



# Just Facts

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Research and Statistics Division

## Drug-Related Offences Subject to a Mandatory Minimum Penalty, 2014/2015 to 2019/2020

This fact sheet presents information on criminal court cases where the most serious offence in the case is a drug-related offence subject to a mandatory minimum penalty (MMP).<sup>1</sup> Data were obtained through a request to the Canadian Centre for Justice and Community Safety Statistics (CCJCSS) and cover the period from 2014/2015 to 2019/2020.<sup>2</sup>

In 2012, the *Safe Streets and Communities Act* imposed mandatory minimum penalties for certain drug offences. However, in 2016, the Supreme Court of Canada (*R v Lloyd*) struck down as unconstitutional the one year MMP for trafficking or possession for the purpose of trafficking a Schedule I or II drug, where the offender has been convicted of any drug offence (except possession) within the previous 10 years. As of November 2022, the remaining drug-related offences subject to an MMP were eliminated as a result of the *Act to amend the Criminal Code and the Controlled Drugs and Substances Act*.<sup>3</sup>

All drug-related offences subject to an MMP during the period from 2014/2015 to 2019/2020 were included in the study's dataset, specifically:

- s. 5, trafficking (90% of all drug-related offences included in the dataset);
- s. 6, importing/exporting of a Schedule I or Schedule II drug (less than 1%); and,

<sup>1</sup> There are five offence groups subject to an MMP: firearm-related offences, child-related sexual offences, drug offences, impaired-driving offences, and other offences such as murder and treason offences.

<sup>2</sup> Please refer to the 2016 version of this JustFacts for an examination of drug-related offences subject to an MMP between 2000/2001 to 2013/2014. Retrieved from: <https://www.justice.gc.ca/eng/rp-pr/jr/jf-pf/2016/dec03.html>.

<sup>3</sup> *R. v. Lloyd*, 2016 SCC 13, [2016] 1 S.C.R. 130. Retrieved from: [R. v. Lloyd - SCC Cases \(lexum.com\)](https://www.lexum.com/en/doc/doc.do?doc=2016SCC13).





- s. 7, production of a Schedule I or Schedule II drug (other than cannabis) (10%).

## **The number of cases<sup>4</sup> with a drug-related offence subject to an MMP decreased and represent a small proportion of all cases involving offences subject to an MMP**

The number of cases with a drug-related offence subject to an MMP as the most serious offence in the case decreased by 64% over the course of the study period, from 586 in 2014/2015 to 212 in 2019/2020.

From 2014/2015 to 2019/2020, cases with a drug-related offence subject to an MMP as the most serious offence in the case comprised 1% of all cases with an MMP (most serious in the case).

## **The proportion of cases with a drug-related offence subject to an MMP with a guilty decision<sup>5</sup> increased, while those with a withdrawn decision decreased**

Over the course of the study period, the most common type of decision in cases with a drug-related offence subject to an MMP was a finding of guilt. The proportion of cases with a guilty decision increased from 52% in 2014/2015 to 57% in 2019/2020, with a small drop in the proportion of guilty decisions occurring in 2017/2018 (49%).

Withdrawn decisions were the second most common type of decision in cases with a drug-related offence subject to an MMP. The proportion of cases with a withdrawn decision saw an overall decrease during the study period, from 39% in 2014/2015 to 35% in 2019/2020.

## **The proportion of cases with a drug-related offence subject to an MMP with a guilty decision receiving a custodial sentence or probation order increased**

Custody was the most common sentence<sup>6</sup> for cases with a drug-related offence subject to an MMP with a finding of guilt during the study period. The proportion of guilty cases sentenced to custody increased from 62% in 2014/2015 to 72% in 2019/2020. There was a corresponding decrease in the proportion of guilty cases receiving a conditional sentence, from 15% in 2014/2015 to 3% in 2019/2020.

Probation was the second most common type of decision in cases with a drug-related offence subject to an MMP. The proportion of cases that received a probation order increased slightly from 18% in 2014/2015 to 22% in 2019/2020.

<sup>4</sup> Data are based on cases, not single offences. A case was included in the dataset only when the drug offence subject to an MMP was the most serious offence in the case.

<sup>5</sup> Guilty decisions include both findings of guilt by the court and guilty pleas, since the current data do not allow for the examination of guilty pleas on their own.

<sup>6</sup> These findings are based on the most serious sentence in a case.



## Median custodial sentence length for cases with a drug-related offence subject to an MMP increased during the study period, but the majority of custodial sentence lengths were short (i.e., under 1 year)

The median<sup>7</sup> custodial sentence length for cases with a drug-related offence subject to an MMP remained stable at 180 days (or approximately 6 months) from 2014/2015 to 2016/2017. In 2017/2018, the median custodial sentence length increased slightly to 205 days (or a little over 6.5 months) before dropping to 150 days (or approximately 5 months) in 2018/2019. The median custodial sentence length increased again to a high of 365 days (or 1 year) in 2019/2020, representing an overall 103% increase during the study period.

During the six-year study period, the majority of cases with a drug-related offence subject to an MMP sentenced to custody (61%) fell within the “less than 1 year” range. Specifically, the most common sentence length within this range was “over 3 to 6 months” (24% of cases), followed by “over 6 months to 1 year” (16%). There was a marked increase in the proportion of cases with a drug-related offence subject to an MMP sentenced to a custodial sentence of over 4 years in length within the last 2 years of the study period, from 3% in 2018/2019 to 18% in 2019/2020.

## The time to case resolution decreased, but overall averaged around 10 months

The median case processing time (i.e., how long it takes a case to be resolved)<sup>8</sup> for cases with a drug-related offence subject to an MMP fluctuated over the course of the study period, but saw an overall decrease. In 2014/2015, the median case processing time was 327 days (or a little over 10.7 months). By 2019/2020, the median case processing time had decreased by 11% to 291 days (or a little over 9.5 months).

<sup>7</sup> The median is the halfway point in a distribution of counted figures: half of all counted figures lie above the median and half of all counted figures lie below the median.

<sup>8</sup> The median elapsed time (in days) from a first court appearance to final decision in the case; or the sentencing date for cases that result in a finding of guilt.