this nature and cannot be disaggregated for analysis purposes. For the purposes of a study of serious crimes of violence such as this one, this restriction is not critical. For a study of alternatives to incarceration, or a study on less serious crimes, it would be a more serious problem. There are some additional restrictions on the ACCS database, such as the inability to distinguish certain offences, but these do not apply to the offences examined in this report. For further information, the reader is advised to contact the Canadian Centre for Justice Statistics.

Finally, we add a few words about an ideal sentencing database. The ACCS was not created with the intention of providing Canada with a comprehensive sentencing database that can respond to all the needs that a sentencing commission would have, and yet that is the need that exists in Canada at the present. In 1987, the Canadian Sentencing Commission published its report that specified the minimum amount of information that would be required by a permanent sentencing commission. This information would include (but would not be restricted to) the following:

## (i) Statistical Data

- Offence(s) of conviction.
- Sentence(s): type of sanction (e.g., fines, probation, custody).
- Sentence(s): quantum of sanction (e.g., amount of fine, length of custody).
- Variations in prison populations.

## (ii) Legal Data

- Indication of the seriousness of this particular instance of the crime.
- An indication of the seriousness of the offender's criminal history.
- Presence and importance of aggravating and/or mitigating factors.

(For further information see Canadian Sentencing Commission, 1987, pp. 445-450 and Hann, 1985).

The ACCS captures some, but by no means all of these data elements. For example, without a great deal of information about legal characteristics and criteria, researchers cannot explore the relevant role of legal versus extra-legal factors in determining the quantum of punishment. Incomplete national coverage also restricts our ability to make general statements about sentencing in Canada. Conclusions about sentencing disparity for example, will be restricted to the amount of variation between and among the six provinces/territories contained in the database, and this may over- or under-represent the amount of sentencing variation that exists across the country as a whole. The first restriction is more intractable than the second, for within a couple of years the ACCS will capture all provincial court decisions across the country.

Relationship between this report and earlier research

This report describes data deriving from the same source as that used in the 1993 CCJS report (Turner, 1993). The reader is cautioned against making direct comparisons between the two documents, as the results vary slightly.

The explanation for this lies in a variation of the methodology used. In the earlier report, a "most serious offence" rule was followed. This means that if an offender was convicted of two different crimes, the one which generated the most serious sanctions would be used to identify the case. In the present report, this rule was not followed. Thus a record exists for each charge. The consequence is that the number of records will vary slightly between the two studies, and there will be corresponding minor discrepancies in variables such as the incarceration rate. An example will illustrate.

In the Turner report, there were 30,469 cases in which assault was the most serious offence (Table 12B). The corresponding number for the offence of assault in the present report is 36,950. With different numbers, the incarceration rates are going to vary slightly. Thus Turner reports an incarceration rate of 21% for assault (see Table 4), while the incarceration rate observed for the same offence in the present study was 25%. There were 5,787 cases of assault with a weapon in the Turner report, yielding an incarceration rate of 51% (see Table 12B). In the present report, as will be seen, there were 6,964 convictions for assault with a weapon, and the incarceration rate was 54%. Not all comparisons between the two reports yield differences, however. In the Turner (1993) study, there were 94 cases of sexual assault with a weapon (see Table 12B), compared to 129 in the present study, yet the incarceration rates are the same (94%) in both analyses.

Finally, we note that while a record exists for each charge that results in a conviction, there may well be more than a single sentence for each conviction. The reason for this is that judges frequently combine sentences for the same conviction. An offender may be sentenced to a period of imprisonment and a term of probation. The number of sentences will therefore exceed the number of convictions or charges. Thus each charge will have at least one sentence recorded against it. For further information about methodological aspects of the Sentencing Study, the reader is directed to Chapter Two (Methodological Overview) found in Turner (1993).

### **3.4 The Sentencing Study**

#### **(a) Introduction**

As noted earlier, the sentencing data analyzed here was derived from an 18-month period in the years 1991-1992, and includes six jurisdictions: Prince Edward Island, Nova Scotia, Quebec, Ontario, Alberta and the Yukon. Although only six provinces are represented, these data capture 75% of the national sentencing caseload. The sentences reported here may include more than one disposition. For example, a period of custody may be imposed at the same time a period of probation is ordered. The number of sentences reported in the database will therefore exceed the number of persons sentenced, and the number of convictions recorded. It should also be noted that using a limited period of time, and restricted number of jurisdictions means that some of the analyses that follow will be based upon small numbers of dispositions, and should not necessarily be taken to represent national sentencing trends.

Before presenting a description of the sentencing patterns for these offences, it may be useful to review some of the principal sentencing options that are available to judges in Canada. They consist of the following:

1. *Imprisonment (either continuous or intermittent);*
2. *Fines;*
3. *Probation (this is in fact not a fully autonomous sanction, but one that can be imposed in conjunction with a suspended sentence, a fine, or a term of imprisonment not exceeding two years); a period of probation cannot exceed three years, and may have conditions attached, such as a community service order.*
4. *Conditional discharge (always accompanied by a probation order).*
5. *Absolute discharge;*
6. *Community service orders (typically a condition of a probation order);*
7. *Compensation or restitution orders (also a condition of a probation order);*
8. *Suspended Sentence (always accompanied by a probation order).*
9. *Prohibitions: the court can pronounce a prohibition against the use of a motor vehicle or the possession of a firearm.*

The administration of these dispositions and their inter-related nature is neither simple nor straightforward. For example, an offender convicted of an indictable offence punishable by a term of imprisonment of five years or less may be fined instead of, or in addition to, a period of custody. An offender convicted of an indictable offence punishable by a prison term in excess of five years may be fined; however, the fine may be imposed only in addition to a custodial sentence. For further information on this topic, the reader is encouraged to consult Griffiths and Verdun-Jones (1994) or the report of the Canadian Sentencing Commission (1987). The emphasis in this report will be on sentences of incarceration and the non-compensatory community-based sanctions, such as probation, as these account for the vast majority of dispositions imposed for serious crimes of violence, including sexual assault.

In addition to the crimes of sexual assault, data are presented for certain other crimes of violence that are either high profile in nature, are high frequency offences (e.g., assault) or which are related to sexual assault (e.g., sexual exploitation). These other offences provide the context in which to evaluate sentencing patterns for sexual assault. Table 45 provides a list of the offences (with *Criminal Code* sections) which were examined in this report.

Table 46 summarizes the number of cases for the principal offences examined in this report for the six jurisdictions included in the database.

### **(b) Hybrid Offences**

Before examining sentencing trends for these offences, it is important to point out an element of certain crimes that has a critical bearing upon the nature of the sentence imposed. Several of the offences listed in Table 45, including sexual assault I, are hybrid offences (see Atrens, 1985; Mewett, 1988). This means that the Crown has the discretion to proceed by way of summary conviction or by indictment. In the event that the case proceeds by way of summary conviction, the maximum penalty is six months imprisonment and/or a fine of up to \$2,000.

It is clear then that the decision taken by the Crown as to which way to proceed has important consequences for the sentencing decision in the event of a conviction. One could argue that the hybrid or dual structure of the sexual assault offences creates a fourth level of seriousness (see Roberts and Pires, 1992). In any event, the fact that the first level of sexual assault (among other offences) is a hybrid offence has not been taken into account in studies of sentencing practices to this date. In the Roberts (1990a) study, for example, it was not possible to determine whether the sentences examined reflected convictions for summary or indictable offences.

In the list of offences presented in Table 45, the following are hybrids: sexual assault (s. 272); assault (s. 266); assaulting a police officer (s. 270); sexual interference (s. 151); invitation to sexual touching (s. 152); and sexual exploitation (s. 153). Unfortunately, the Sentencing Study does not provide a breakdown of the percentage of summary and indictable convictions for the various hybrid offences included in the analysis. However, some indication of the proportion of indictable cases is available through the ACCS. For sexual assault, it would appear that between 25% and 30% of the convictions were of a summary nature<sup>22</sup>.

For assault I, the reverse is the case: approximately three-quarters of the convictions were summary in nature. The impact on sentence severity is apparent: in the case of sexual assault, for example, the median sentence of summary conviction cases was one quarter the length of those that were treated as indictable offences. The hybrid nature of the offence structure must be borne in mind when evaluating the relative severity of punishments imposed for the offences listed in Table 45.

### **A Note on Sentencing Variation:**

The present report does not discuss sentencing variation across provinces and territories in Canada. Data on sentencing variation between provinces can be found in Turner (1993). The omission of such data in the present report is not intended to suggest that such variation does not exist, or is not that important an issue in sentencing in Canada, simply that it has been examined in the past (Canadian Sentencing Commission, 1987; Roberts, 1988).

### **(c) Dispositions**

Table 47 presents the breakdown of sentences for the assault and sexual assault offences, all jurisdictions combined. (The breakdowns of dispositions do not sum to 100% due to multiple sentences.) From this table it can be seen that all three sexual assault offences result in incarceration for most cases. The incarceration rates are 60% for sexual assault I, 94% for sexual assault II, and 89% for sexual assault III. These sentences of imprisonment are

<sup>22</sup> This estimate was provided by CCJS personnel.

frequently accompanied by terms of probation. This is particularly true for sexual assault I, where three-quarters of the dispositions included terms of probation. Other non-custodial sanctions were seldom imposed for these offences, with the exception of suspended sentences, which were observed in 20% of level I cases.

Assault, on the other hand, was significantly less likely to result in custody, and non-custodial sanctions were more common. Only one-quarter of the convictions for assault I in this database resulted in a period of custody. Slightly more than half the convictions for assault II resulted in custody, while four out of five aggravated assault convictions resulted in a period of custody. Sixty-three percent of convictions for assault I were terms of probation, 35% involved a fine, and 10% a conditional discharge. The level of suspended sentences was comparable for assault I and sexual assault I (23% and 20%).

Dispositions for other crimes against the person examined in this report are presented in Table 48. It is interesting to note that manslaughter, a broad offence which in previous databases generated a significant number of suspended sentences, here shows only 2% of convictions resulting in a sentence of this kind. It is also worth noting that while it is the most serious offence in this list (and one which carries a maximum penalty of life imprisonment), manslaughter did not result in the highest rate of incarceration (63% compared to 90% for causing bodily harm with intent). This finding underlines the importance of taking into account the nature of the offence and the kinds of incidents included in the legal categories when considering sentencing patterns. Manslaughter is a broad offence that includes a considerable diversity of incidents, some of which will be exceptional cases in which imprisonment would be difficult to justify.

The child sexual abuse offences also result in fairly high rates of incarceration, almost always accompanied by terms of probation. Sixty-one percent of convictions for sexual interference, 64% of invitation to sexual touching cases and 58% of sexual exploitation cases result in terms of imprisonment. These incarceration rates can be compared to other sentencing studies conducted in several sites across Canada as part of the federal Department of Justice evaluation of the Child Sexual Abuse legislation (Bill C-15). The C-15 evaluation found incarceration rates of 60% in Calgary and 48% in Edmonton (see Hornick and Bolitho, 1992). For all child abuse offences, these researchers found that the incarceration rate varied from 51% in Edmonton to 74% in Hamilton.

Prohibition orders were imposed in approximately one-third of cases, with little differentiation between the C-15 offences. As with the sexual assault offences, there is a significant proportion of suspended sentences: approximately one conviction in four results in the suspending of sentence.

Table 49 presents a ranking of offences in terms of the percentage of cases that resulted in a period of imprisonment. This table shows that the second level of sexual assault generated the highest incarceration rate (94%). The more serious crime of aggravated sexual assault follows closely behind at 89%.

As can be seen in this table, 60% of the convictions at the first level of sexual assault over the period covered in this study resulted in a period of custody. This can be compared to an incarceration rate of 63% for manslaughter, and 25% for assault I. These data present a picture of the relative use of incarceration that is not very different from the meta-analysis of previous databases that was reported in 1990 (see Roberts, 1990a).

This table raises the issue of proportionality in sentencing. This concept is central to the "just deserts" sentencing philosophy, which requires that the severity of sentences be directly proportional to the seriousness of the crimes for which they were imposed. Two forms of proportionality can be distinguished, cardinal and ordinal. Cardinal proportionality refers to the issue of whether the absolute severity of any penalty is appropriate. What should be the limits of the penalty schedule, within which all crimes are located? As noted elsewhere (Roberts, 1990a), empirical data on sentencing practices cannot help us resolve the issue of cardinal proportionality, but they can address the issue of whether ordinal proportionality exists. The leading exponent of desert-based sentencing describes ordinal proportionality in the following way:

*The issue of ordinal magnitudes concerns how a crime should be punished compared to similar criminal acts, and compared to other crimes of a more or less serious nature.* (von Hirsch, 1985; p. 40).

The incarceration rates presented in Table 49 can be examined with a view to resolving the question of whether ordinal proportionality exists in current sentencing practices. The question is the following: do the incarceration rates reflect, *in the order found in this table*, the relative seriousness of the offences for which they have been imposed? Further data will be provided on the issue of proportionality in sentencing later in this chapter of the report.

**(d) Sentence Length - Incarceration**

Table 50 provides a ranking of the offences in terms of whether the sentences of imprisonment were at the provincial (less than two years) or federal level (two years or longer).

Table 51 provides a breakdown of sentence lengths for assault and sexual assault, all jurisdictions combined.

Table 52 presents summary statistics, namely the median, 75th and 90th percentile for a number of offences, all jurisdictions combined.

**(e) Sentence Severity - Non-Custodial Sentences**

As will be recalled from earlier sections of this report, probation was also widely imposed for these offences, either alone or in conjunction with other dispositions. Table 53 shows a breakdown of median, 75th and 90th percentile terms of probation for the offences included in this survey. There is not a great deal of variability among offences, but two considerations must be borne in mind: (a) most of these offences are serious crimes; and (b) there is a statutory limit on the length of a period of probation (three years). Taken together, these are likely to produce a more uniform distribution across crimes than is likely to be seen for sentences of imprisonment.

One widespread complaint about sentencing in cases of sexual assault is that there is significant use of suspended sentences. Table 54 presents the percentage of convictions for these offences resulting in a suspended sentence. As can be seen, suspended sentences are found in 20% of convictions for sexual assault level I (all jurisdictions combined), which is comparable to their use for the offence of assault level II, which carries the same maximum penalty of 10 years. This figure of 20% is somewhat higher than the figure cited in previous research. Roberts (1990a) reports a rate of 13%, for a single province, and not one that is included in the six jurisdictions studied in this report.

**(f) Comparison between sentences at the trial court level and statutory maxima**

It has long been observed (e.g., Canadian Sentencing Commission, 1987) that the statutory maxima prescribed by the *Criminal Code* are out-dated and bear little relation to sentencing practices at the trial court level (although empirical evidence of the discrepancy is seldom presented). Specifically, it has been asserted that maximum penalties are (a) too high, and (b) do not reflect the actual seriousness of the crimes for which they can be imposed. Data derived from this database are summarized in Table 55, from which it can be seen that substantial discrepancies exist between the practice of the courts and the statutory maxima.

For all offences examined, the prescribed maximum penalty is much higher than the 90th percentile. This is true for sexual assault as well as for the other offences. For example, the maximum penalty for aggravated assault is 14 years imprisonment, while the 90th percentile was well under three years. For sexual assault I, the maximum penalty is 10 years, but the 90th percentile was only two years. Only two of the more than 2,000 convictions for this offence resulted in a sentence in excess of three years, even though the maximum penalty is ten years.

The contrast between statutory maxima and sentencing patterns at the trial court level is even more pronounced if one considers more than sentences of imprisonment. For sexual assault I, 40% of convictions received non-custodial penalties. This means that 95% of all convictions resulted in sentences of under two years imprisonment. These results are consistent with the other recent report on sentencing trends (see Turner, 1993).

**(g) Ordinal Proportionality**

Table 56 presents a list of the offences included in the study along with their "expected sentences" which, as noted earlier, is simply the proportion of sentences that resulted in a term of custody multiplied by the median sentence of imprisonment. The results are expressed in months in this table but, of course, these are not literal terms of imprisonment and should not be read as such. They do, however, give an idea of the relationships between different offences in terms of the severity of assigned punishments.

This table also provides the maximum penalty, which permits us to examine, albeit with a very limited number of offences, the hypothesis that maximum penalties bear little relation to the seriousness rankings of offences (as measured by the severity of assigned penalties). If the principle of ordinal proportionality is intact, the more serious offences carrying the more severe maximum penalties should result in longer "expected sentences". This is in fact the case.

Ordinal proportionality is apparent in this table in several respects. First, within offence categories, aggravated sexual assault is punished more severely than sexual assault with a weapon which is punished more severely than simple sexual assault. (The same is true for the three levels of assault). Second, offences independent of each other are punished in a way that reflects their relative gravity: manslaughter is punished more harshly than causing bodily harm with intent. Finally, the maximum penalty bands contain no anomalies: that is, there are no offences in the 10-year band that are punished more severely than offences in the 14-year band. This is the result that one would expect in a sentencing system in which, notwithstanding the absence of a statutory statement of sentencing purpose, proportionality plays a central role (see Roberts and von Hirsch, 1992).

These data are interesting because they suggest there is a coherence to the Canadian sentencing system that has not always been apparent from previous empirical analyses. *It must be stressed however, that this conclusion is based upon a very limited number of offences, and on grounds of external validity, we cannot extrapolate to sentencing practices in general.* This conclusion is tentative and awaits verification using a broader range of offences.

### 3.5 Discussion

The analyses reported here have provided insight into the judicial response to serious crimes of violence in Canada. In addition, these results have underlined the need to have systematic, in-depth sentencing data available to the public and the research community on an annual basis. The sentencing patterns uncovered in this project need to be considered in some historical context, and this can only be provided by gathering similar data at some point in the near future. Besides the obvious need to have such statistics available to the public, the judiciary also have need of similar data. The *Criminal Code* provides little in the way of statutory guidance for sentencing judges; accordingly, they turn to other sources of information such as case law. Without sentencing guidelines or sentencing information systems, judicial perceptions of sentencing practices are going to be unsystematic, and this may contribute to sentencing disparity.

Sentencing statistics need to be routinely available to all interested parties. But at the same time, the statistics need to be more refined than they are at present. The data described in this report, while important, can only provide an overview of sentencing patterns, and do not tell us why certain sanctions are imposed. As others have pointed out, we need more information than simply the nature and quantum of punishment. Just one example will illustrate the limitations of the data available at the present time. After the seriousness of the offence, the next most important variable affecting sentence severity is the criminal record of the offender. Criminal history is not available in the sentencing survey drawn upon in the preparation of this report. That information is only currently available in the F.P.S.-C.P.I.C. system maintained by the R.C.M.P. Criminal history is particularly important with respect to sexual assault.

Another purpose that can be served by reliable sentencing statistics concerns the statutory revisions to sentencing that are currently being reviewed by Parliament. Bill C-41 received first reading in June, 1994 (see Roberts and von Hirsch, 1992; 1993; Jull, 1992, for a review of the Act, and a description of its origins). This bill contains the first major statutory revision to sentencing practices in many years in Canada. One aim of the bill is to affect sentencing practices through the passage of a statutory statement of sentencing purpose (as noted earlier, the current *Criminal Code* contains no statement of the purposes of sentencing). A critical question in the years that follow (if Bill C-41 or some variation of it is eventually passed) will be the effect of this Act on sentencing practices at the trial court level. Other jurisdictions that have implemented sentencing reform in recent years (e.g., England and Wales (see Ashworth, 1992b); the United States) have undertaken empirical analyses of the reforms. The same will be necessary in Canada, and this is not possible in the absence of systematic sentencing statistics, ideally ones that are available both before and after the Act is passed.

But these statistics should be the beginning, rather than the end of the process. As the Canadian Sentencing Commission (1987) noted in its report, an adequate sentencing system should contain a great deal of information about the incident, the offender and the impact of the crime upon the victim. Relevant mitigating and aggravating factors relate to both the offender's criminal history, the crime itself (i.e., the degree of harm inflicted) and afterwards (the plea to the charge, for example). Sentencing entails a great deal more than the small number of variables examined in this study.

### Conclusion

Over the course of this report, we have examined the criminal justice response to sexual assault in two domains: police treatment of initial reports, and sentences imposed upon offenders convicted of sexual assault. In Chapter 2 we identified the founding process as being the area in which processing of sexual assault cases differs in a significant way from the treatment accorded other reports of serious personal injury offences. In Chapter 3 we reviewed the sentencing patterns for various offences. What is missing in this picture of the criminal justice response is information on the steps in between the laying of a charge by a police officer, and the imposition of a sentence in those cases that result in a conviction.

We need to know more about events that precede the imposition of a sanction. In fact, we need to have a truly integrated analysis, in which the same case can be tracked from the initial report to a police officer, through to the eventual discharge of a sentence. A major restriction upon our knowledge at the present time is the fact that the national databases examined in this report are not integrated. The Canadian Centre for Justice Statistics has taken steps towards the production of such a database. Only when such a database is complete, and available to researchers will we have answers to questions relating to the relative attrition rate for crimes of sexual aggression.

The sexual assault evaluation research commissioned by the Department of Justice and conducted in several jurisdictions has demonstrated the importance of decision-making by the Crown. This is true for all criminal proceedings, but particularly for hybrid offences such as sexual assault I. Until an integrated analysis is possible, based upon a sample of cases representative of the country as a whole, our knowledge of the way the criminal justice system responds to sexual aggression will remain incomplete.

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## Tables



Table 1  
Rates of Total Sexual Assault, per 100,000 Population, Canada, Provinces and Territories 1983-1992

Canada & Prov./ Territories	1983	1984	1985	1986	1987	1988	1989	1990	1991	1992
Canada	47	59	72	81	88	96	103	104	113	126
Newfoundland	33	41	51	89	102	130	189	194	205	230
Prince Edward Island	34	76	67	44	58	76	71	101	116	151
Nova Scotia	35	49	53	64	79	83	101	116	125	151
New Brunswick	27	34	52	72	79	100	124	127	143	164
Québec	30	36	39	46	49	54	54	55	57	65
Ontario	47	59	76	78	85	89	91	97	105	116
Manitoba	65	80	94	102	115	143	143	137	146	198
Saskatchewan	48	50	62	79	78	88	112	123	157	180
Alberta	70	77	100	104	105	121	129	134	151	161
British Columbia	77	97	114	139	156	168	176	160	155	177
Yukon	157	173	270	235	354	244	303	483	424	383
Northwest Territories	239	232	332	322	342	475	646	801	845	923

Source: Aggregate UCR Survey, Canadian Centre for Justice Statistics

Table 2  
Rates of Total Non-Sexual Assault, per 100,000 Population, Canada, Provinces and Territories 1983-1992

Canada & Prov./ Territories	1983	1984	1985	1986	1987	1988	1989	1990	1991	1992
Canada	443	483	515	561	610	633	667	716	773	803
Newfoundland	442	452	457	468	478	571	629	630	693	690
Prince Edward Is.	304	362	467	399	383	465	454	494	601	572
Nova Scotia	404	411	441	470	493	534	571	641	743	826
New Brunswick	290	346	377	451	492	514	502	601	597	630
Québec	196	228	255	296	350	393	412	442	469	499
Ontario	496	517	549	602	669	677	713	761	811	834
Manitoba	614	686	731	750	740	743	770	838	954	1,069
Saskatchewan	459	552	574	637	687	675	717	729	837	882
Alberta	537	572	613	644	657	702	739	790	952	859
British Columbia	692	781	819	917	920	922	969	1,046	1,068	1,173
Yukon	1,708	2,545	3,114	2,868	2,620	2,500	2,590	2,635	2,509	2,338
Northwest Territories	3,426	3,616	3,659	3,663	3,723	3,718	3,956	4,701	4,956	4,945

Source: Aggregate UCR Survey, Canadian Centre for Justice Statistics

Table 3

## Ranked Jurisdictional Sexual Assault Rates, per 100,000 Population, 1992

Rank	Province/Territory	All Levels
1	Northwest Territories	923
2	Yukon	383
3	Newfoundland	230
4	Manitoba	198
5	Saskatchewan	180
6	British Columbia	177
7	New Brunswick	164
8	Alberta	161
9	Nova Scotia	151
10	Prince Edward Island	151
11	Ontario	116
12	Québec	65

Source: Aggregate UCR Survey, Canadian Centre for Justice Statistics

Table 4

## Ranked Jurisdictional Non-Sexual Assault Rates, per 100,000 Population, 1992

Rank	Province/Territory	All Levels
1	Northwest Territories	4,945
2	Yukon	2,338
3	British Columbia	1,173
4	Manitoba	1,069
5	Saskatchewan	882
6	Alberta	859
7	Ontario	834
8	Nova Scotia	826
9	Newfoundland	690
10	New Brunswick	630
11	Prince Edward Island	572
12	Québec	499

Source: Aggregate UCR Survey, Canadian Centre for Justice Statistics

Table 5

Rates of Sexual and Non-Sexual Assault by Level, per 100,000 Population, Canada, Provinces and Territories 1983-1992

Level	1983	1984	1985	1986	1987	1988	1989	1990	1991	1992
<b>Sexual Assault</b>										
I	42	54	67	75	82	91	98	100	107	122
II	3	3	3	4	4	4	3	3	4	3
III	2	2	2	2	2	1	2	1	2	1
<b>Non-Sexual Assault</b>										
I	331	366	398	437	483	502	533	576	619	651
II	98	105	107	113	117	120	122	130	140	139
III	14	12	10	11	10	11	12	13	14	13

Source: Aggregate UCR Survey, Canadian Centre for Justice Statistics

# Criminal Justice Processing of Sexual Assault Cases

Table 6  
Reported Incidents of Total Sexual Assault, Canada, Provinces and Territories 1983-1992

Canada Prov/Terr	1983	1984	1985	1986	1987	1988	1989	1990	1991	1992
Canada	13,851	17,323	21,264	24,114	26,443	29,114	31,756	32,908	35,570	39,829
Nfld.	262	276	343	588	688	869	1,260	1,308	1,363	1,542
P.E.I.	51	107	108	78	95	118	114	163	188	230
N.S.	360	511	532	675	837	896	1,058	1,213	1,348	1,629
N.B.	232	310	450	630	702	885	1,072	1,143	1,262	1,442
Qué.	2,090	2,495	2,810	3,265	3,473	3,776	3,982	4,071	4,312	4,854
Ont.	4,773	6,315	8,006	8,374	9,234	9,757	10,189	11,070	12,063	13,384
Man.	836	993	1,196	1,310	1,465	1,746	1,794	1,699	1,883	2,423
Sask.	565	618	756	938	941	1,046	1,313	1,467	1,874	2,065
Alta.	1,930	2,192	2,776	3,021	3,069	3,484	3,836	3,967	4,540	4,864
B.C.	2,544	3,296	3,978	4,936	5,558	6,140	6,596	6,132	6,039	6,643
Yukon	51	59	75	88	106	86	104	153	136	130
N.W.T.	157	151	234	209	272	309	435	518	559	623

Source: Aggregate UCR Survey, Canadian Centre for Justice Statistics

Table 7  
Reported Incidents of Total Non-Sexual Assault, Canada, Provinces and Territories 1983-1992

Canada & Prov/Terr	1983	1984	1985	1986	1987	1988	1989	1990	1991	1992
Canada	116,768	129,168	139,365	153,650	167,258	175,252	187,793	205,124	225,318	233,420
Nfld.	2,830	2,929	2,985	2,965	3,007	3,587	4,023	4,109	4,539	4,439
P.E.I.	408	489	508	549	528	647	683	747	904	862
N.S.	3,655	3,797	4,105	4,341	4,561	5,010	5,523	6,252	7,395	8,147
N.B.	2,229	2,708	3,027	3,597	3,942	4,145	4,087	4,904	4,932	5,075
Qué.	13,214	15,527	17,388	20,214	24,203	27,284	29,272	31,771	33,717	35,833
Ont.	46,272	48,907	52,618	58,003	65,661	67,438	72,342	78,977	85,919	88,332
Man.	6,925	7,893	8,484	8,814	8,751	8,940	9,274	9,998	11,522	12,904
Sask.	4,925	6,190	6,516	7,159	7,685	7,478	7,901	8,112	9,115	9,613
Alta.	13,329	14,280	15,529	16,604	16,968	18,235	19,489	21,423	26,338	23,909
B.C.	20,650	23,639	25,174	28,317	28,756	29,320	31,822	35,053	36,839	40,143
Yukon	435	660	855	818	813	800	801	832	816	794
N.W.T.	1,896	2,149	2,176	2,268	2,372	2,367	2,575	2,945	3,280	3,369

Source: Aggregate UCR Survey, Canadian Centre for Justice Statistics

**Table 8**  
**Percentage Increase In Rates Of Total Sexual Assault, Rank-ordering of Jurisdictions, 1988-1992**

Rank	Province/Territory	Percent Increase
1	Saskatchewan	105
2	Prince Edward Island	99
3	Northwest Territories	94
4	Nova Scotia	82
5	Newfoundland	77
6	New Brunswick	64
7	Yukon	57
8	Manitoba	38
9	Alberta	33
10	Ontario	30
11	Québec	20
12	British Columbia	5

Source: Aggregate UCR Survey, Canadian Centre for Justice Statistics

**Table 9**  
**Percentage Increase In Rates of Total Non-Sexual Assault, Rank-ordering of Jurisdictions, 1988-1992**

Rank	Province/Territory	Percent Increase
1	Nova Scotia	55
2	Manitoba	44
3	Saskatchewan	31
4	Québec	27
5	British Columbia	27
6	Prince Edward Island	23
7	New Brunswick	23
8	Ontario	23
9	Alberta	22
10	Newfoundland	21
11	Northwest Territories	21
12	Yukon	-6

Source: Aggregate UCR Survey, Canadian Centre for Justice Statistics

# Criminal Justice Processing of Sexual Assault Cases

Table 10

## Reported Incidents of Sexual Assault I, Canada, Provinces and Territories 1983-1992

Canada & Prov./Terr.	1983	1984	1985	1986	1987	1988	1989	1990	1991	1992
Canada	12,241	15,805	19,756	22,623	24,949	27,661	30,342	31,446	33,965	38,337
Nfld.	238	263	330	565	671	854	1,237	1,278	1,324	1,523
P.E.I.	49	97	103	75	94	115	112	159	185	229
N.S.	328	466	487	637	792	844	1,018	1,181	1,316	1,571
N.B.	212	277	414	598	681	853	1,023	1,110	1,223	1,400
Qué.	1,692	2,105	2,416	2,905	3,122	3,471	3,638	3,745	3,957	4,993
Ont.	4,347	5,936	7,658	7,985	8,796	9,369	9,859	10,716	11,575	13,030
Man.	749	920	1,068	1,222	1,381	1,643	1,717	1,597	1,787	2,335
Sask.	488	538	673	847	841	979	1,235	1,380	1,790	1,981
Alta.	1,707	2,011	2,557	2,805	2,865	3,268	3,643	3,750	4,320	4,641
B.C.	2,242	3,000	3,764	4,712	5,354	5,897	6,340	5,884	5,811	6,403
Yukon	44	54	72	79	104	81	100	145	132	124
N.W.T.	145	138	214	191	245	285	418	497	542	607

Source: Aggregate UCR Survey, Canadian Centre for Justice Statistics

Table 11

## Reported Incidents of Sexual Assault II, Canada, Provinces and Territories 1983-1992

Canada & Prov./Terr.	1983	1984	1985	1986	1987	1988	1989	1990	1991	1992
Canada	925	878	918	1,001	1,034	1,036	970	1,027	1,084	1,031
Newfoundland	17	12	8	17	11	7	15	22	27	12
Prince Edward Island	1	4	4	2	1	3	2	1	3	-
Nova Scotia	22	20	24	20	27	30	26	23	21	36
New Brunswick	10	18	20	15	14	22	25	25	21	19
Québec	227	204	216	215	209	194	209	206	197	205
Ontario	257	235	248	285	320	307	235	274	307	266
Manitoba	47	47	43	51	65	69	50	70	78	62
Saskatchewan	42	50	52	63	70	40	50	56	60	46
Alberta	146	113	157	161	159	178	155	167	186	182
British Columbia	146	164	129	155	139	166	187	161	171	185
Yukon	2	4	3	4	2	5	3	8	4	5
Northwest Territories	8	7	14	13	17	15	12	14	9	13

Source: Aggregate UCR Survey, Canadian Centre for Justice Statistics

Table 12

## Reported Incidents of Sexual Assault III, Canada, Provinces and Territories 1983-1992

Canada & Prov./Terr.	1983	1984	1985	1986	1987	1988	1989	1990	1991	1992
Canada	685	640	590	490	460	417	444	435	521	461
Newfoundland	7	1	5	6	6	8	8	8	12	7
Prince Edward Island	1	6	1	1	-	-	-	3	-	1
Nova Scotia	10	25	21	18	18	22	14	9	11	22
New Brunswick	10	15	16	17	7	10	24	8	18	23
Québec	171	186	178	145	142	111	135	120	158	156
Ontario	169	134	100	104	118	81	95	80	181	88
Manitoba	40	26	85	37	19	34	27	32	18	26
Saskatchewan	35	30	31	28	30	27	28	31	24	38
Alberta	77	68	62	55	45	38	38	50	34	41
British Columbia	156	52	85	69	65	77	69	87	57	55
Yukon	5	1	-	5	-	-	1	-	-	1
Northwest Territories	4	6	6	5	10	9	5	7	8	3

Source: Aggregate UCR Survey, Canadian Centre for Justice Statistics.

Table 13

## Percentage Distribution of Sexual Assault and Non-Sexual Assault by Level, Canada, Provinces and Territories 1983-1992

Year	Sexual Assault			Total	Non-Sexual Assault			Total
	Level I	Level II	Level III		Level I	Level II	Level III	
	(%)				(%)			
1983	88	7	5	100	75	22	3	100
1984	91	5	4	100	76	21	3	100
1985	93	4	3	100	78	20	2	100
1986	93	4	3	100	79	20	1	100
1987	94	4	2	100	80	19	1	100
1988	95	4	1	100	80	18	2	100
1989	96	3	1	100	81	18	1	100
1990	96	3	1	100	80	18	2	100
1991	96	3	1	100	80	19	1	100
1992	96	3	1	100	82	17	1	100
Average 1983-1992	94	4	2	100	79	19	2	100

Source: Aggregate UCR Survey, Canadian Centre for Justice Statistics.

Table 14

## Reported Incidents of Non-Sexual Assault I, Canada, Provinces and Territories 1983-1992

Canada & Prov./Terr	1983	1984	1985	1986	1987	1988	1989	1990	1991	1992
Canada	87,875	98,775	108,530	120,756	133,583	140,280	151,286	165,017	182,210	191,143
Nfld.	2,435	2,514	2,596	2,600	2,631	3,121	3,557	3,569	3,992	3,860
P.E.I.	328	416	433	472	478	582	631	671	821	782
N.S.	2,878	2,959	3,289	3,470	3,716	4,229	4,814	5,482	6,424	7,022
N.B.	1,713	2,206	2,570	3,138	3,437	3,660	3,630	4,338	4,396	4,799
Qué.	9,883	11,854	13,616	15,836	19,384	21,836	23,731	25,474	26,661	28,871
Ont.	35,342	37,617	40,876	45,190	52,263	54,292	58,362	63,354	69,578	72,769
Man.	4,123	4,935	5,342	5,686	5,751	5,806	6,376	6,747	7,949	9,010
Sask.	3,365	4,431	4,652	5,203	5,609	5,455	5,794	6,055	6,809	7,210
Alta.	10,101	11,055	12,324	13,206	13,334	14,349	15,277	16,842	20,840	19,243
B.C.	15,800	18,504	20,324	23,325	24,263	24,217	26,187	29,162	31,119	34,048
Yukon	354	544	722	719	746	712	694	717	729	731
N.W.T.	1,553	1,740	1,786	1,911	1,963	2,020	2,232	2,605	2,891	3,098

Source: Aggregate UCR Survey, Canadian Centre for Justice Statistics

Table 15

## Reported Incidents of Non-Sexual Assault II, Canada, Provinces and Territories 1983-1992

Canada & Prov./Terr.	1983	1984	1985	1986	1987	1988	1989	1990	1991	1992
Canada	25,252	27,294	28,146	30,075	31,101	32,056	33,109	36,515	39,105	38,600
Nfld.	365	401	380	355	362	451	448	525	539	562
P.E.I.	75	60	69	75	46	63	48	71	79	74
N.S.	686	796	777	753	807	517	474	524	667	866
N.B.	426	457	437	451	475	457	417	537	510	538
Qué.	2,624	3,056	3,289	3,866	4,320	4,842	4,859	5,629	6,306	6,235
Ont.	9,886	10,458	11,971	11,974	12,504	12,233	12,883	14,401	14,863	14,303
Man.	2,492	2,691	2,912	2,883	2,839	2,915	2,679	3,072	3,351	3,669
Sask.	1,316	1,542	1,687	1,736	1,884	1,834	1,899	1,856	2,115	2,192
Alta.	2,780	2,842	2,870	3,082	3,311	3,603	3,856	4,096	4,979	7,205
B.C.	4,229	4,508	4,268	4,481	4,119	4,741	5,137	5,391	5,277	5,652
Yukon	73	98	120	86	55	77	97	106	65	55
N.W.T.	300	385	366	332	376	323	312	307	353	249

Source: Aggregate UCR Survey, Canadian Centre for Justice Statistics

Table 16  
Reported Incidents of Non-Sexual Assault III, Canada, Provinces and Territories 1983-1992

Canada & Prov./Terr.	1983	1984	1985	1986	1987	1988	1989	1990	1991	1992
Canada	3,641	3,099	2,689	2,819	2,574	2,916	3,398	3,592	4,003	3,677
Newfoundland	30	14	9	10	14	15	18	15	8	17
Prince Edward Island	5	13	6	2	4	2	4	5	4	6
Nova Scotia	91	42	39	118	38	264	235	246	304	259
New Brunswick	90	45	20	8	30	28	40	29	26	38
Québec	707	617	483	512	499	606	682	668	750	727
Ontario	1,044	832	771	839	894	913	1,097	1,222	1,478	1,260
Manitoba	310	267	230	245	161	219	219	179	222	225
Saskatchewan	244	217	177	220	192	189	208	201	191	211
Alberta	448	383	335	316	323	283	356	485	519	461
British Columbia	621	627	582	511	374	362	498	500	443	443
Yukon	8	18	13	13	12	11	10	9	22	8
Northwest Territories	43	24	24	25	33	24	31	33	36	22

Source: Aggregate UCR Survey, Canadian Centre for Justice Statistics

Table 17  
Percentage of Reported Incidents of Sexual Assault I, Declared Unfounded, Canada, Provinces and Territories 1983-1992

Canada & Prov./Terr.	1983	1984	1985	1986	1987	1988	1989	1990	1991	1992
	(%)									
Canada	14	15	14	15	16	15	16	16	15	14
Newfoundland	24	15	13	12	16	15	15	15	14	14
Prince Edward Island	18	11	21	28	18	17	20	20	19	14
Nova Scotia	17	15	15	17	16	19	17	15	16	16
New Brunswick	18	22	17	18	21	18	18	20	18	17
Québec	5	7	7	7	7	7	9	10	9	9
Ontario	15	15	14	15	15	14	15	15	14	14
Manitoba	20	15	13	16	15	12	13	13	15	11
Saskatchewan	15	17	15	15	18	15	15	15	17	14
Alberta	14	17	15	18	19	17	18	17	16	17
British Columbia	14	16	17	18	19	18	19	19	18	14
Yukon	32	39	18	35	20	28	27	19	17	21
Northwest Territories	27	24	28	22	27	21	21	17	18	19

Source: Aggregate UCR Survey, Canadian Centre for Justice Statistics

# Criminal Justice Processing of Sexual Assault Cases

Table 18

Percentage of Reported Incidents of Sexual Assault II, Declared Unfounded, Canada, Provinces and Territories 1983-1992

Canada & Prov./Terr.	1983	1984	1985	1986	1987	1988	1989	1990	1991	1992
	(%)									
Canada	9	10	12	9	11	7	12	10	10	9
Newfoundland	18	8	25	12	9	29	13	23	15	8
Prince Edward Island	-	-	25	-	-	-	-	-	-	-
Nova Scotia	18	10	25	15	22	17	8	22	10	14
New Brunswick	20	6	15	13	14	18	9	24	10	0
Québec	3	5	8	7	11	5	10	7	14	9
Ontario	13	12	11	9	11	8	15	10	8	9
Manitoba	13	13	7	4	6	3	6	11	10	8
Saskatchewan	5	10	15	2	4	<1	8	8	10	11
Alberta	12	12	17	11	11	10	16	11	12	12
British Columbia	7	10	12	11	4	4	10	11	9	7
Yukon	-	-	-	25	-	-	-	-	-	20
Northwest Territories	13	-	21	15	12	7	8	7	-	8

Source: Aggregate UCR Survey, Canadian Centre for Justice Statistics.

Table 19

Percentage of Reported Incidents of Sexual Assault III, Declared Unfounded, Canada, Provinces and Territories 1983-1992

Canada & Prov./Terr.	1983	1984	1985	1986	1987	1988	1989	1990	1991	1992
	(%)									
Canada	20	18	23	12	10	11	12	11	11	14
Newfoundland	71	-	20	17	-	25	25	13	8	28
Prince Edward Island	-	-	-	100	-	-	-	33	-	-
Nova Scotia	10	24	29	-	33	9	-	22	18	18
New Brunswick	50	20	31	18	14	30	17	13	22	74
Québec	11	11	8	8	35	3	10	4	9	11
Ontario	18	22	19	16	11	7	13	10	7	14
Manitoba	5	31	67	5	21	18	15	6	11	15
Saskatchewan	37	17	36	7	10	22	7	10	17	3
Alberta	18	22	13	18	16	16	8	16	32	7
British Columbia	28	17	17	12	12	10	13	20	7	5
Yukon	40	-	-	100	-	-	-	-	-	-
Northwest Territories	25	33	33	20	10	11	20	14	-	-

Source: Aggregate UCR Survey, Canadian Centre for Justice Statistics.

Table 20

Percentage of Reported Incidents of Sexual Assault, Declared Unfounded, Canada, Provinces and Territories 1983-1992

Year	Level I	Level II	Level III
	(% )		
1983	14	9	20
1984	15	10	18
1985	14	12	23
1986	15	9	12
1987	16	10	10
1988	15	7	11
1989	16	12	12
1990	16	10	11
1991	15	10	11
1992	14	9	14
Average 1983 -1992	15	10	14

Source: Aggregate UCR Survey, Canadian Centre for Justice Statistics

Table 21

Percentage of Reported Incidents of Non-Sexual Assault I, Declared Unfounded, Canada, Provinces and Territories 1983-1992

Canada & Prov./Terr.	1983	1984	1985	1986	1987	1988	1989	1990	1991	1992
	(% )									
Canada	6	7	7	7	7	7	8	8	8	8
Newfoundland	10	12	11	11	10	10	11	13	13	12
Prince Edward Island	10	7	9	9	8	8	14	15	13	14
Nova Scotia	5	6	6	6	5	6	9	9	10	10
New Brunswick	9	9	11	11	12	12	12	12	12	10
Québec	4	4	4	5	5	5	6	6	5	5
Ontario	6	6	6	6	6	6	6	7	7	7
Manitoba	9	10	10	12	11	13	13	11	12	12
Saskatchewan	8	11	12	12	10	10	10	12	10	10
Alberta	6	7	8	9	9	9	9	10	10	11
British Columbia	6	6	7	7	7	7	8	8	7	7
Yukon	13	16	17	19	22	23	20	20	18	21
Northwest Territories	13	17	17	17	20	19	19	15	18	20

Source: Aggregate UCR Survey, Canadian Centre for Justice Statistics

## Criminal Justice Processing of Sexual Assault Cases

Table 22

Percentage of Reported Incidents of Non-Sexual Assault II, Declared Unfounded, Canada, Provinces and Territories 1983-1992

Canada & Prov./Terr.	1983	1984	1985	1986	1987	1988	1989	1990	1991	1992
	(%)									
Canada	4	4	4	4	4	3	4	3	3	3
Newfoundland	8	5	12	8	7	6	8	6	6	4
Prince Edward Island	1	7	3	<1	4	7	4	7	10	4
Nova Scotia	4	4	4	4	4	5	4	5	5	3
New Brunswick	6	6	9	7	8	8	9	8	9	7
Québec	2	2	3	3	3	3	4	4	3	3
Ontario	3	3	3	3	3	2	3	3	3	2
Manitoba	4	5	4	4	4	4	4	3	4	4
Saskatchewan	7	8	7	6	6	5	5	5	4	4
Alberta	5	4	5	5	5	5	5	4	4	4
British Columbia	4	3	3	3	3	3	3	3	2	3
Yukon	11	10	13	6	11	4	7	7	20	13
Northwest Territories	10	11	15	11	14	12	9	11	13	12

Source: Aggregate UCR Survey, Canadian Centre for Justice Statistics

Table 23

Percentage of Reported Incidents of Non-Sexual Assault III, Declared Unfounded, Canada, Provinces and Territories 1983-1992

Canada & Prov./Terr.	1983	1984	1985	1986	1987	1988	1989	1990	1991	1992
	(%)									
Canada	4	3	3	3	2	3	3	3	3	3
Newfoundland	3	-	-	10	14	-	-	7	-	6
Prince Edward Island	-	-	-	-	-	-	25	-	-	-
Nova Scotia	3	2	10	4	-	1	1	1	2	2
New Brunswick	12	2	-	-	10	1	3	10	4	5
Québec	3	3	2	3	2	2	6	5	4	5
Ontario	4	5	4	4	2	4	3	3	3	2
Manitoba	4	3	1	3	1	2	1	2	1	1
Saskatchewan	3	4	2	3	4	2	4	5	2	5
Alberta	5	3	4	3	2	1	1	4	3	4
British Columbia	3	2	3	3	3	5	3	4	4	2
Yukon	-	28	15	15	8	9	10	-	-	13
Northwest Territories	2	8	4	8	3	8	13	9	8	9

Source: Aggregate UCR Survey, Canadian Centre for Justice Statistics.

Table 24

## Percentage of Reported Incidents of Non-Sexual Assault, Declared Unfounded by Level, Canada, 1983-1992

Year	Level I	Level II	Level III
	(%)		
1983	6	4	4
1984	7	4	3
1985	7	4	3
1986	8	4	3
1987	7	4	2
1988	7	3	3
1989	8	4	3
1990	8	3	3
1991	8	3	3
1992	8	3	3
<b>Average 1983-1992</b>	<b>7</b>	<b>4</b>	<b>3</b>

Source: Aggregate UCR Survey, Canadian Centre for Justice Statistics

**Table 25**  
**Jurisdictions Ranked by Unfounded Rates for Non-Sexual Assault I, Provinces and Territories 1992**

Rank	Province/Territory	Percent
1	Yukon	21
2	Northwest Territories	20
3	Prince Edward Island	14
4	Newfoundland	12
4	Manitoba	12
6	Alberta	11
7	New Brunswick	10
7	Nova Scotia	10
7	Saskatchewan	10
10	British Columbia	7
10	Ontario	7
12	Québec	5

Source: Aggregate UCR Survey, Canadian Centre for Justice Statistics

**Table 26**  
**Jurisdictions Ranked by Unfounded Rates for Sexual Assault I, Provinces and Territories 1992**

Rank	Province/Territory	Percent
1	Yukon	21
2	Northwest Territories	19
3	New Brunswick	17
3	Alberta	17
5	Nova Scotia	16
6	British Columbia	14
6	Newfoundland	14
6	Ontario	14
6	Prince Edward Island	14
6	Saskatchewan	14
11	Manitoba	11
12	Québec	9

Source: Aggregate UCR Survey, Canadian Centre for Justice Statistics

Table 27  
Clearance Rate's, Sexual Assault I, Canada, Provinces and Territories 1983-1992

Canada & Prov./Terr.	1983	1984	1985	1986	1987	1988	1989	1990	1991	1992
	(%)									
Canada	41	41	47	47	47	48	48	51	51	49
Newfoundland	53	48	57	65	68	66	53	68	67	57
Prince Edward Island	25	28	41	50	37	45	46	59	54	34
Nova Scotia	37	48	43	48	50	44	48	51	62	51
New Brunswick	42	38	42	43	46	37	40	37	41	43
Québec	41	44	48	53	53	54	55	60	55	53
Ontario	43	45	47	44	46	46	48	51	51	51
Manitoba	43	51	56	61	55	52	53	52	54	49
Saskatchewan	51	46	50	56	58	47	54	55	59	49
Alberta	43	45	43	43	44	45	44	43	47	47
British Columbia	31	35	44	40	42	46	42	45	43	67
Yukon	40	41	44	50	42	66	52	56	75	51
Northwest Territories	66	67	73	66	66	71	65	64	72	67

*Clearance Rate is the proportion of actual incidents which are cleared by charge.*

Source: Aggregate UCR Survey, Canadian Centre for Justice Statistics

Table 28  
Clearance Rate's, Sexual Assault II, Canada, Provinces and Territories 1983-1992

Canada & Prov./Terr.	1983	1984	1985	1986	1987	1988	1989	1990	1991	1992
	(%)									
Canada	48	48	51	50	55	56	52	53	61	57
Newfoundland	21	91	50	100	50	100	69	47	91	64
Prince Edward Island	100	50	67	100	-	-	50	100	67	-
Nova Scotia	17	61	50	29	52	52	42	56	74	74
New Brunswick	88	59	35	38	50	39	76	53	68	63
Québec	34	38	50	50	49	59	46	46	41	37
Ontario	57	57	48	48	45	56	67	60	69	64
Manitoba	59	59	73	57	52	49	77	76	67	79
Saskatchewan	65	64	59	53	79	82	63	53	96	66
Alberta	54	57	49	51	62	51	49	46	60	51
British Columbia	42	32	49	41	36	50	32	43	46	48
Yukon	50	75	-	66	50	33	67	63	25	75
Northwest Territories	71	57	100	64	67	93	55	69	78	100

*Clearance Rate is the proportion of actual incidents which are cleared by charge.*

Source: Aggregate UCR Survey, Canadian Centre for Justice Statistics.

# Criminal Justice Processing of Sexual Assault Cases

Table 29

Clearance Rate's, Sexual Assault III, Canada, Provinces and Territories 1983-1992

Canada & Prov./Terr.	1983	1984	1985	1986	1987	1988	1989	1990	1991	1992
	(%)									
Canada	44	44	59	59	53	60	71	64	70	64
Newfoundland	-	100	100	100	50	67	50	57	27	100
Prince Edward Island	100	100	100	-	-	-	-	50	-	-
Nova Scotia	33	47	40	44	38	35	57	71	44	77
New Brunswick	80	42	46	50	50	14	40	43	64	33
Québec	48	51	54	56	55	76	84	79	62	62
Ontario	30	41	44	54	71	56	67	67	81	55
Manitoba	55	89	75	69	93	68	70	47	69	86
Saskatchewan	50	68	60	42	52	38	73	75	50	46
Alberta	54	42	80	63	81	78	74	67	91	63
British Columbia	40	36	62	50	47	46	67	39	70	73
Yukon	67	-	-	-	-	-	-	-	-	100
Northwest Territories	100	50	100	100	56	63	50	83	88	100

Clearance Rate is the proportion of actual incidents which are cleared by charge.

Source: Aggregate UCR Survey, Canadian Centre for Justice Statistics.

Table 30

Clearance Rate's, Non-Sexual Assault I, Canada, Provinces and Territories 1983-1992

Canada & Prov./Terr.	1983	1984	1985	1986	1987	1988	1989	1990	1991	1992
	(%)									
Canada	31	35	37	39	42	43	44	46	48	47
Newfoundland	34	41	46	42	44	58	58	57	51	53
Prince Edward Island	28	29	34	41	28	30	39	41	44	45
Nova Scotia	16	19	19	21	19	22	32	32	32	35
New Brunswick	38	37	38	36	3	39	34	40	31	43
Québec	35	41	43	49	51	55	55	56	24	56
Ontario	39	40	41	43	46	46	48	49	33	50
Manitoba	36	42	45	44	47	46	46	51	57	60
Saskatchewan	37	44	50	52	52	52	52	54	53	52
Alberta	29	33	35	36	38	39	39	44	50	47
British Columbia	14	20	23	24	25	28	29	29	30	33
Yukon	25	42	38	41	48	51	51	56	46	46
Northwest Territories	20	34	40	42	42	48	52	54	54	52

Clearance Rate is the proportion of actual incidents which are cleared by charge.

Source: Aggregate UCR Survey, Canadian Centre for Justice Statistics

Table 31  
Clearance Rate's, Non-Sexual Assault II, Canada, Provinces and Territories 1983-1992

Canada & Prov./Terr.	1983	1984	1985	1986	1987	1988	1989	1990	1991	1992
	(%)									
Canada	52	56	59	60	62	63	64	64	66	65
Newfoundland	55	72	74	79	83	66	76	80	73	76
Prince Edward Island	49	57	54	100	61	57	57	74	70	58
Nova Scotia	45	43	50	29	51	63	60	60	65	57
New Brunswick	58	54	56	66	60	60	59	65	68	61
Québec	48	55	57	57	61	62	62	64	65	62
Ontario	58	59	61	62	65	66	70	68	69	68
Manitoba	63	70	70	70	70	66	70	71	74	77
Saskatchewan	54	58	68	67	71	69	69	70	69	68
Alberta	54	60	61	63	63	65	66	67	69	69
British Columbia	32	37	41	42	45	46	44	43	45	50
Yukon	37	59	58	70	76	76	67	78	79	73
Northwest Territories	48	65	72	79	70	81	81	85	74	71

Clearance Rate is the proportion of actual incidents which are cleared by charge.

Source: Aggregate UCR Survey, Canadian Centre for Justice Statistics

Table 32  
Clearance Rate's, Non-Sexual Assault III, Canada, Provinces and Territories 1983-1992

Canada & Prov./Terr.	1983	1984	1985	1986	1987	1988	1989	1990	1991	1992
	(%)									
Canada	60	63	66	65	72	66	69	72	73	72
Newfoundland	69	100	89	100	100	93	72	79	88	75
Prince Edward Island	80	62	50	60	75	50	67	100	100	50
Nova Scotia	61	73	86	52	97	35	45	52	51	49
New Brunswick	42	55	100	75	41	64	86	85	104	78
Québec	56	56	67	64	69	63	70	74	71	66
Ontario	63	66	63	68	73	69	71	75	76	77
Manitoba	80	77	82	79	81	84	79	92	82	87
Saskatchewan	61	61	71	68	80	68	79	80	87	67
Alberta	62	75	76	79	76	83	76	76	80	81
British Columbia	45	51	51	52	57	63	58	53	63	67
Yukon	75	69	91	64	91	60	-	56	55	100
Northwest Territories	86	96	87	95	81	86	93	100	88	110

Clearance Rate is the proportion of actual incidents which are cleared by charge.

Source: Aggregate UCR Survey, Canadian Centre for Justice Statistics.

Table 33  
 Clearance Rate<sup>1</sup>s, Sexual Assault and Non-Sexual Assault by Level, Canada 1983-1992

Year	Sexual Assault			Assault		
	Level I	Level II	Level III	Level I	Level II	Level III
	(%)					
1983	41	48	44	31	52	60
1984	41	48	44	35	56	63
1985	47	51	59	37	59	66
1986	47	50	59	39	60	65
1987	47	55	53	42	62	72
1988	48	56	60	43	63	66
1989	48	52	71	44	64	69
1990	51	53	64	46	64	72
1991	51	61	70	48	66	73
1992	49	57	64	47	65	72
<b>Average 1983-1992</b>	47	53	58	41	61	67

<sup>1</sup> Clearance Rate is the proportion of actual incidents which are cleared by charge.  
 Source: Aggregate UCR Survey, Canadian Centre for Justice Statistics

**Table 34**  
**Jurisdictions Ranked by Clearance Rate's, Sexual Assault I, Canada 1992**

Rank	Province/Territory	Percent Cleared
1	British Columbia	67
1	Northwest Territories	67
3	Newfoundland	57
4	Québec	53
5	Nova Scotia	51
5	Ontario	51
5	Yukon	51
8	Manitoba	49
9	Saskatchewan	49
10	Alberta	47
11	New Brunswick	43
12	Prince Edward Island	34

<sup>1</sup> Clearance Rate is the proportion of actual incidents which are cleared by charge.

Source: Aggregate UCR Survey, Canadian Centre for Justice Statistics

**Table 35**  
**Jurisdictions Ranked by Clearance Rate's, Non-Sexual Assault I, Canada 1992**

Rank	Province/Territory	Percent Cleared
1	Manitoba	60
2	Québec	56
3	Newfoundland	53
4	Northwest Territories	52
4	Saskatchewan	52
6	Ontario	50
7	Alberta	47
8	Yukon	46
9	Prince Edward Island	45
10	New Brunswick	43
11	Nova Scotia	35
12	British Columbia	33

<sup>1</sup> Clearance Rate is the proportion of actual incidents which are cleared by charge.

Source: Aggregate UCR Survey, Canadian Centre for Justice Statistics

Table 36

Clearance Rate's, Sexual Assault and Non-Sexual Assault by Level, and Total Crimes of Violence, Canada 1983-1992

Level	1983	1984	1985	1986	1987	1988	1989	1990	1991	1992
(%)										
<b>Sexual Assault</b>										
I	41	44	47	47	48	48	48	51	51	49
II	48	49	51	50	55	56	52	53	61	57
III	44	47	59	58	53	60	71	64	70	64
<b>Assault</b>										
I	31	35	37	39	41	43	44	46	48	47
II	52	56	59	60	62	63	64	64	66	65
III	60	63	66	65	72	66	69	72	73	72
<b>Rate For "Total Crimes of Violence"</b>										
	39	41	43	44	46	47	48	49	51	50

<sup>1</sup> Clearance Rate is the proportion of actual incidents which are cleared by charge.

Source: Aggregate UCR Survey, Canadian Centre for Justice Statistics

Table 37

Attrition in the Processing of Reported Incidents of Sexual Assault, Non-Sexual Assault and Total Crimes of Violence Reports, Canada 1992

Attrition Process	Sexual Assault (all levels)	Assault (all levels)	Total Crimes of Violence
Number of Reports Made to Police	39,829	233,420	332,149
Number Declared "Unfounded"	5,477	16,683	24,658
Number of Actual Incidents	34,352	216,737	307,491
Number Cleared By Charge	17,046	110,436	152,500
Number Cleared Otherwise	6,466	63,643	74,808
Number Not Cleared	10,340	42,658	80,183
Number Cleared by Charge as a % of Number of Reports Initially Made	43 %	47%	46%

Source: Aggregate UCR Survey, Canadian Centre for Justice Statistics

Table 38  
Relative Attrition Rates In Selected Violent Crimes<sup>1</sup>, Canada 1992

Offence	No. of Reported Incidents	Percentage of Reported Incidents Cleared by Charge	Attrition Rate (%)
Assault Peace Officer	6,565	93	7
Attempted Murder	1,095	74	26
Unlawfully Causing Bodily Harm	3,781	69	31
Homicide	800	67	33
Other Sexual Offences	4,448	55	45
Assault (All Levels)	233,420	47	53
Crimes of Violence	332,149	46	54
Sexual Assault (All Levels)	39,829	43	57
Other Assaults	6,155	41	59
Robbery	33,898	28	72

<sup>1</sup> Attrition refers to the percentage of reported incidents cleared by charge, not the percentage of "actual offences" cleared by charge. This latter statistic, which is reported in the annual publication "Canadian Crime Statistics", is higher.

Source: Aggregate UCR Survey, Canadian Centre for Justice Statistics

Table 39  
Age and Sex of Victims of Sexual Assault, Non-Sexual Assault and Other Violent Crimes, Revised UCR Survey Database

Female Victims						
Offence	<18 years	18-24 years	25-34 years	35-64 years	65+ years	Age Unknown
	(%)					
Sexual Assault	61	18	13	7	1	<1
Assault	13	23	33	26	1	4
Other Violent Crimes	27	20	17	27	5	5
Male Victims						
Offence	<18 years	18-24 years	25-34 years	35-64 years	65+ years	Age Unknown
	(%)					
Sexual Assault	81	10	5	3	-	<1
Assault	19	22	27	27	2	4
Other Violent Crimes	20	19	21	30	4	5

Source: Incident-based UCR Survey, Canadian Centre for Justice Statistics.

Table 40

**Victim-Accused Relationship for Sexual Assault and Non-Sexual Assault, and Other Violent Crimes by Sex, Revised UCR Survey Database**

Sexual Assault vs. Assault (Female Victims)				
Relationship Category (of Victim)	N	Sexual Assault (%)	N	Assault (%)
Spouse or Ex-spouse	78	4	4,060	43
Parent	256	12	326	3
Children	15	<1	186	2
Other Family	279	13	446	5
Close Friend	144	7	1,053	11
Casual Acquaintance or Business Colleague	807	37	1,925	21
Stranger	473	21	1,050	11
Unknown	134	6	348	4
<b>Total<sup>1</sup></b>	<b>2,186</b>	<b>100</b>	<b>9,394</b>	<b>100</b>

Sexual Assault vs. Assault (Male Victims)				
Relationship Category (of Victim)	N	Sexual Assault (%)	N	Assault (%)
Spouse or Ex-spouse	1	<1	298	3
Parent	51	11	307	3
Children	4	<1	103	1
Other Family	78	17	412	4
Close Friend	34	7	276	3
Casual Acquaintance or Business Colleague	196	42	4,055	39
Stranger	63	16	3,914	37
Unknown	34	8	1,146	11
<b>Total</b>	<b>461</b>	<b>100</b>	<b>10,511</b>	<b>100</b>

<sup>1</sup> Totals exceed 100 due to rounding error.

Source: Incident-based UCR Survey, Canadian Centre for Justice Statistics

**Table 41**  
**Level of Injury to Victims of Sexual Assault and Non-Sexual Assault,**  
**and Other Violent Crimes by Sex, Revised UCR Survey Database<sup>1</sup>**

Female Victims					
Victimization	Unknown	No Injury	Minor	Major	Total <sup>2</sup>
			(%)		
Sexual Assault	16	65	18	1	100
Assault	7	35	54	4	100
Other Violent	10	69	17	2	100

Male Victims					
Victimization	Unknown	No Injury	Minor	Major	Total
			(%)		
Sexual Assault	17	72	11	<1	100
Assault	8	33	50	9	100
Other Violent	10	56	23	8	100

<sup>1</sup> N.B. See text for comment on these data.

<sup>2</sup> Totals exceed 100 due to rounding error.

Source: Incident-based UCR Survey, Canadian Centre for Justice Statistics.

**Table 42**  
**Weapon Used Against Male and Female Victims of Sexual Assault,**  
**Non-Sexual Assault and Other Violent Crimes, Revised UCR Survey Database**

Nature of Weapon Used (Female Victims)			
Nature of Weapon	Sexual Assault	Assault	Other Violent Crimes
	(%)		
Physical Force Alone	93	88	50
Knife	2	2	15
Handgun	<1	<1	14
Rifle or Shotgun	<1	<1	3
Blunt Instrument	<1	2	2
Other Weapon	3	5	6
Unknown	1	<1	4
<b>Total</b>	<b>100</b>	<b>100</b>	<b>100</b>

Nature of Weapon Used (Male Victims)			
Nature of Weapon	Sexual Assault	Assault	Other Violent Crimes
	(%)		
Physical Force Alone	93	79	44
Knife	1	4	18
Handgun	<1	<1	14
Rifle or Shotgun	<1	1	3
Blunt Instrument	0	5	5
Other Weapon	5	7	5
Unknown	<1	1	4
<b>Total</b>	<b>100</b>	<b>100</b>	<b>100</b>

Source: Incident-based UCR Survey, Canadian Centre for Justice Statistics

Table 43

Location of Assaults against Male and Female Victims of Sexual Assault, Non-Sexual Assault and Other Violent Crimes, Revised UCR Survey Database

Location of Assault (Female Victims)			
Location	Sexual Assault	Assault	Other Violent Crimes
	(%)		
Private Dwelling	64	67	28
Commercial Property	6	10	36
Parking Lot	4	4	4
School	2	1	<1
Public Institution	2	2	1
Public Transport	<1	<1	<1
Streets or Open Areas	20	15	29
Unknown	2	<1	<1
Total <sup>1</sup>	100	100	100

Location of Assault (Male Victims)			
Location	Sexual Assault	Assault	Other Violent Crimes
	(%)		
Private Dwelling	67	30	18
Commercial Property	4	20	33
Parking Lot	<1	8	5
School	4	3	<1
Public Institution	6	4	1
Public Transport	<1	<1	<1
Streets or Open Areas	15	34	41
Unknown	3	<1	<1
Total <sup>1</sup>	100	100	100

<sup>1</sup> Totals exceed 100 due to rounding error.

Source: Incident-based UCR Survey, Canadian Centre for Justice Statistics

Table 44

**Age and Sex of Accused Persons in Incidents of Sexual Assault, Non-Sexual Assault and Other Violent Crimes, Revised UCR Survey Database**

Female Accused						
Offence	<18 years	18-24 years	25-34 years	35-64 years	65+ years	Age Unknown
	(%)					
<b>Assault (n=1754)</b>	22	21	30	24	1	2
<b>Other Violent Crimes (n=204)</b>	28	24	28	18	-	<1

Male Accused						
Offence	<18 years	18-24 years	25-34 years	35-64 years	65+ years	Age Unknown
	(%)					
<b>Sexual Assault (n=1549)</b>	17	15	26	36	4	1
<b>Assault (n=12,725)</b>	11	23	34	31	1	<1
<b>Other Violent Crimes (n=2508)</b>	14	31	34	20	1	<1

Source: Incident-based UCR Survey, Canadian Centre for Justice Statistics.

Table 45  
 Percentage Distribution of Non-Sexual Assault and Sexual Assault Cases, Sentencing Study 1991-1992

Offences	N	Percent of sample
Assault (s. 266)	36,950	70
Assault with a weapon (s. 267)	6,964	13
Assaulting peace officer (s. 270)	4,120	8
Sexual assault (s. 272)	2,105	4
Sexual Interference (s. 151)	1,048	2
Aggravated assault (s. 268)	526	1
Invitation to sexual touching (s. 152)	245	<1
Sexual exploitation (s. 153)	166	<1
Sexual assault with a weapon (s. 273)	129	<1
Manslaughter (s. 234)	104	<1
Unlawfully causing bodily harm (s. 269)	69	<1
Causing bodily harm with intent (s. 244)	31	<1
Aggravated sexual assault (s. 274)	18	<1
<b>Total</b>	<b>52,475</b>	<b>100</b>

Source: Sentencing Study, Canadian Centre for Justice Statistics

Table 46  
 Number of Charges of Sexual Assault and Non-Sexual Assault by Level, Six Jurisdictions, Sentencing Study 1991-1992

Offence	Prince Edward Island	Nova Scotia	Québec	Ontario	Alberta	Yukon
Sexual Assault I	16	131	450	1,026	463	19
Sexual Assault II	2	3	26	60	37	1
Sexual Assault III	-	1	6	5	6	-
Assault I	265	1,592	7,471	19,326	7,963	333
Assault II	25	318	1,301	3,048	2,219	79
Assault III	-	24	71	216	213	2

Source: Sentencing Study, Canadian Centre for Justice Statistics

Table 47

Dispositions for Sexual Assault and Non-Sexual Assault by Level, Six Jurisdictions Combined, Sentencing Study 1991-1992

Disposition	Sexual Assault I	Sexual Assault II	Sexual Assault III	Assault I	Assault II	Assault III
	(%)					
Prison	60	94	89	25	54	81
Probation	73	35	33	63	64	50
Prohibition	19	26	33	12	19	20
Community Service Order	2	-	-	2	2	<1
Fine	15	2	6	35	24	10
Restitution	1	<1	0	2	3	1
Suspended Sentence	20	2	0	23	19	10
Conditional Discharge	3	-	0	10	3	1
Absolute Discharge	1	-	0	3	1	<1

Note: Columns do not add to 100 on account of multiple sentences.

Source: Sentencing Study, Canadian Centre for Justice Statistics.

Table 48

Dispositions for Charges of Crimes of Violence Other Than Sexual Assault and Non-Sexual Assault, Six Jurisdictions Combined, Sentencing Study 1991-1992

Disposition	Manslaughter	Causing bodily harm with intent	Unlawfully causing bodily harm	Assaulting a peace officer	Sexual Interference	Invitation to sexual touching	Sexual Exploitation
	(%)						
Prison	63	90	46	46	61	64	58
Probation	10	42	65	39	87	84	84
Prohibition	46	39	28	19	31	34	28
Community Service Order	-	-	3	2	1	1	1
Fine	36	10	29	39	9	6	7
Restitution	1	-	-	1	1	-	2
Suspended Sentence	2	-	16	10	26	24	27
Conditional Discharge	-	-	4	3	1	1	2
Absolute Discharge	-	-	3	1	-	-	-

Source: Sentencing Study, Canadian Centre for Justice Statistics.

Table 49  
Incarceration Rates for Selected Violent Crimes, Six Jurisdictions Combined, Sentencing Study 1991-1992

Offence	% Incarcerated
Sexual assault II	94
Causing bodily harm with Intent	90
Sexual assault III	89
Assault III	81
Invitation to sexual touching*	64
Manslaughter	63
Sexual interference*	61
Sexual assault I*	60
Sexual exploitation	58
Assault II	54
Unlawfully causing bodily harm	46
Assaulting a peace officer*	46
Assault I*	25

\* indicates a hybrid offence - see text.

Source: Sentencing Study, Canadian Centre for Justice Statistics

Table 50  
Percentage of Charges of Selected Violent Crimes Receiving Federal or Provincial Sentences of Incarceration, Six Jurisdictions Combined, Sentencing Study 1991-1992

Offence	% Receiving less than 2 years	% Receiving 2 years or more
Sexual assault III	25	75
Manslaughter	42	58
Sexual assault II	46	55
Causing bodily harm with Intent	68	32
Assault III	84	16
Sexual assault I	86	14
Unlawfully causing bodily harm	97	3
Assault II	98	2
Assault I	99	<1
Assaulting a peace officer	99	<1

Source: Sentencing Study, Canadian Centre for Justice Statistics

Table 51

**Sentence Lengths for Charges of Sexual Assault and Non-Sexual Assault,  
Six Jurisdictions Combined, Sentencing Study 1991-1992**

Sentence length	Sexual Assault I	Sexual Assault II	Sexual Assault III	Assault I	Assault II	Assault III
	(%)					
< 1 month	18	7	-	60	33	11
1 month < 6 months	32	8	-	32	42	25
6 months < 1 year	16	12	-	6	15	20
1 year < 2 years	21	18	25	2	8	28
2 years to 4 years	12	26	6	<1	2	13
over 4 years	2	28	69	<1	<1	3

Source: Sentencing Study, Canadian Centre for Justice Statistics.

Table 52

**Sentence Length Statistics for Charges of Selected Violent Crimes,  
Six Jurisdictions Combined, Sentencing Study 1991-1992**

Offence	Median	75th Percentile	90th Percentile
Sexual assault III	5 years	11 years	15 years
Manslaughter	4 years	8 years	11 years
Sexual assault II	2 years	5 years	7 years
Causing bodily harm with intent	1 year	2 years	6 years
Assault III	9 months	18 months	30 months
Sexual assault I	6 months	15 months	2 years
Assault II	3 months	6 months	1 year
Unlawfully causing bodily harm	2 months	4 months	6 months
Assaulting a peace officer	1 month	3 months	5 months
Assault I	1 month	2 months	4 months

Source: Sentencing Study, Canadian Centre for Justice Statistics

**Table 53**  
**Statistics on Length of Probation for Charges of Selected Violent Crimes,**  
**Six Jurisdictions Combined, Sentencing Study 1991-1992**

Offence	Median	75th Percentile	90th Percentile
Sexual assault II	2 years	3 years	3 years
Sexual assault I	2 years	30 months	3 years
Assault III	2 years	2 years	3 years
Causing bodily harm with Intent	2 years	30 months	3 years
Unlawfully causing bodily harm	18 months	2 years	3 years
Assault II	18 months	2 years	2 years
Manslaughter	18 months	27 months	3 years
Assaulting a peace officer	1 year	2 years	2 years
Assault I	1 year	2 years	2 years
Sexual Assault III	2 years	27 months	3 years

Source: Sentencing study, Canadian Centre for Justice Statistics

**Table 54**  
**Percentage of Charges of Selected Violent Crimes Receiving Suspended Sentences,**  
**Six Jurisdictions Combined, Sentencing Study 1991-1992**

Offence	% Cases receiving suspended sentence
Sexual exploitation	27
Sexual interference	26
Invitation to sexual touching	24
Assault I	23
Sexual assault I	20
Assault II	19
Unlawfully causing bodily harm	16
Assaulting a peace officer	10
Assault III	10
Sexual assault II	2
Manslaughter	2
Sexual assault III	-
Causing bodily harm with Intent	-

Source: Sentencing study, Canadian Centre for Justice Statistics

Table 55

**Maximum Penalty and 90th Percentile Sentences, Selected Violent Crimes,  
Six Jurisdictions Combined, Sentencing Study 1991-1992**

Offence	Maximum Penalty	90th Percentile
Sexual assault III	Life	15 years
Manslaughter	Life	11 years
Sexual assault II	14 years	7 years
Causing bodily harm with intent	14 years	6 years
Assault III	14 years	30 months
Sexual assault I	10 years	2 years
Assault II	10 years	1 year
Unlawfully causing bodily harm	10 years	6 months
Assaulting a peace officer	5 years	5 months
Assault I	5 years	4 months
Sexual exploitation	5 years	3 years

Source: Sentencing study, Canadian Centre for Justice Statistics

Table 56

**Maximum Penalty and "Expected Sentence"<sup>1</sup> Selected Violent Crimes,  
Six Jurisdictions Combined, Sentencing Study 1991-1992**

Rank	Offence	Maximum Penalty	"Expected" Sentence
1	Sexual assault III	life	54 months
2	Manslaughter	life	31 months
3	Sexual assault II	14 years	22 months
4	Causing bodily harm with intent	14 years	11 months
5	Assault III	14 years	7 months
6	Sexual assault I	10 years	6 months
7	Sexual interference	10 years	4 months
8	Invitation to sexual touching	10 years	23 months
9	Assault II	10 years	2 months
10	Unlawfully causing bodily harm	10 years	1 month
11	Sexual exploitation	5 years	3 months
12	Assaulting a peace officer	5 years	14 days
13	Assault I	5 years	8 days

<sup>1</sup> "Expected Sentence", in months is defined as the probability of incarceration multiplied by the Median sentence of imprisonment.

Source: Sentencing study, Canadian Centre for Justice Statistics

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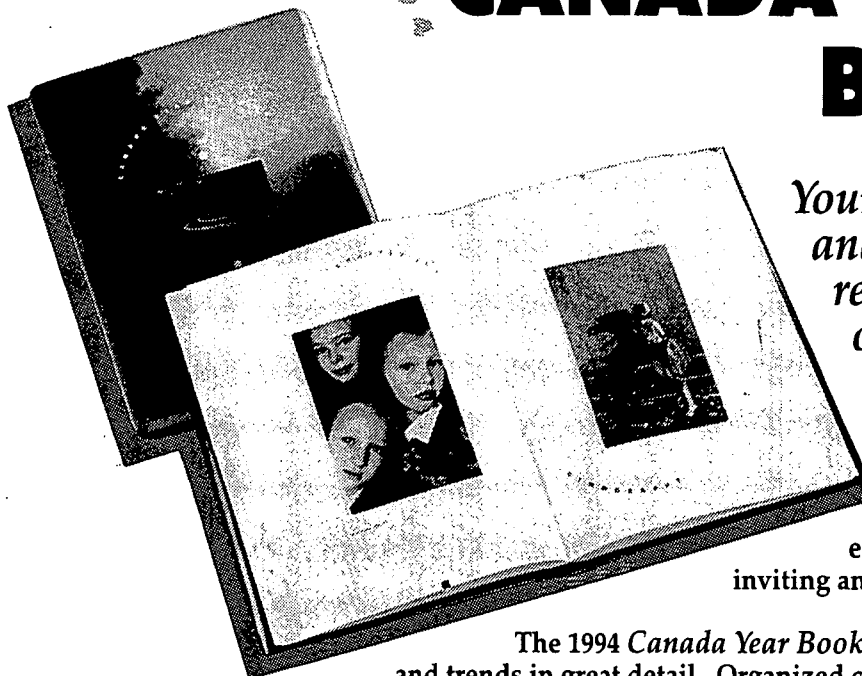


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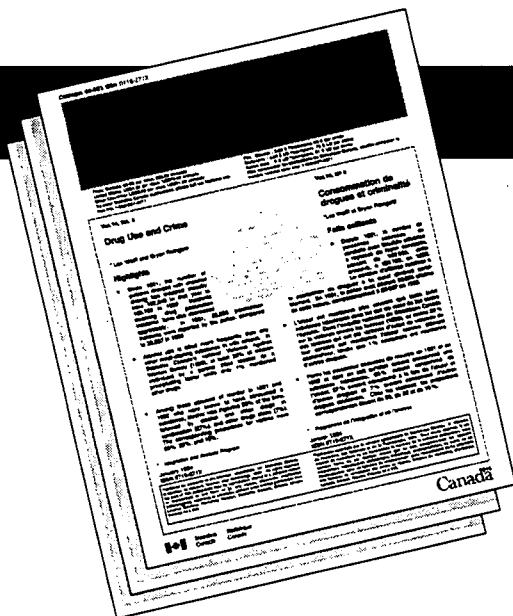
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