

Mandatory minimum penalties: An analysis of criminal justice system outcomes for selected offences

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- ^P preliminary
- ^r revised
- X suppressed to meet the confidentiality requirements of the *Statistics Act*
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Mandatory minimum penalties: An analysis of criminal justice system outcomes for selected offences

by Mary Allen

Historically, Canadian law has laid out mandatory minimum penalties (MMPs) for the most serious offences under the Canadian *Criminal Code*, such as murder and high treason. For some offences, sometimes under the presence of certain aggravating circumstances such as re-offending or using a firearm, judges in adult courts are required by law to impose a specific type of penalty or length of sentence. In addition to minimum custody sentences (imprisonment), mandatory minimums may apply to fines, and also include the mandatory federal victim surcharge imposed on offenders and used to fund services for victims.^{1, 2} Judges do not have the discretion to give a penalty that is less than the MMP, regardless of the circumstances of the case.³ Over the course of the 20th century in Canada, there was an increase in the use of mandatory minimum penalties for offences such as impaired driving (starting in 1921) and firearms offences (mostly in 1995). Since 2005, the number of offences with MMPs in the *Criminal Code* and the *Controlled Drugs and Substances Act* increased considerably, as new legislation introduced new or increased mandatory minimums. Recent Canadian legislation concerning mandatory minimum penalties includes:

- *An Act to amend the Criminal Code (protection of children and other vulnerable persons) and the Canada Evidence Act, 2005*
- *Tackling Violent Crime Act, 2008*
- *Safe Streets and Communities Act, 2012*
- *Protection of Communities and Exploited Persons Act, 2014*
- *Tougher Penalties for Child Predators Act, 2015*

Most notably, these new laws laid out new or more severe minimum penalties for drug offences, impaired driving, firearms offences, and sexual offences involving children as well as child pornography. For some of these offences, mandatory minimum penalties are triggered by aggravating circumstances, such as the age of victims, use of firearms, repeat offending, type of drug (for drug offences), or location of incident (e.g., school). For other offences, such as child pornography and sexual violations against children, MMPs apply in all circumstances where the offence is committed.

There has been much debate about the value or limitations of mandatory minimum penalties. A report on MMPs containing an annotated bibliography published by the Department of Justice Canada in 2016 provides an overview of the arguments for and against MMPs (Elliott and Coady 2016). Some of these arguments highlight the intent behind the use of mandatory minimum sentences of imprisonment: to act as a deterrent by emphasizing the seriousness of the offence or by preventing re-offending through incarceration, and to respond to public perception that the law and the courts have been too lenient for some serious offences. In addition, some consider MMPs as a means of ensuring just sentencing because they provide certainty and predictability in sentencing outcomes, thereby reducing cultural, economic or social disparities in sentencing (including differences by race or gender). For other observers, the introduction of new mandatory minimum penalties in recent years has raised concern about circumstances where an MMP results in unjust outcomes, about the disproportionate impact on vulnerable populations, particularly Aboriginal people, and about the loss of discretion on the part of judges to reduce the burden of penalties for minor crimes based on the specific circumstances of the case. Opponents of MMPs argue that they shift discretion from judges to prosecutors through the less transparent activities of Crown election procedures and plea bargaining (particularly where prosecutors decide whether to proceed summarily or by indictment for hybrid offences—See Text box 1) (Elliott and Coady 2016; Mangat 2014). Research in Canada and the United States has found no evidence that MMPs have deterred crime; rather, some studies suggest that MMPs can result in overly harsh penalties and disparities, that they increase costs to the criminal justice system as a result of higher levels of incarceration, and that lengthier sentencing may actually increase recidivism (Smith et al. 2002; Gabor and Crutcher 2002).

Supreme Court decisions in Canada have addressed the potential for mandatory minimum penalties to result in unjust outcomes. In the 2000 *R. v. Morrisey* Supreme Court decision, Judges McLachlin and Arbour argued that mandatory minimum penalties act as “an inflationary floor, setting a new minimum punishment applicable to the so-called ‘best’ offender whose conduct is caught by these provisions”; that is, the MMP should be the punishment that is proportionate to the (hypothetically) least serious instance of the offence (*R. v. Morrisey* 2000).⁴ Recent Supreme Court decisions have found that some mandatory minimums do not reflect this concept. As a result, some MMP legislation has been struck down as unconstitutional. For example, in *R. v. Nur* (2015), the Supreme Court determined that the three year mandatory minimum penalty for possession of a prohibited firearm (*Criminal Code* s. 95) could constitute cruel and unusual punishment as it might lead to grossly disproportionate sentences in reasonably foreseeable instances. In *R. v. Lloyd*, the majority decision of the Supreme Court noted that “mandatory minimum sentence provisions that apply to offences that can be committed in various ways, under a broad array of circumstances and by a wide range of people are constitutionally vulnerable,” and called on Parliament to “narrow [MMPs] reach so that they only catch offenders that merit the mandatory minimum sentences” or to “build a safety valve that would allow judges to exempt outliers for whom the mandatory minimum will constitute cruel and unusual punishment” (*R. v. Lloyd* 2016). In light of these Supreme Court decisions and the ongoing debate over the effectiveness of mandatory minimums, the Minister of Justice and Attorney General of Canada was mandated in 2015 to

“conduct a review of the changes in our criminal justice system and sentencing reforms over the past decade” (Trudeau 2015; Crawford 2017).

The analysis presented in this *Juristat* article examines the characteristics and outcomes of cases in adult criminal courts for some of the offences that were subject to changes in MMP legislation enacted from 2005 to 2012. Specifically, the analysis looks at sentencing for offences occurring before and after the introduction or amendment of mandatory minimum penalties, using data from the Integrated Criminal Court Survey (ICCS). In particular, the report focusses on cases where the most serious offence involved selected sexual violations against children, child pornography, or selected firearms-related offences. Some information on police-reported incidents from the Uniform Crime Survey (UCR) is also provided.⁵

It is important to note that this analysis of court outcomes is limited to information provided by the courts. Information about prosecutor decisions prior to proceeding to court, such as plea bargaining and Crown election, that may have an impact on sentencing, is not available. Moreover, data on the length of custody sentences provided by most jurisdictions do not include time already served in remand for which an accused may have received credit. In addition, as this analysis examines only selected offences, the results should not be interpreted as reflecting the impact of MMPs more generally.

Analytical method and selected offences

This report examines outcomes for cases where the most serious offence is subject to legislated mandatory minimum penalties and which are not subject to aggravating circumstances such as repeat offending.⁶ The analysis does not, therefore, look at offences such as impaired driving, drug offences, or certain violent offences involving a firearm where the mandatory minimum penalty only applies if there are aggravating circumstances such as prior convictions, type of drug, or use of a firearm, as information on these factors is not provided to the Integrated Criminal Court Survey (ICCS).

The offences examined in this report are:

- **Sexual violations against children:** These are *Criminal Code* sexual offences specific to child victims. This analysis groups those offences with the same mandatory minimum penalties introduced in 2005: sexual interference (s. 151); invitation to sexual touching (s. 152), and sexual exploitation (s. 153).⁷
- **Child pornography:** Incidents of child pornography are not included in the category of sexual violations against children. The offence of child pornography includes offences under section 163.1 of the *Criminal Code* which makes it illegal to access, possess, make, print, or distribute child pornography.⁸ All child pornography offences are subject to mandatory minimum penalties (MMPs) introduced in 2005 and amended in 2012. These are grouped for this analysis (according to length of MMP) into making or distributing child pornography (s. 163.1 (2) and (3)) and possession or accessing child pornography (s. 163.1 (4) and (4.1)).
- **Firearms-related offences:** MMPs were introduced in 1995 for many firearms-related offences; for some of these offences, the MMPs were increased in 2008. The report examines two sets of offences—those with a 2008 amendment to the MMP (s. 95 possession of prohibited firearm with ammunition—indictable cases,⁹ s. 99 weapons trafficking, s. 100 possession of weapons for trafficking, and s. 103 knowingly importing/exporting unauthorized weapon) compared to those with no amendments to the 1995 MMP (s. 85 use of a firearm in the commission of an indictable offence, and indictable cases of s. 96 possession of a weapon obtained by crime, and s. 102 making an automatic firearm).^{10, 11}

Selection of cases for analysis

For each of these groups of offences, the analysis compares characteristics and court outcomes for offences occurring before and after the MMP legislation (“pre” and “post”) as the changes in legislation apply based on the date of the offence. Therefore, the data presented in the report do not represent all cases completed before and after legislation. In addition, cases were selected for inclusion into the “pre” and “post” sets of data based on their having similar time “windows”—that is, length of time between the date of offence and the date the case was completed in the courts. This selection takes into account the fact that the MMP legislation is applied according to the date of offence, not the date it was completed in court.¹² In addition, this selection controls for any bias resulting from the fact that offences which occurred prior to when MMP legislation was enacted have had a longer time in which to be reported, investigated, and completed in the courts than those occurring more recently. In particular, incidents of sexual violations against children are often reported long after the incident—sometimes after many years, and these complex cases often take longer to investigate. Therefore, court cases for some incidents that occurred after the introduction of the mandatory minimum sentences in 2005 may not appear in the data analysed here, as they had not been completed by March 31, 2015. If selection criteria were not applied, the data for the post-legislation period would be biased toward those less serious or less complex cases that were reported, investigated and completed in a shorter time frame.

The analysis therefore compares cases with similar time windows between date of offence and case completion. The length of the time window for the selection of cases differs for the analysis of legislation which came into effect on different dates; therefore, comparisons should not be made between statistics produced for the different sets of offences. In addition, for child

pornography offences, data comparing cases before and after the two legislation dates (2005 and 2012) are not comparable. In particular, the “post-2005” cases are not comparable to the “pre-2012” cases because of the different case selection criteria. This is particularly pertinent to information on case time (See Text box 2). (See “Methodology and data quality” section for more detailed description of cases selection “windows”).

Text box 1

Definitions and concepts

Types of offences

Criminal Code offences are processed in the courts as summary or indictable offences. The difference is one of court procedure. **Indictable offences** are generally more serious crimes (such as robbery) that carry greater maximum penalties and involve more complex court procedures (such as preliminary hearings and juries). **Summary offences**, which are generally less serious crimes such as mischief or petty theft, are heard by provincial court judges and carry lower maximum sentences.

Some offences in the *Criminal Code* can be processed as either summary or indictable offences; these are **hybrid offences**, and include child pornography, sexual violations against children and some firearms offences, where the offence is “deemed indictable unless and until the Crown has elected to proceed summarily” (*R. v. Dudley* 2009). This decision is referred to as “Crown election” and occurs prior to the accused entering a plea. “Parliament’s enactment of dual procedure [hybrid] offences recognizes that certain crimes can be more or less serious depending on the circumstances and provides the Crown with discretion to choose the most appropriate procedure and range of potential penalties” (*R. v. Dudley* 2009).

When offences have mandatory minimum penalties, Crown election provides some discretion for prosecutors to pursue proportionate sentencing for less serious cases by electing to proceed by summary conviction, especially where an offender agrees to plead guilty. This is the basis of one of the arguments that has been cited against mandatory minimum penalties (MMPs): that they increase the discretionary power of prosecutors through Crown election (Mangat 2014). For example, in plea bargaining, the Crown may be able to offer a lesser minimum sentence by electing to proceed summarily. It should be noted, however, that Crown election is often subject to policies and guidelines. The *Public Prosecution Service of Canada Deskbook*, for example, sets out guidelines for federal prosecutors describing the circumstances of the offence and background of the accused that the Crown counsel must consider in electing to proceed summarily or by indictment. Guidelines also exist for various offences at the provincial level. For example, Manitoba and British Columbia set out prosecutor guidelines with respect to firearms offences (Manitoba Justice 2005; British Columbia Ministry of Justice 2016).

The Integrated Criminal Court Survey (ICCS) does not have complete reporting of information on the type of procedure (summary and indictable status) for the cases examined in this analysis (See “Methodology and data quality” section). Because of the proportion of cases for which information on type of procedure is not available, this analysis cannot examine changes in the distribution of summary and indictable convictions which might indicate changes in the use of Crown election in response to the introduction or increase in MMPs. The report therefore provides separate analysis of characteristics and court outcomes for summary and indictable cases.

Most serious offence

In the ICCS, a case that has more than one charge is represented by the charge with the “most serious offence” (MSO). The most serious offence is determined according to a set of factors. First, court decisions are considered and the charge with the most serious decision (for example, a finding of guilt) is selected. In cases where two or more charges result in a decision with the same level of seriousness, *Criminal Code* sentences are considered (See “Survey description” section for a more detailed description of ICCS methodology).

Length of custody and non-custodial sentences

The length of custody captured in the ICCS generally represents the time which remains on a custodial sentence, not the total length of the sentence ordered by the judge. In cases where an offender has been held in detention prior to sentencing, judges are able to reduce the sentence below the mandatory minimum when they give credit for time served (*R v. Wust* 2000). Custodial sentence lengths reported to the ICCS by most jurisdictions exclude time spent in custody prior to sentencing and/or the amount of credit awarded for this time spent in custody prior to sentencing (remand). “Time served” is likely to affect the sentence length because it is subtracted from the total length of custody that is ordered.¹³

For some cases included in this analysis, the maximum sentence is recorded in the case as a conditional sentence, probation or other non-custodial sentence. These may be cases where credit for time served exceeds the total length of the custodial sentence, and the “remaining” sentence is served under probation; or, these may be cases where the mandatory sentence has already been served in pre-sentencing detention, but there is a remaining conditional sentence related to another (non-MMP) charge in the case.

Sexual violations against children

Sexual violations against children are a group of *Criminal Code* sexual offences specific to child victims. Minimum mandatory penalties were introduced for these offences in 2005 with the *Act to amend the Criminal Code (protection of children and other vulnerable persons)*, and then amended under the 2012 *Safe Streets and Communities Act*.¹⁴ This analysis focusses on court outcomes for selected offences occurring before and after the 2005 introduction of mandatory minimum penalties (MMPs).¹⁵

The specific offences examined here include sexual interference (s. 151), invitation to sexual touching (s. 152), and sexual exploitation (s. 153). These offences are hybrid offences and subject to Crown election (decision to treat them as either summary or indictable offences). In 2005, mandatory minimum penalties for these offences were introduced: 14 days of custody for summary and 45 days for indictable convictions. In 2012, these mandatory minimums were increased to 90 days and 1 year, respectively (Text table 1). These offences were also affected by changes in the age of consent pertinent to sexual offences made under the *Tackling Violent Crime Act* (2008).

Text table 1
Mandatory minimum penalties for sexual violations against children

Offence and <i>Criminal Code</i> section	Mandatory minimum penalty in 2005	Mandatory minimum penalty in 2012	Mandatory minimum penalty in 2015
Sexual interference (s. 151)			
Summary	14 days	90 days	Change to maximum penalty
Indictable	45 days	1 year	
Invitation to sexual touching (s. 152)			
Summary	14 days	90 days	Change to maximum penalty
Indictable	45 days	1 year	
Sexual exploitation (s. 153)			
Summary	14 days	90 days	Change to maximum penalty
Indictable	45 days	1 year	

Note: Because of changes in the Integrated Criminal Court Survey methodology in 2012 affecting the identification of sexual violations against children, as the most serious offence in the case, there is no analysis of these offences pre- and post-2012. Analysis pre- and post-2015 is also excluded. Before 2008, section 151 and 152 were specific to victims under age 14 and section 153 to victims aged 14 to 17. In 2008, with changes to the age of consent, sections 151 and 152 were amended to apply where victims were under age 16, and section 153 to apply where victims were 16 and 17 years old.

In 2015, police services in Canada reported 5,256 incidents where the most serious violation was a sexual violation against children.¹⁶ The majority (62%) of these were incidents of sexual interference; invitation to sexual touching accounted for 11% of incidents, and sexual exploitation accounted for 3%. Another 20% were incidents of luring a child with a computer, which is excluded from this analysis as the MMP was first introduced in 2012. Other violations such as making sexually explicit material available to children comprised another 2% of incidents, and are excluded from this analysis because they were also introduced in the *Criminal Code* in 2012 and have different minimum penalties.

For the three sexual offences examined in this analysis (sexual interference, invitation to sexual touching, and sexual exploitation), there were 4,057 incidents reported by police in 2015. In that year, 2,825 incidents were solved (cleared by police), for an estimated clearance rate of 70%.¹⁷ Incidents of invitation to sexual touching were the most likely to be cleared (76%). About three-quarters (76%) of cleared sexual violations against children resulted in a charge being laid for at least one violation in the incident; this represented 53% of all incidents of sexual violations against children reported by police in that year.¹⁸ Police-reported incidents of invitation to sexual touching were slightly more likely to result in a charge (58%) than sexual exploitation (56%) or sexual interference (51%). Adults accounted for over four out of five (83%) persons charged in incidents of these three sexual violations against children reported by police in 2015.

According to the most recent data from the Integrated Criminal Court Survey, in 2014/2015, there were 1,470 completed adult criminal court cases involving these three sexual violations against children.¹⁹ As with police-reported incidents, the majority of these were cases of sexual interference, comprising 63% of cases completed in 2014/2015. Invitation to sexual touching accounted for another 24%, while sexual exploitation represented 13%.

Sexual violations against children are more likely than other offences to be reported years after the offence takes place (Cotter and Beaupré 2014). Among cases completed in 2014/2015, nearly one-quarter of offences had occurred over four years prior to the first appearance in court. In fact, for 12% of completed cases for 2014/2015, the offence occurred before the introduction of mandatory minimum sentences in 2005 (5% occurred prior to 2000) and are not therefore subject to the MMP.

Aside from MMPs themselves, key differences in the nature of cases that occurred pre- and post-legislation may also have had an impact on sentencing. Specifically, having multiple charges, more court appearances or longer case lengths may be indicators of changes in the relative seriousness of cases between the pre- and post-MMP periods. These should be considered alongside MMPs when examining the sentences imposed. A comparison of criminal court cases of sexual violations against children where the offence occurred prior to and after the introduction of mandatory minimum penalties

shows that cases with summary convictions were more likely to involve multiple charges after 2005 when the MMPs were introduced (from 69% to 74%) (Table 1). In contrast, there was no difference for cases which were treated as indictable (80% in both periods). However, for both summary and indictable offences, cases for offences occurring after 2005 involved more appearances in the case and tended to take longer to complete. It is worth noting that there were also increases in case length over this time frame for other serious offences where there was no legislated change in sentencing (See Text box 2).

Text box 2

Increase in court time for sexual violations against children consistent with other serious offences

The concern has been raised that the introduction of mandatory minimum penalties (MMPs) for some offences has itself led to court delays, as offenders may make every effort to avoid the minimum sentence (Rabson 2017; Zilio 2017). Unfortunately, the analytical approach taken in this paper does not allow for a full examination of the length of court cases before and after MMP legislation because the case selection criteria exclude cases with longer case times. Moreover, this analysis is restricted to only some of the offences that carry MMPs.

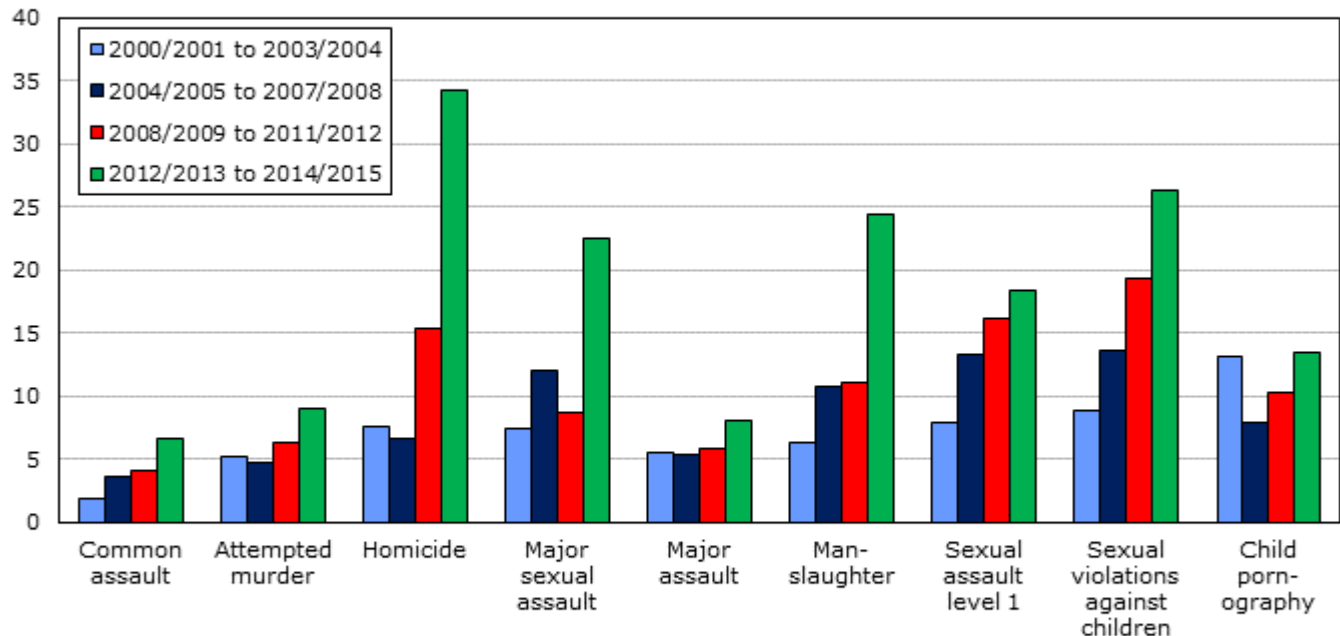
However, a separate analysis comparing sexual violations against children and child pornography to other selected offences was carried out to examine court case time by year of case completion for all cases completed between 2000/2001 and 2014/2015. This approach shows no evidence of any immediate impact of the MMP legislation on case length for the offences examined. However, it does show that between 2000/2001 and 2014/2015 there was a continuing increase in the proportion of sexual violations against children cases that took two or more years to complete in court. There was no similar increase in case length for child pornography cases (Chart 1).²⁰

Over the same time period, other offences for which there have been no significant changes in sentencing—particularly homicide, manslaughter, and common assault—have also seen notable increases in the proportion of completed cases that took more than two years to complete.

Chart 1

Percentage of indictable cases of selected offences taking two or more years to complete in court, by year of case completion

percent of cases



Note: Other offences in this chart with mandatory minimum penalties (MMPs) are homicide (no recent amendments), certain instances of manslaughter and attempted murder (only where a firearm was used), and major sexual assault (where victim under age 16 or a firearm used). In the case of attempted murder and major sexual assaults, the MMPs were amended in 2008, 2012, or 2015 depending on the aggravating circumstance. Data in this chart is not restricted to the case selection windows used elsewhere in this paper.

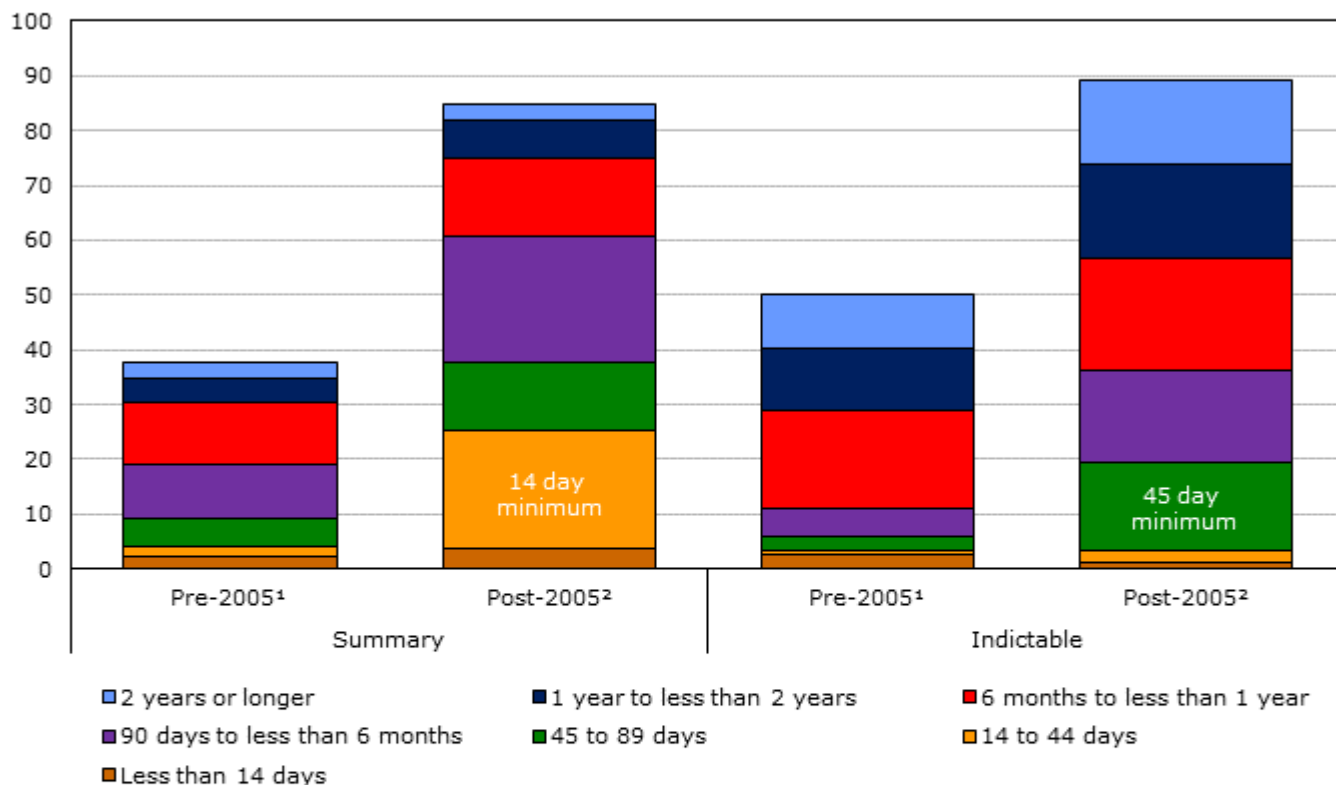
Source: Statistics Canada, Canadian Centre for Justice Statistics, Integrated Criminal Court Survey.

Notable increase in custody sentences after introduction of mandatory minimum penalties for sexual violations against children in 2005

After the introduction of mandatory minimum penalties in 2005, there was a small increase in the proportion of summary cases of the selected sexual violations against children resulting in a guilty finding (from 72% to 77%) (Table 2). Most notable, however, was the large increase in custody sentences for guilty cases, from 38% to 85%. There was an increase in sentences of various lengths, not just at the minimum levels (Chart 2). Among summary cases resulting in a custody sentence after 2005, over two-thirds had sentences of 45 days or over, well exceeding the 14 day mandatory minimum; over half (55%) had sentences of 90 days or longer (above the 2012 amended mandatory minimum penalty (MMP)). Before 2005, the majority of these summary convictions had resulted in either probation (44%) or a conditional sentence (16%). After the introduction of the MMP, a smaller proportion resulted in non-custodial sentences: probation (10%), conditional sentences (5%), and other sentences (1%).^{21, 22}

Chart 2
Custody sentences as a percentage of guilty cases, selected sexual violations against children, pre- and post-2005 legislation

percent of cases with guilty decisions



1. Pre-2005 selected cases: Case completed between April 1, 2000 and the enactment of the 2005 mandatory minimum penalties (MMPs) (November 1, 2005). Offence date between April 1, 2000 and September 30, 2002.
 2. Post-2005 selected cases: Case completed between November 1, 2005 and June 3, 2011. Date of offence between November 1, 2005 and legislation changing age of consent for sexual violations (May 1, 2008).

Note: Includes sexual interference (s. 151), invitation to sexual touching (s. 152), and sexual exploitation (s. 153). MMPs introduced in 2005 were 14 days for summary and 45 days for indictable offences. Custodial sentence lengths reflect the amount of time remaining to be served on a custodial sentence after credit has been awarded for time spent in pre-sentence custody. However, in some jurisdictions, the length of custody information represents the total length of custody imposed by the court. Therefore, some cases falling into the category below the minimum sentence may still meet the mandatory minimum requirement. Residual cases to sum to 100% (not shown) resulted in non-custodial sentences such as probation. Excludes 9% of selected cases where type of proceeding (summary or indictable) was not reported. Excludes cases where sentence type or custody length was not reported. Cases selected from adult criminal courts cases where case completion is between April 1, 2000 and March 31, 2015 for ten jurisdictions (excluding Manitoba, Northwest Territories and Nunavut), based on survey coverage. Data exclude information from superior courts in Prince Edward Island, Ontario, and Saskatchewan as well as municipal courts in Quebec due to the unavailability of data. See "Methodology and data quality" for a description of case selection for the different time periods pre- and post- legislation.

Source: Statistics Canada, Canadian Centre for Justice Statistics, Integrated Criminal Court Survey.

For offences occurring prior to 2005, about half (51%) of indictable cases of sexual violations against children that had a guilty finding resulted in a custodial sentence. This increased notably after 2005, to 89%. Again, the increase in custody sentences after 2005 came with increases for various categories of sentencing length, not just at the minimum. Among indictable cases resulting in a custody sentence, 78% resulted in sentences of 90 days or more (well over the MMP of 45 days), with over one-third of sentences (36%) being longer than the amended 2012 MMP of one year or more. Before 2005, almost half of indictable convictions had resulted in a conditional sentence (24%) or probation (24%). After 2005, 6% of guilty convictions resulted in a conditional sentence and 4% in probation. The increase in custody sentencing with the introduction of MMPs occurred for both single and multiple charge cases.

Child pornography

In addition to sexual violations against children where a victim is identified, the *Criminal Code* (s. 163.1) distinguishes four offences involving child pornography. These are classified for this analysis into two categories based on the length of the minimum penalties: the more serious offences of making (163.1 (2)) and of distributing (s. 163.1 (3)) child pornography; as well as the more common offences of possession (s. 163.1 (4)) and accessing (s. 163.1 (4.1)) child pornography.²³

As with sexual violations against children, mandatory minimum penalties were introduced for child pornography with the 2005 *Act to amend the Criminal Code (protection of children and other vulnerable persons)*, and amended with the 2012 *Safe Streets and Communities Act* and the 2015 *Tougher Penalties for Child Predators Act*. Child pornography offences are hybrid offences and subject to Crown election (the decision to treat them as either summary or indictable offences). In 2005, mandatory minimum penalties for these offences were introduced requiring a minimum 14 days of custody for summary and 45 days for indictable convictions for possession or accessing child pornography; and 90 days of custody for summary and 1 year for indictable convictions for making or distributing child pornography. The mandatory minimum penalties (MMPs) for possession and accessing were further increased in 2012 and 2015 (See Text table 2).

Text table 2
Mandatory minimum penalties for child pornography violations

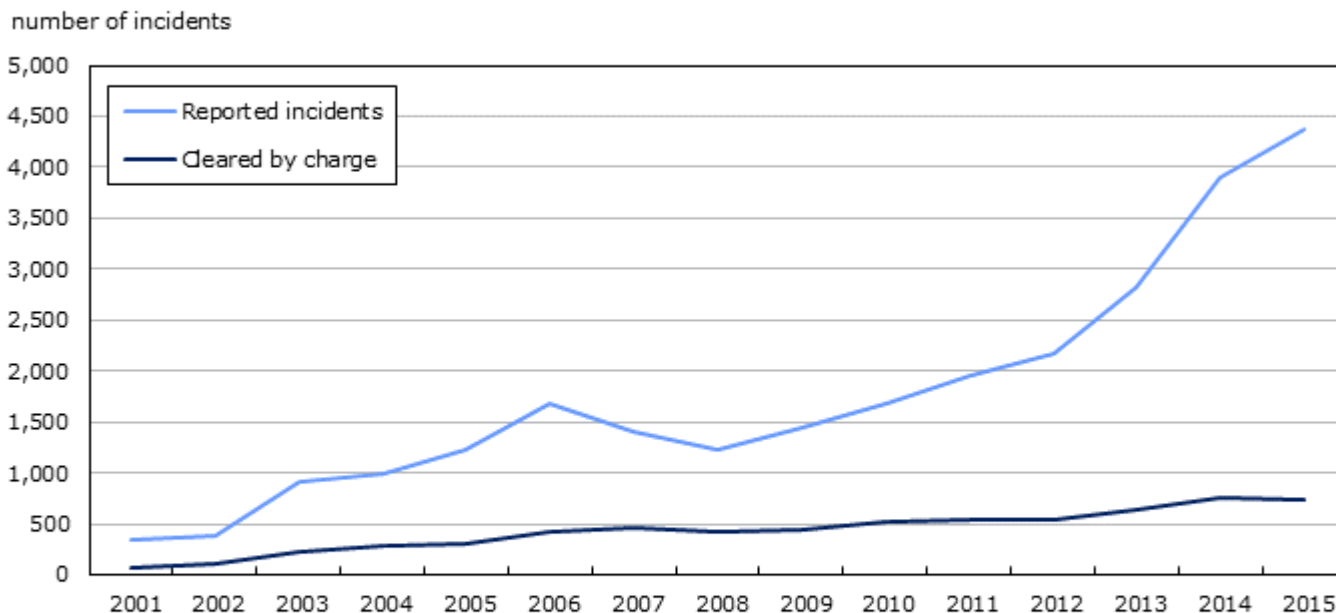
Offence and <i>Criminal Code</i> section	Mandatory minimum penalty in 2005	Mandatory minimum penalty in 2012	Mandatory minimum penalty in 2015
Making child pornography (s. 163.1 (2))			
Summary	90 days	6 months	Summary offence dropped
Indictable	1 year	1 year (no change)	1 year (no change)
Distributing child pornography (s.163.1 (3))			
Summary	90 days	6 months	Summary offence dropped
Indictable	1 year	1 year (no change)	1 year (no change)
Possession of child pornography (s. 163.1 (4))			
Summary	14 days	90 days	6 months
Indictable	45 days	6 months	1 year
Accessing child pornography (s. 163.1 (4.1))			
Summary	14 days	90 days	6 months
Indictable	45 days	6 months	1 year

Note: Analysis of cases pre- and post- 2015 is excluded from this report.

The number of child pornography incidents reported by police has been increasing in recent years (Allen 2016). The growth of the Internet has had a considerable impact on the nature of child pornography, particularly on the volume and extent of online distribution and access to images, as well as changes to reporting and investigation. Communities and police have responded with improved tools for identification and reporting of child pornography. In 2002, the Canadian Centre for Child Protection launched cybertip.ca to support online reporting of child pornography and other forms of sexual exploitation of children, which are then referred to law enforcement or child protection agencies. Cybertip.ca was then incorporated into the government's *National Strategy for the Protection of Children from Sexual Exploitation on the Internet* in 2004. In 2011, the Canadian Centre for Child Protection became the designated organization (reporting site) for mandatory reporting of Internet-based child pornography by Internet service providers, with the *Act Respecting the Mandatory Reporting of Internet Child Pornography by Persons Who Provide an Internet Service*. This reporting tool supports coordinated police efforts through Integrated Child Exploitation Units which centralize the investigation of child pornography reports and then compile and forward them to the appropriate police contacts (domestic or international). In addition, individuals can report child pornography directly to their local police services. Local police services in Canada are supported in their work by the Royal Canadian Mounted Police National Child Exploitation Coordination Centre. The increase in reporting of online child pornography has challenged the capacity of law enforcement agencies; the resulting increased caseload may mean that police services are triaging cases and concentrating on combined files for the most serious cases, which may have an impact on the characteristics and outcomes of cases over time (Reith 2017).

In 2015, police services in Canada reported 4,380 incidents where child pornography was the most serious violation.^{24, 25} This was a substantial increase from the 338 incidents reported in 2001, the year before cybertip.ca was launched (Chart 3). The number of incidents increased relatively rapidly between 2001 and 2006, then remained relatively stable from 2006 to 2010, before sharply increasing again until 2015. Over half of the overall increase in police-reported incidents occurred between 2012 and 2015.

Chart 3
Police-reported incidents of child pornography, total and cleared by charge, Canada, 2001 to 2015



Note: Number of incidents where child pornography is the most serious violation in the incident. The offence of "Child Pornography" includes offences under section 163.1 of the *Criminal Code* which makes it illegal to access, possess, make, print, or distribute child pornography. When the actual victim is not identified, this offence is reported to the Uniform Crime Reporting Survey with the most serious offence being "Child Pornography" which falls under the larger crime category of "Other *Criminal Code*". In cases where an actual victim is identified, police will report the most serious offence as sexual assault, sexual exploitation or other sexual violations against children, which falls under the category of "Violent Violations", and child pornography may be reported as a secondary violation.

Source: Statistics Canada, Canadian Centre for Justice Statistics, Uniform Crime Reporting Survey.

In 2015, police cleared (solved) 1,256 incidents of child pornography for an estimated clearance rate of 28%.²⁶ Over half (59%) of these cleared incidents resulted in a charge, representing 17% of all incidents.²⁷ Adults accounted for 86% of individuals charged in 2015. Relative to 2012, before the recent rapid increase in reported incidents, a smaller proportion of incidents in 2015 were cleared and fewer led to a charge: in 2012, in comparison, 37% of incidents were cleared, 67% of which resulted in a charge (25% of all incidents).

In 2014/2015, there were 440 completed cases in adult courts where the most serious offence in the case was child pornography.²⁸ Relative to police data, this may appear to be a much smaller number; however, this is partly due to the relatively low police clearance rates for this offence, and the fact that the criminal court cases often involve multiple charges being heard together. The majority of child pornography cases completed in 2014/2015 (81%) were multiple charge cases, including 90% of making/distributing child pornography cases and 78% of possession/accessing cases. In almost one-quarter of cases (23%), there were five or more charges, including 34% of making/distributing and 20% of possessing/accessing child pornography cases.

Most of the child pornography cases completed in adult courts in 2014/2015 (337 cases or 77%) were for possession or accessing. There were another 103 completed cases involving making or distributing child pornography; over three-quarters of these (77%) were for distribution. By comparison, in 2003/2004 (just after cybertip.ca was launched and before the changes to the MMP), there were 131 completed cases involving possession or accessing child pornography and another 32 for making or distributing.²⁹

As police-reported child pornography incidents increased, so too has the complexity of child pornography cases in the courts

With changes in the online nature of child pornography and the centralization of reporting and investigation, the nature of child pornography court cases has also changed. It is important to note differences in case characteristics before and after the introduction of mandatory minimum sentencing which may have an impact on sentencing outcomes. This is particularly important given that the periods both before the 2005 introduction of mandatory minimum penalties (MMPs) and after the 2012 amendment represented periods of rapid increase in the reporting of child pornography as it became more and more Internet-based and new reporting and investigation tools were developed.

A comparison of selected cases with offences that occurred in the periods examined before 2005 versus after 2005 shows that the more recent cases were more likely to involve multiple charges, particularly for cases involving possession or accessing of child pornography (Table 3). In addition, among child pornography cases, a greater proportion of cases after 2005 had over ten appearances or had a case length exceeding one year. Before and after the amendment to MMPs in 2012, there were some differences in the characteristics of child pornography cases, but these were neither as consistent nor as large (Table 4). It is worth noting that a full analysis of case length for child pornography shows no consistent increase over time, unlike for other serious offences (including those with no change in legislated sentencing) (See Text box 2).

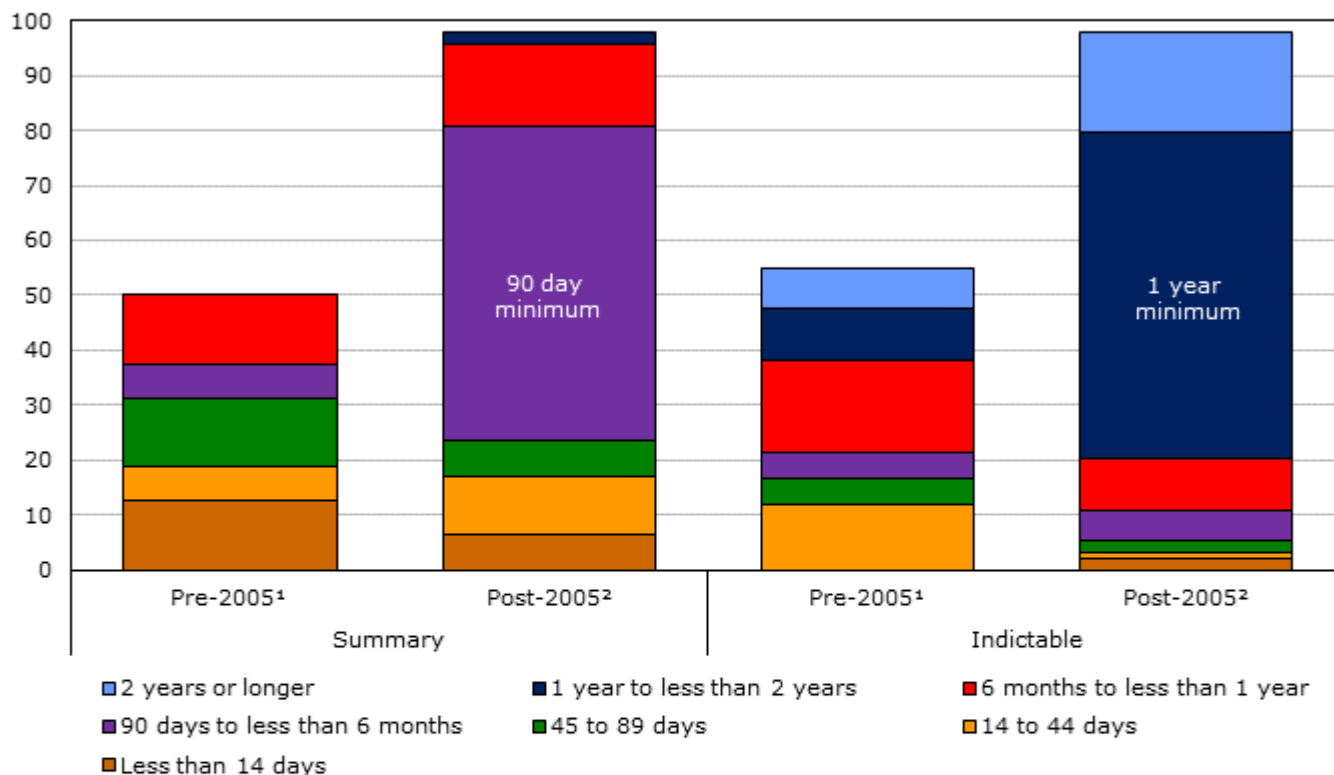
After the introduction of MMPs in 2005, summary cases related to both types of child pornography were much more likely to result in a guilty decision (Table 5; Table 6). In contrast, there was a slight increase in guilty decisions for indictable cases related to making or distributing, and a decline in guilty decisions as a proportion of indictable cases involving possession or accessing.

Large increase in convictions resulting in custody after mandatory minimum penalties introduced in 2005

Among child pornography cases with a guilty decision (both summary and indictable), there was a substantial increase in custody sentences for both types of child pornography offence after the introduction of MMPs (Chart 4, Chart 5). Before 2005, 50% of summary and 45% of indictable convictions involving making or distributing child pornography resulted in either a conditional sentence or probation (Table 5). The proportions of convictions for possession or accessing that resulted in non-custodial sentences before 2005 were even higher (80% for summary and 71% for indictable cases resulting in a guilty decision) (Table 6). After the introduction of mandatory minimums in 2005, almost all cases of both types of child pornography resulted in a custody sentence.

Chart 4
Custody sentences as a percentage of guilty cases, making or distributing child pornography, pre- and post-2005 legislation

percent of cases with guilty decisions



1. Pre-2005 selected cases: Date of offence and case completed between April 1, 2000 and the enactment of the 2005 mandatory minimum penalties (MMPs) (November 1, 2005).

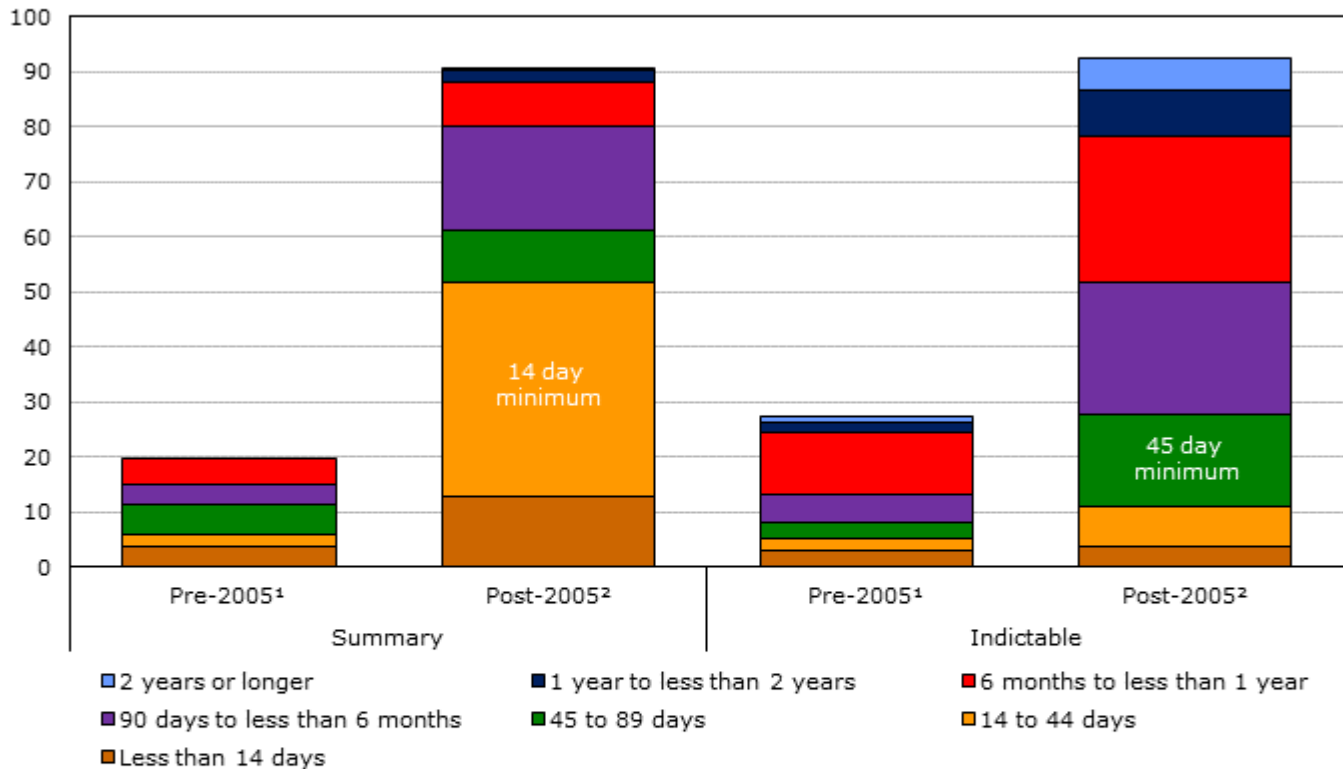
2. Post-2005 selected cases: Date of offence and case completed between November 1, 2005 and June 3, 2011.

Note: Includes child pornography offences of making (163.1 (2)) and of distributing (s. 163.1 (3)) child pornography. MMPs introduced in 2005 were 90 days for summary and 1 year for indictable offences. Custodial sentence lengths reflect the amount of time remaining to be served on a custodial sentence after credit has been awarded for time spent in pre-sentence custody. However, in some jurisdictions, the length of custody information represents the total length of custody imposed by the court. Therefore, some cases falling into the category below the minimum sentence may still meet the mandatory minimum requirement. Residual cases to sum to 100% (not shown) resulted in non-custodial sentences such as probation. Excludes 33% of selected cases where type of proceeding (summary or indictable) was not reported. Excludes cases where sentence type or custody length was not reported. Cases selected from adult criminal courts cases where case completion is between April 1, 2000 and March 31, 2015 for ten jurisdictions (excluding Manitoba, Northwest Territories and Nunavut), based on survey coverage. Data exclude information from superior courts in Prince Edward Island, Ontario, and Saskatchewan as well as municipal courts in Quebec due to the unavailability of data. See "Methodology and data quality" for a description of case selection for the different time periods pre- and post- legislation.

Source: Statistics Canada, Canadian Centre for Justice Statistics, Integrated Criminal Court Survey.

Chart 5
Custody sentences as a percentage of guilty cases, possessing or accessing child pornography, pre- and post-2005 legislation

percent of cases with guilty decisions



1. Pre-2005 selected cases: Date of offence and case completed between April 1, 2000 and the enactment of the 2005 mandatory minimum penalties (MMPs) (November 1, 2005).

2. Post-2005 selected cases: Date of offence and case completed between November 1, 2005 and June 3, 2011.

Note: Includes child pornography offences of possession (s. 163.1 (4)) and accessing (s. 163.1 (4.1)) child pornography. MMPs introduced in 2005 were 14 days for summary and 45 days for indictable offences. Custodial sentence lengths reflect the amount of time remaining to be served on a custodial sentence after credit has been awarded for time spent in pre-sentence custody. However, in some jurisdictions, the length of custody information represents the total length of custody imposed by the court. Therefore, some cases falling into the category below the minimum sentence may still meet the mandatory minimum requirement. Residual cases to sum to 100% (not shown) resulted in non-custodial sentences such as probation. Excludes 27% of selected cases where type of proceeding (summary or indictable) was not reported. Excludes cases where sentence type or custody length was not reported. Cases selected from adult criminal courts cases where case completion is between April 1, 2000 and March 31, 2015 for ten jurisdictions (excluding Manitoba, Northwest Territories and Nunavut), based on survey coverage. Data exclude information from superior courts in Prince Edward Island, Ontario, and Saskatchewan as well as municipal courts in Quebec due to the unavailability of data. See "Methodology and data quality" for a description of case selection for the different time periods pre- and post- legislation.

Source: Statistics Canada, Canadian Centre for Justice Statistics, Integrated Criminal Court Survey.

Different impacts on sentence length for summary versus indictable possession or accessing child pornography offences after introduction of mandatory minimum penalties

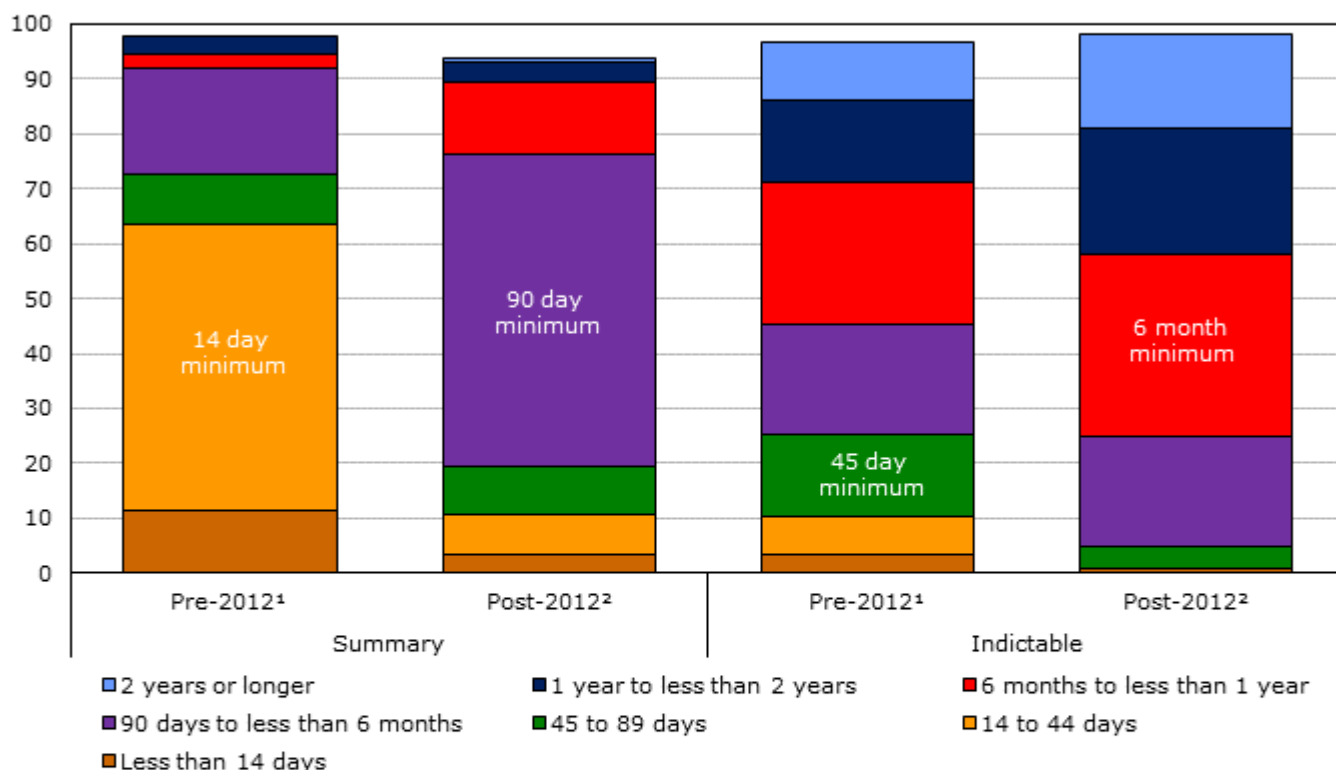
An examination of the sentences imposed for summary convictions for possession or accessing child pornography before and after the introduction of the mandatory minimum penalty (MMP) shows that the greatest shift was from non-custodial sentences such as probation (pre-2005), to custody sentences at or just above the level of the MMP (post-2005).³⁰ For example, the drop in non-custodial sentences for summary convictions for possession or accessing child pornography corresponded to a large increase in the proportion of sentences of 14 to 45 days (at or just above the MMP), and smaller increases in lengthier sentences. For summary convictions resulting in a custody sentence after 2005, 43% were for 14 to 44 days and another 43% were for 45 days or more, with 32% for 90 days and longer (the MMP later introduced in 2012). In contrast, prior to 2005, among the 20% of convictions resulting in custody, over two-thirds (69%) were 45 days or more, with 42% 90 days or longer. This meant that although there were fewer custody sentences prior to 2005, they tended to be longer; the proportion of custody sentences increased after 2005, but their custody duration was often shorter.

For indictable cases of possession/accessing child pornography resulting in custody, there was no similar shift in the typical length of custody towards sentences at minimum levels of duration. While the introduction of the new mandatory 45 day sentence resulted in a similar increase in custody sentences overall (as was observed with summary cases), these were not primarily at this minimum length. Instead, while there was a small increase in the proportion of custody sentences of 45 to 89 days (from 10% to 18%), the bulk of custody sentences continued to be for 90 days or longer (66% before 2005 and 70% after). Among cases of possession/accessing child pornography where there was a single charge, most custody sentences for indictable convictions exceeded the 2005 mandatory minimum of 45 days, with the majority being 90 days or longer both before and after 2005.

With the amendment to MMPs in 2012, there was an expected shift to lengthier sentences reflecting the revised MMP (Table 8; Chart 6). Again, for indictable cases of possession or accessing child pornography, there was also an increase in the proportion of sentences exceeding the MMP, even among cases where only a single charge was recorded.

Chart 6
Custody sentences as a percentage of guilty cases, possessing or accessing child pornography, pre- and post-2012 legislation

percent of cases with guilty decisions



1. Pre-2012 selected cases: Date of offence and case completed between December 19, 2009 and August 9, 2012.
 2. Post-2012 selected cases: Date of offence and case completed between August 9, 2012 (enactment of amended mandatory minimum penalties (MMPs)) and March 31, 2015 (latest case end for court data).
Note: Includes child pornography offences of possession (s. 163.1 (4)) and accessing (s. 163.1 (4.1)) child pornography. MMPs were amended in 2012 from 14 to 90 days for summary and 45 days to 6 months for indictable offences. Custodial sentence lengths reflect the amount of time remaining to be served on a custodial sentence after credit has been awarded for time spent in pre-sentence custody. However, in some jurisdictions, the length of custody information represents the total length of custody imposed by the court. Therefore, some cases falling into the category below the minimum sentence may still meet the mandatory minimum requirement. Residual cases to sum to 100% (not shown) resulted in non-custodial sentences such as probation. Excludes 24% of selected cases where type of proceeding (summary or indictable) was not reported. Excludes cases where sentence type or custody length was not reported. Cases selected from adult criminal courts cases where case completion is between April 1, 2000 and March 31, 2015 for ten jurisdictions (excluding Manitoba, Northwest Territories and Nunavut), based on survey coverage. Data exclude information from superior courts in Prince Edward Island, Ontario, and Saskatchewan as well as municipal courts in Quebec due to the unavailability of data. See "Methodology and data quality" for a description of case selection for the different time periods pre- and post- legislation.
Source: Statistics Canada, Canadian Centre for Justice Statistics, Integrated Criminal Court Survey.

Cases of making or distributing child pornography shifted towards sentences at or just above the mandatory minimum penalty

As with summary cases of possession or accessing child pornography, the increase in custody sentences after 2005 for both summary and indictable cases of the more serious offence of making or distributing child pornography resulted in a majority of custody sentences at or just above the mandatory minimum. With the amendment to the mandatory minimum penalties (MMPs) in 2012, sentences for summary cases also tended to shift from the previous MMP level to the new minimum (Table 7). There was no legislative change in 2012 to the MMP for indictable cases of making or distributing child pornography.

Firearms-related offences

There are a variety of *Criminal Code* offences specific to the use, possession or trafficking of firearms. Many of these are subject to mandatory minimum penalties introduced under *An Act Respecting Firearms and Other Weapons (Firearms Act)* of 1995). These include the use of a firearm in the commission of an indictable offence (s. 85), possession of a weapon obtained by crime³¹ (s. 96 indictable), and making an automatic firearm (s. 102 indictable).³² As well, the following offences had mandatory minimum penalties (MMPs) from 1995 which were then increased under the 2008 *Tackling Violent Crime Act*: possession of a prohibited or restricted firearm with ammunition (s. 95 indictable), weapons trafficking (s. 99), possession of a weapon for the purpose of trafficking (s. 100), and knowingly importing/exporting an unauthorized weapon (s. 103).³³ Furthermore, there are also a number of violent offences such as attempted murder (s. 239), manslaughter (s. 236), sexual assault (s. 272, s. 273), kidnapping and hostage taking (s. 279), robbery (s. 343), and extortion (s. 346) which specify mandatory minimum penalties when a firearm is used in the commission of the offence.³⁴ These latter offences are excluded from the current analysis as the Integrated Criminal Court Survey (ICCS) does not provide sufficient information on the use of firearms in the incident. Moreover, as previous analysis has shown, firearms are involved in a small proportion of these offences (Cotter 2014).

This analysis examines the court outcomes of selected firearms-related offences subject to mandatory minimum penalties, with a comparison of those with MMPs originally defined in the 1995 *Firearms Act* to those with MMPs subsequently amended with the 2008 *Tackling Violent Crime Act*. For the selected offences retaining the 1995 mandatory minimums, the minimum penalty was 1 year. For the offences affected by the 2008 amendment, MMPs were increased from 1 year to 3 years for a first offence when the weapon involved was a firearm or prohibited device or ammunition and 5 years for a second or subsequent offence (See Text table 3).³⁵ There was no MMP for summary convictions of some offences either before or after the legislation.

Text table 3
Mandatory minimum penalties for firearms-related offences

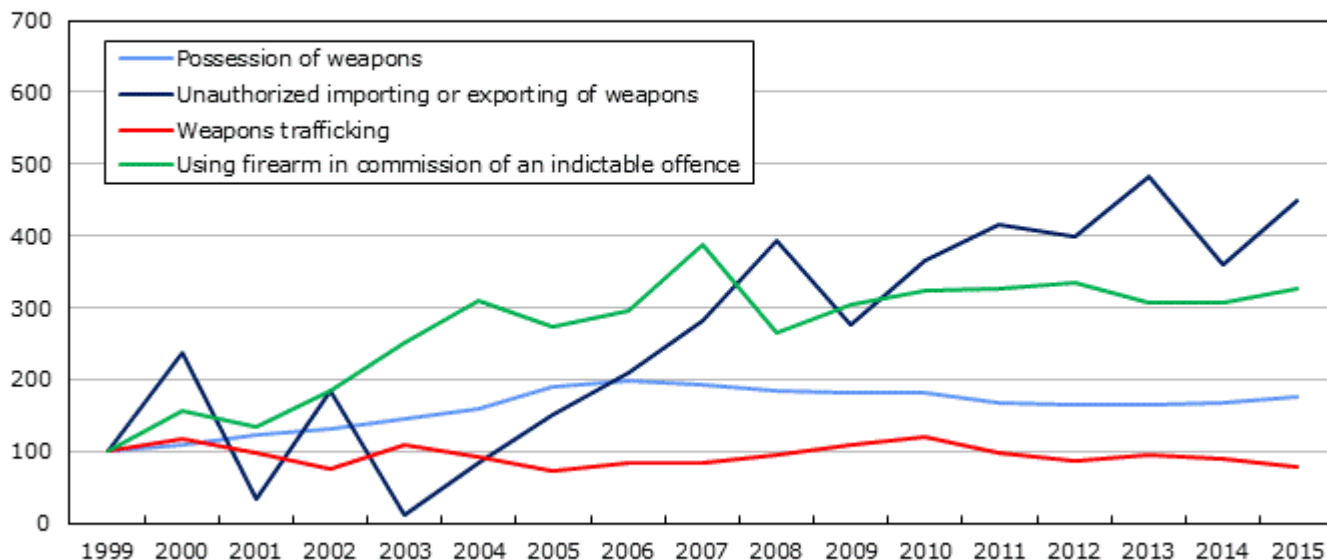
Offence and <i>Criminal Code</i> section	Mandatory minimum penalty in 1995	Mandatory minimum penalty in 2008
Unaffected offences (Mandatory minimum penalties unchanged from 1995)		
Use of a firearm in the commission of an indictable offence (s. 85 (1))		
1st offence	1 year	No change
2nd or subsequent offence	3 years	No change
Use of an imitation firearm in commission of an indictable offence (s. 85 (2))		
1st offence	1 year	No change
2nd or subsequent offence	3 years	No change
Possession of weapon obtained by commission of offence (s. 96)		
Summary	No minimum	
Indictable	1 year	No change
Making automatic firearm (s. 102)		
Summary	No minimum	
Indictable	1 year	No change
Affected offences (Mandatory minimum penalties amended in 2008)		
Possession of prohibited or restricted firearm with ammunition (s. 95)		
Summary	No minimum	No minimum
Indictable	1 year	3 years (1st offence) 5 years (2nd or subsequent offence)
Weapons trafficking (s. 99)	1 year	3 years (firearms, prohibited device or ammunition—1st offence) 5 years (firearms, prohibited device or ammunition—2nd or subsequent offence) 1 year (for other prohibited weapons—no change)
Possession for purpose of weapons trafficking (s. 100)	1 year	3 years (firearms, prohibited device or ammunition—1st offence) 5 years (firearms, prohibited device or ammunition—2nd or subsequent offence) 1 year (for other prohibited weapons—no change)
Importing or exporting knowing it is unauthorized (s. 103)	1 year	3 years (firearms, prohibited device or ammunition—1st offence) 5 years (firearms, prohibited device or ammunition—2nd or subsequent offence) 1 year (for other prohibited weapons—no change)

Note: Summary cases for sections 95, 96, and 102 were not included in this analysis as they have no mandatory minimum sentence.

In the two decades following the changes to MMPs set by the 1995 *Firearms Act*, there has been an increase in the number of police-reported incidents where the most serious violation in the incident was a weapons or firearms offence. Between 1999 and 2015 there were increases in the number of incidents of weapons possession³⁶ and importing or exporting a weapon (s. 103 and s. 104), as well as for the use of a firearm in the commission of an indictable offence (s. 85), with the greatest increase coming in the earlier part of this time frame (Chart 7). There was a slight decrease over this period in the number of police-reported incidents of weapons trafficking offences.³⁷

Chart 7**Police-reported incidents of selected firearms-related offences, Index (1999=100), Canada, 1999 to 2015**

number of incidents



Note: Number of incidents where the firearms-related offence is the most serious violation in the incident (1999=100).

Source: Statistics Canada, Canadian Centre for Justice Statistics, Uniform Crime Reporting Survey.

Since the early 2000s, there has been a notable increase in the proportion of incidents involving the use of a firearm in the commission of an indictable offence (s. 85) that resulted in a charge (from 17% in 2004 to 69% in 2015). This has resulted in a large increase in the number of adults charged with this offence (from 62 in 2004 to 281 in 2015). This was the only firearms-related offence in this analysis which recorded notable changes that might have an impact on the nature of cases heard in court, if the increase in charging affected the characteristics of the typical case.

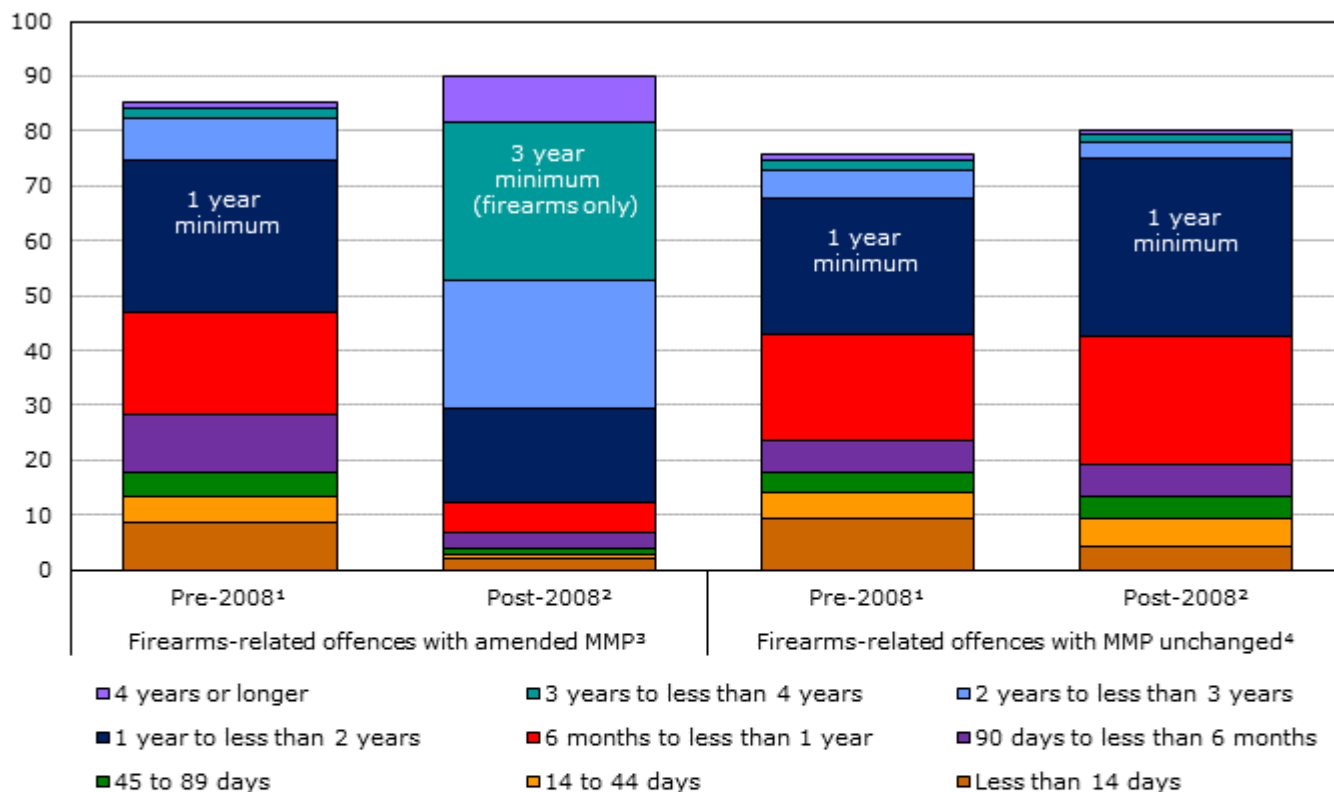
In 2014/2015, there were 154 cases completed in adult criminal courts where the most serious offence was still subject to a 1995 MMP examined in this analysis. The vast majority of these (142 cases or 92%) were for the use of a firearm in the commission of an indictable offence (s. 85).³⁸ In addition, there were another 114 completed cases where the offence was subject to an MMP amended in 2008. Almost half (54 cases or 47%) of these were indictable cases of possession of a prohibited or restricted firearm (s. 95), for which the MMP was struck down by the Supreme Court in 2015 (*R. v. Nur* 2015) (See Text box 3). Weapons trafficking (s. 99) accounted for another quarter (31 cases or 27%) of cases, and the remainder included other offences related to trafficking or importing/exporting weapons (s. 100 and 103).

A comparison of selected cases occurring prior to and after the 2008 legislation shows little variation between the characteristics of cases whose MMPs were amended by the legislation and those whose MMPs remained the same (Table 9). For both the amended and non-amended groups, over 90% of cases involved multiple charges over both time periods. For both groups, the cases occurring after the 2008 legislation were more likely to involve ten or more court appearances or to have a case length of over one year. However, the difference was greater for offences with new MMPs. This difference in the time to complete a case may have an impact on recorded sentences of individuals who received credit for time served—which is not included in the recorded custody length provided to the ICCS by most jurisdictions—and should be kept in mind when sentence lengths are considered.

Almost six in ten firearms-related cases subject to amended MMPs resulted in a guilty decision, both before and after the 2008 change in legislation (Table 10; Chart 8). In both time periods, most of these guilty offenders were given a custody sentence. However, following the 2008 legislation, there was a notable increase in the length of custody sentences handed down. Prior to the amendment, over half (55%) of custody sentences were for less than one year, another 33% received between one to two years of custody, and 12% received two years or more. Following the amendment, which increased the minimum sentence to 3 years for weapons offences where the weapon involved was a firearm, prohibited device or ammunition, over two-thirds of custody sentences were for two years or more (67%).³⁹

Chart 8
Custody sentences as a percentage of guilty cases of selected firearms-related offences, pre- and post-2008 legislation

percent of cases with guilty decisions



1. Pre-2008 selected cases: Date of offence and case completed between June 2, 2001 and the enactment of the 2008 mandatory minimum penalties (MMPs) (November 1, 2005).

2. Post-2008 selected cases: Date of offence and case completed between May 1, 2008 and March 31, 2015.

3. Includes possession of prohibited firearm with ammunition (s. 95), weapons trafficking (s. 99), possession of weapons for trafficking (s. 100), and knowingly importing/exporting unauthorized weapon (s. 103). Some offences with MMPs subject to the 2008 legislation (s. 99, 100 and 103) may involve prohibited weapons for which there is no mandatory minimum penalty. MMPs were amended in 2008 to 3 years for a first offence and 5 years for a second offence where the weapon involved was a firearm, prohibited device or ammunition.

4. Includes use of a firearm in the commission of an offence (s. 85), possession of a weapon obtained by crime (s. 96), and making an automatic firearm (s. 102). MMPs introduced in 1995 was 1 year.

Note: Custodial sentence lengths reflect the amount of time remaining to be served on a custodial sentence after credit has been awarded for time spent in pre-sentence custody. However, in some jurisdictions, the length of custody information represents the total length of custody imposed by the court. Therefore, some cases falling into the category below the minimum sentence may still meet the mandatory minimum requirement. Residual cases to sum to 100% (not shown) resulted in non-custodial sentences such as probation. Excludes 56% of s. 99 and s. 102 offences and 33% of s. 95 offences where type of proceeding (summary or indictable) was not reported. Excludes cases where sentence type or custody length was not reported. Cases selected from adult criminal courts cases where case completion is between April 1, 2000 and March 31, 2015 for ten jurisdictions (excluding Manitoba, Northwest Territories and Nunavut), based on survey coverage. Data exclude information from superior courts in Prince Edward Island, Ontario, and Saskatchewan as well as municipal courts in Quebec due to the unavailability of data. See "Methodology and data quality" for a description of case selection for the different time periods pre- and post-2008 legislation.

Source: Statistics Canada, Canadian Centre for Justice Statistics, Integrated Criminal Court Survey.

In comparison, among those firearms-related cases where the MMP did not change (primarily s. 85), about 40% of cases both before and after the 2008 legislation was enacted resulted in a guilty decision. Of these, almost 80% received a custody sentence, with the remainder mostly receiving a sentence of probation. These proportions were similar during both time periods (76% before 2008 and 80% after).

Even though these cases were not subject to increased MMPs, there was a small increase in custody lengths after 2008, primarily with sentences of between six months and two years (from 58% to 69% of custody sentences). There was no notable difference in sentence length after 2010 with the enactment of the *Truth in Sentencing Act*, which limited the amount of credit judges could give for time already served.

Text box 3**Section 95: Possession of a prohibited or restricted firearm with ammunition**

Section 95 of the *Criminal Code* concerns possession of a loaded prohibited or restricted firearm or unloaded prohibited or restricted firearm with readily accessible ammunition. This is a hybrid offence. For cases proceeding by indictment, the mandatory minimum sentence was increased in 2008 from one year to three years for a first offence and five years for a second or subsequent offence. In the case of a summary conviction, there is no minimum (unchanged from prior to 2008) and the maximum sentence is one year. While the option of a summary conviction is theoretically available since this is a hybrid offence, guidelines for prosecutors may limit this option. For example, in British Columbia, following the *R. v. Nur* decision in 2015, prosecutors must now consider the prevalence of the offence in the community, specific circumstances of the incident (such as location or characteristics of the firearm) or characteristics of the accused (such as prior convictions or gang membership), and consult with a superior before electing to proceed summarily (British Columbia Ministry of Justice 2016).

In November, 2013, the Ontario Court of Appeal ruled in *R. v. Nur* and *R. v. Smickle* that the mandatory minimum penalty (MMP) for section 95 breached section 12 of the *Charter of Rights and Freedoms* because the minimum three year sentence could be seen as cruel and unusual punishment in reasonably hypothetical situations, such as storing a registered unloaded firearm (with ammunition in another room) in an unauthorized location such as a cottage, where there is no additional criminal purpose associated with the possession (i.e., a significantly lower degree of blameworthiness than someone who possesses for the purpose of facilitating crime) (*R. v. Nur* 2013; *R. v. Smickle* 2013). Subsequently, in April, 2015, the mandatory minimum sentence for section 95 was struck down by the Supreme Court (*R. v. Nur* 2015).

Among the selected indictable offences in this analysis, when section 95 was identified as the most serious offence in the case, there was a notable decrease in the length of custody sentences following the *Nur* and *Smickle* decisions in the Ontario Appeal Court in November 2013, but before the Supreme Court decision in 2015. Prior to the increase in MMPs in 2008, 91% of custody sentences for indictable s. 95 cases were under two years. After the increase in the MMP and before the date of the Ontario Appeal Court decisions, over three-quarters (78%) of custody sentences were for two years or more. After the Ontario Appeal Court decisions, 63% of custody sentences were again under two years.⁴⁰ It should be noted that cases completed after the Ontario decisions had much longer case times than those prior to the decision. Before 2008, 23% of indictable cases lasted over one year; after 2008 and before the Ontario Appeal Court decision, this increased to 29%. In contrast, 44% of cases completed after the Ontario decisions (and before March 2015) took over one year to complete.⁴¹ It should be noted that this analysis excludes cases completed after March, 2015 which may have been put on hold pending the Supreme Court decision.

Summary

Over the past two decades, changes to the *Criminal Code* resulted in the introduction of or increase to mandatory minimum penalties for a variety of offences. This analysis looked, in particular, at the impact of changes to sentencing for three offence categories: sexual violations against children, child pornography, and firearms-related offences. In contrast to crime overall, these offences have been increasing in recent years.

Where mandatory minimum penalties were introduced in 2005 for sexual violations against children and child pornography, there was a notable increase in custody sentences, and an increase in custody sentences of various lengths, including some beyond the minimum required by law.

For cases of sexual violations against children, there was an increase in custody sentences for guilty cases—at various lengths, not just at the minimum levels. This was also the case for indictable cases of possession or accessing child pornography. For other types of child pornography offences, however, the increase in custody sentences was primarily at or just above the mandatory minimum.

Mandatory minimum penalties were increased for a selection of firearms-related offences in 2008. For these offences, there was a notable increase in the length of custodial sentences handed down after 2008. For those offences without an increase to their mandatory minimum penalties (MMP), there was also a small increase in the length of custody sentences after 2008. It is worth noting, however, that most of the cases involving amended mandatory minimums were for possession of a prohibited or restricted firearm (s. 95 of the *Criminal Code*). In 2013, the Ontario Court of Appeal ruled that the mandatory minimum penalty for this offence was unconstitutional; the MMP was subsequently struck down by the Supreme Court in 2015.

The Supreme Court decisions with respect to firearms offences had an impact on a wider range of offences, with the recognition that “mandatory minimum sentence provisions that apply to offences that can be committed in various ways, under a broad array of circumstances and by a wide range of people are constitutionally vulnerable” (*R. v. Lloyd* 2016). In light of these decisions, the government is currently reviewing mandatory minimum penalty legislation.

The analysis of these selected offences has shown a considerable increase in custody sentences, sometimes exceeding the mandatory minimums prescribed by law. Information was not available, however, to develop a full understanding of the impact of the introduction or amendment of mandatory minimum penalties on Crown election and other decisions by prosecutors that may also affect court outcomes for these offences. Although it is not possible to measure whether there has been an increase in summary cases relative to indictable as a result of the impact of MMPs on Crown election, it is worth noting that after the introduction of MMPs in 2005 for the hybrid offences in this analysis, those cases processed as summary tended to be more complex than those prior to the MMP, with higher guilty rates, more appearances, and longer case times.

While this report examines the impact of mandatory minimum penalties, it is important to recognize that the findings here are for only specific offences and the results should not be interpreted as reflecting the impact of MMPs in general as the study could not examine changes for other offences such as drug offences or impaired driving where the mandatory minimum only applied in certain circumstances such as repeat offending.

Methodology and data quality

Selection of cases for analysis: Factors affecting case characteristics before and after mandatory minimum penalty legislation

Cases were selected for this analysis based on two types of constraint: data availability required that the date of case completion fall between April 1, 2000 and March 31, 2015. In addition, “pre” and “post” groupings were determined by the following dates when pertinent legislation came into force:

November 1, 2005: introduction of mandatory minimum penalties (MMPs) for sexual violations against children and child pornography

May 1, 2008: amendment to MMPs for firearms-related offences and change to age of consent affecting sexual violations against children

August 9, 2012: amendment of MMPs for child pornography⁴²

Characteristics of cases in each of these time periods can be influenced by a number of time-related factors which are not related to the introduction of the MMP.

Time from date of offence to first appearance (case initiation): Older cases in the dataset have had a longer period (from 2000 to 2015) in which to be identified, reported and completed in court. This is particularly relevant to sexual violations against children where there is a relatively high rate of “historical” cases that are reported to the police years after the offence occurred. These historical cases appear to be more serious (serious enough to report and investigate after a delay). They therefore have the potential to increase the average seriousness of cases in the pre-2005 time period. This could have a considerable impact on the pre- post- analysis. Among sexual violations occurring before 2005, 25% were initiated in court over four years after the date of offence, compared to 5% for cases where the offence occurred after 2005. These “historical” cases were substantially more likely to be indictable, more likely to involve multiple charges, and for both summary and indictable offences prior to 2005, more likely to result in a custody sentence.

Change in the age of consent: For sexual violations against children in 2008 from 14 to 16 years. The change in the age of consent has the potential to affect the nature and perceived seriousness of the violations. Cases where the victim is between age 14 and 16 (introduced in 2008) may be sufficiently different in nature as to affect outcomes for post-2005 cases.

Court information on cases where offence occurred after 2012: Given the time required to complete a case in court from the date of offence (particularly given the possible late reporting of historical sexual violations), information on many of the offences occurring after the 2012 amendments to the MMP may not yet be available because the investigation and/or court proceedings are still ongoing, or the case has not yet been reported. Therefore, it is likely that the cases for offences occurring after 2012 are notably different from cases before 2012. The former will be biased toward cases which are reported and completed relatively quickly, as opposed to the pre-2012 cases which have had years in which to be reported and completed.

Selection of cases for analysis: Case selection windows

This analysis compares characteristics and court outcomes before and after the MMP legislation (“pre” and “post”), using selected cases from the Integrated Criminal Court Survey (ICCS) for case years 2000/2001 to 2014/2015. Cases were selected for each “pre” and “post” period using similar time “windows” between the date of offence and the date the case was completed in the courts. This selection controls for the factors noted above and particularly any bias resulting from the fact that cases for offences occurring prior to 2005 have had a longer time in which to be reported, investigated, and completed in

the courts. The length of the time window for the selection of cases differs for the analysis of different legislation dates; therefore, comparisons should not be made between statistics produced for the different sets of analysis.

It should be noted that the case selection windows may be affected by the overall trend to longer cases length in the courts.

Because of changes in the ICCS methodology in 2012 affecting the identification of sexual violations against children as the most serious offence in the case, there is no analysis of these offences pre- and post-2012.

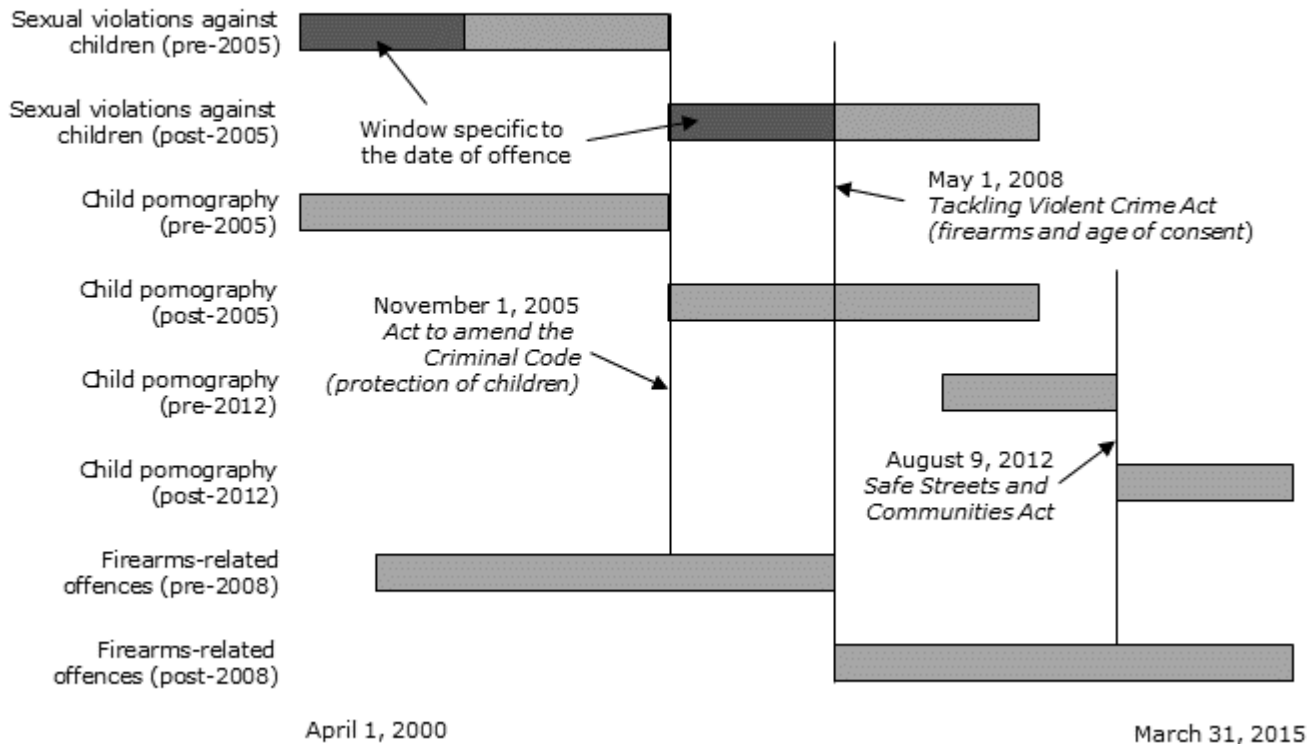
Sexual violations against children: The case selection window is determined by 2005 legislation as well as the change in age of consent in 2008. For selected pre-2005 cases, the date of offence must be April 1, 2000 or later and the case completed before November 1, 2005 (date of legislation). A similar 2,040 day constraint was applied to post-2005 cases with date of offence November 1, 2005 or later and the case completion date for post-2005 analysis no later than June 3, 2011. In addition, however, to control for the change in age of consent in 2008, cases are restricted to those where the offence occurred between Nov 1, 2005 and May 1, 2008 for post-2005 cases: A similar 912 day window was therefore also applied to pre-2005 cases (Table 11; Figure 1).

Child pornography: The case selection windows were determined by 2005 and 2012 legislation. For selected pre-2005 cases, the date of offence was April 1, 2000 or later and the case was completed before November 1, 2005 (date of legislation). A similar 2,040 day constraint was applied to post-2005 cases with the date of offence November 1, 2005 or later and the case completion date for post-2005 analysis no later than June 3, 2011 (Table 12).

For the selection of cases for pre- and post-2012 analysis, post-2012 selected cases were determined by the date of offence and case completed between 9 August 2012 (enactment of amended MMPs) and 31 March 2015 (latest case end for court data) for a 964 day window. For pre-2012 case selection, date of offence and case completion were between 19 December 2009 and 9 August 2012 (a 964 day window as determined by post-2012 selection) (Table 12).

Firearms-related offences: The case selection window is determined by the 2008 legislation. The window is constrained by the date of legislation and survey availability. For post-2008 selected cases, therefore, the date of offence was May 1, 2008 or later and the case completed by March 31, 2015 (a 2,525 day window). For pre-2008 selected cases, the date of offence must be June 2, 2001 or later and the case completed before May 1, 2008 (based on post-2008 window) (Table 13).

Figure 1
Case selection windows



Data quality

Unlike household surveys, the survey instrument for the Integrated Criminal Court Survey (ICCS) is not a questionnaire. Instead, data are extracted from provincial and territorial administrative records so as to conform to a set of national definitions, rather than provincial or territorial level definitions.

While all efforts are made to obtain complete and accurate data from each jurisdiction, it is important to note that no jurisdiction currently reports all ICCS variables to the survey and often, jurisdictions cannot report all values of the variables they do report. Furthermore, many jurisdictions cannot report certain variables in the way that they are meant to be reported (e.g., legal representation is reported at the charge level in some jurisdictions rather than at the appearance level). This has implications for availability of data, data quality and the interpretation of survey results.

For this analysis, it is important to note limitations with respect to the variable identifying summary and indictable offences (Crown election/proceeding). For hybrid offences, this variable identifies whether the Crown elects to proceed summarily (summary offence) or by indictment (indictable offence). This information is important for the analysis of MMPs for sexual violations against children and child pornography, and for some firearms-related offences. The percentage of cases where this variable was not reported (unknown) ranged from 7% to 11% for sexual violations against children (depending on time category) (Table 11), and from 20% to 34% of child pornography offences (depending on offence and time category) (Table 12). For hybrid firearms-related offences where MMPs only apply to indictable offences, the percentage of cases in this analysis with new MMPs where this variable was not reported was 33% for s. 95 (possession of prohibited firearm with ammunition). The combined percentage for offences of s. 96 (possession of a weapon obtained by crime) and s. 102 (making an automatic firearm) was 56%. High rates of unknown for this variable were largely driven by Ontario.

Survey description

Integrated Criminal Court Survey

The Integrated Criminal Court Survey (ICCS) is administered by the Canadian Centre for Justice Statistics (Statistics Canada) in collaboration with provincial and territorial departments responsible for criminal courts in Canada. The survey collects statistical information on adult and youth court cases involving *Criminal Code* and other federal statute offences.

The primary unit of analysis is a case. A case is defined as one or more charges against an accused person or company that were processed by the courts at the same time and received a final decision. A case combines all charges against the same person having one or more key overlapping dates (date of offence, date of initiation, date of first appearance, date of decision, or date of sentencing) into a single case.

A case that has more than one charge is represented by the charge with the "most serious offence" (MSO). The most serious offence is selected using the following rules. First, court decisions are considered and the charge with the "most serious decision" (MSD) is selected. Court decisions for each charge in a case are ranked from most to least serious as follows: 1) guilty, 2) guilty of a lesser offence, 3) acquitted, 4) stay of proceeding, 5) withdrawn, dismissed and discharged, 6) not criminally responsible, 7) other, and 8) transfer of court jurisdiction.

This analysis uses data from ICCS for adult criminal courts back to 2000/2001 for ten jurisdictions (excluding Manitoba, Northwest Territories and Nunavut) based on survey coverage. In addition, the ICCS covered all cases completed by adult criminal courts in these jurisdictions except the superior courts of Prince Edward Island, Ontario, and Saskatchewan, as well as the municipal courts of Quebec. These data could not be extracted from the electronic information systems of these provinces and, consequently, were not reported to the survey.

Uniform Crime Reporting Survey

The Uniform Crime Reporting Survey (UCR) was developed in 1962 with the cooperation and assistance of the Canadian Association of Chiefs of Police. The UCR Survey data reflect reported crime that has been substantiated through a police investigation. The data come from all federal, provincial and municipal police services in Canada and involve offences under the *Criminal Code* and other federal statutes.

One incident can involve multiple offences. To ensure the comparability of the data between police services, the counts presented in this article are based on the most serious violation in the incident, determined based on a standardized classification rule used by all police services, generally according to the maximum penalty for the offence. For example, one incident might involve a sexual offence as well as child pornography. In these cases, the incident will be identified according to the most serious violation. If two offences are equally serious according to the classification, the police will determine the more serious.

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Notes

1. For the offences examined in this report, all mandatory minimum penalties involve mandatory imprisonment.
2. Mandatory minimum penalties do not apply to youth. However, under the *Youth Criminal Justice Act (YCJA)*, for youth aged 14 and older at the time of the offence, charged with a serious offence (for which an adult is liable to imprisonment for a term of more than two years), the Crown must consider whether it would be appropriate to make an application for an adult sentence (*YCJA*, s. 64).
3. There are some legislated exceptions to this under the *Controlled Drugs and Substances Act* s. 10(5) and in the *Criminal Code*, which allow for sentences to drug treatment court programs or conditional discharge to a treatment program for impaired driving under section 255(5) (used in some jurisdictions). In addition, judges may give credit for time served in pre-sentencing detention.

4. This argument has been cited in more recent decisions striking down mandatory minimum sentences including (*R. v. Nur* 2015; *R. v. Lloyd* 2016).
5. Uniform Crime Reporting Survey (UCR) data are presented in order to provide overall context for court cases. However, the UCR does not provide detailed information required to distinguish specific firearms offences as those with and without amended mandatory minimum penalties.
6. The Integrated Criminal Court Survey classifies completed court cases according to the most serious offence in the cases. This is determined not just by the seriousness of the offences involved (as with the Uniform Crime Reporting Survey), but also by the most serious decision (e.g., guilty), or length of sentence. One court case may involve multiple charges.
7. Because of changes in methodology in 2012 affecting the identification of sexual violations against children as the most serious offence in the case, there is no analysis of these offences pre- and post-2012.
8. It should be noted that, as these are cases where the most serious offence is child pornography, the analysis does not include cases where an actual victim was identified and there was a charge for a more serious offence, such as sexual assault or sexual violations against children, except where there is a guilty finding for the child pornography charge, but no guilty finding for the sexual offence. See “Survey description” section for an explanation of “most serious offence”.
9. In April, 2015, the Supreme Court of Canada struck down the mandatory minimum penalty of 3 and 5 years for s. 95 (*R. v. Nur* 2015).
10. For sections 95, 96 and 102, there is no mandatory minimum penalty for summary offences; analysis is therefore restricted to those cases where the offence was identified as indictable.
11. The firearms-related offences for which mandatory minimum penalties were amended in 2008 apply to all prohibited weapons, but the mandatory minimum penalty only applies where a firearm is involved for sections 99, 100, and 103. The Integrated Criminal Court Survey does not include information on type of weapon. For this analysis, all offences are included, but it should be noted that some cases may not be subject to mandatory minimums where the prohibited weapon involved is not a firearm.
12. Data for the Integrated Criminal Court Survey are published by case year, the fiscal year in which all charges in the case had reached a final decision in court.
13. In some jurisdictions, the length of custody information represents the total length of custody imposed by the court.
14. In addition to sexual violations explicitly against children, mandatory minimum penalty also applies to sexual assaults where the victim is under age 16. However, as information on age of victim is not available from courts data and the offence has a higher mandatory minimum penalty than other sexual violations against children, sexual assaults against victims under age 16 are excluded from this analysis.
15. Because of changes in the Integrated Criminal Court Survey methodology in 2012 affecting the identification of sexual violations against children as the most serious offence in the case, there is no analysis of these offences pre- and post-2012.
16. The Uniform Crime Reporting Survey (UCR) classifies criminal incidents according to the most serious violation in the incident. Information is not available in the UCR to determine which violation(s) in the incident result in the charge.
17. The clearance rate is calculated as the number of cleared incidents in a given year divided by the number of incidents reported by police in that year. As some incidents are cleared in years subsequent to their being originally reported by police, this is therefore an estimate.
18. The Uniform Crime Reporting Survey (UCR) classifies criminal incidents according to the most serious violation in the incident. Information is not available in the UCR to determine which violation(s) in the incident result in the charge.
19. The Integrated Criminal Court Survey classifies completed court cases according to the most serious offence in the cases. This is determined not just by the seriousness of the offences involved (as with the Uniform Crime Reporting Survey), but also by the most serious decision (e.g., guilty), or length of sentence. One court case may involve multiple charges.
20. The analysis for Text box 2 excludes all cases where the date of offence was four or more years prior to the first appearance in the courts. These “historical” cases are more common among sexual violations against children and appear to be more complex.
21. Other sentences may include fines, referral to programs or other sentences.
22. Cases resulting in probation or conditional sentence may occur where credit for time served exceeds the total length of the custodial sentence, and the “remaining” sentence is served under probation or where the mandatory sentence has already been served in pre-sentencing detention, but there is a remaining conditional sentence related to another (non-mandatory minimum penalty) charge in the case.
23. It should be noted that, as these are cases where the most serious offence is child pornography, the analysis does not include cases where there was an actual victim identified and there was a charge for a more serious offence such as sexual assault or sexual violations against children, except where there is a guilty finding for the child pornography charge, but no guilty finding for the sexual offence. See “Survey description” section for an explanation of “most serious offence”.

24. The Uniform Crime Reporting Survey (UCR) classifies criminal incidents according to the most serious violation in the incident. Information is not available in the UCR to determine which violation(s) in the incident result in the charge.
25. The Uniform Crime Reporting Survey (UCR) groups all child pornography offences together and does not distinguish specific types. In cases where an actual victim is identified, police will report the most serious offence as sexual assault, sexual exploitation or other sexual violations against children, and child pornography may be reported as a secondary violation. Due to the complexity of cyber incidents of child pornography, the UCR data likely reflect the number of active or closed investigations for the year rather than the total number of incidents reported to police. Further, data are based on police-reported incidents that are recorded in police services' records management systems.
26. The clearance rate is calculated as the number of cleared incidents in a given year divided by the number of incidents reported by police in that year. As some incidents are cleared in years subsequent to their being originally reported by police, this is therefore an estimate.
27. The Uniform Crime Reporting Survey (UCR) classifies criminal incidents according to the most serious violation in the incident. Information is not available in the UCR to determine which violation(s) in the incident result in the charge.
28. Excludes two cases where the detailed types of child pornography offences were not recorded.
29. In 2002, the *Criminal Law Amendment Act* amended s. 163.1 of the *Criminal Code* to extend the definition of "distribution" to include Internet transmission and created the offence of "accessing" (s. 163.1 (4.1)).
30. It is worth noting that information on sentences and length of custody generally represent sentences excluding credit for time already spent in custody prior to sentencing or in pre-trial detention. They may also include sentencing associated with other charges in the case (See Text box 1). Therefore, some cases falling into the category below the minimum penalty may still meet the mandatory minimum requirement.
31. As with some other firearms-related offences, this offence also applies to other prohibited or restricted weapons such as mace, brass knuckles, or switch-blades. For section 96, the mandatory minimum only applies for indictable convictions.
32. In addition, s. 92 (possession of a firearm or prohibited weapon knowing it is unauthorized) also has a mandatory minimum penalty, but only for second or subsequent offences. It is therefore excluded from this analysis.
33. As with some other firearms-related offences, this offence also applies to other prohibited or restricted weapons such as mace, brass knuckles, or switch-blades. For sections 99, 100, and 103, the mandatory minimum only applies to firearms, prohibited devices or ammunition.
34. For manslaughter, the mandatory minimum penalty applies if any firearm is used. For the rest of these offences, the mandatory minimum penalty applies "if a restricted firearm or prohibited firearm is used in the commission of the offence or if any firearm is used in the commission of the offence and the offence is committed for the benefit of, at the direction of, or in association with, a criminal organization" (See specific *Criminal Code* sections). The minimum sentence in these specific violations is higher than for other offences for which where s. 85 applies instead (use of a firearm in the commission of an indictable offence).
35. For cases where the weapon was some other prohibited weapon, there was no change in 2008 to the mandatory one year sentence. These cases, however, are included in the analysis even though they cannot be separately identified.
36. The Uniform Crime Reporting Survey category for weapons possession includes sections 78 and 88 to 96 of the *Criminal Code*, most of which are not subject to mandatory minimum sentences.
37. The Uniform Crime Reporting Survey category for weapons trafficking includes sections 99 to 102. According to the Integrated Criminal Court Survey, about two-thirds (68%) of completed adult court cases for these 4 sections were subject to mandatory minimum sentences.
38. This proportion has changed little in spite of the large increase in police-reported incidents and in police charging rates since the early 2000s.
39. The fact that many of these are below the 3 year mandatory minimum penalty may be due to the fact that some of these cases (where the weapon used was not a firearm, prohibited device, or ammunition) are not subject to the increased mandatory minimum penalty. Moreover, some of these shorter sentences may reflect credit for time served.
40. This analysis is not based on the case selection windows used in the rest of the paper, instead cases pre-2008 include all cases completed between April 1, 2000 and March 31, 2015 where the date of offence is prior to the 2008 legislation. Cases post-2008 are cases where the date of offence is after the 2008 legislation, but the date of case completion is before or after the date of the *Smickle* decision. It should be noted, therefore, that this shift occurred prior to the Supreme Court decision in April 2015.
41. Due to availability of data, analysis is limited to cases completed by 31 March, 2015.
42. Because of changes in the Integrated Criminal Court Survey methodology in 2012 affecting the identification of sexual violations against children as the most serious offence in the case, there is no analysis of these offences pre- and post-2012.

Detailed data tables

Table 1
Characteristics of selected sexual violations against children cases, pre- and post-2005 mandatory minimum penalty (MMP) legislation

Characteristics of completed court cases	Selected sexual violations against children			
	Pre-2005 ¹		Post-2005 ²	
	number	percent	number	percent
Number of charges per case				
Total summary cases	939	100	489	100
Single charge	290	31	125	26
Multiple charges	649	69	364	74
Total indictable cases	961	100	649	100
Single charge	190	20	130	20
Multiple charges	771	80	519	80
Number of appearances in case				
Total summary cases	939	100	489	100
1 or 2 appearances	84	9	29	6
3 to 5 appearances	272	29	98	20
6 to 10 appearances	357	38	169	35
Over 10 appearances	226	24	193	39
Total indictable cases	961	100	649	100
1 or 2 appearances	48	5	20	3
3 to 5 appearances	216	22	95	15
6 to 10 appearances	375	39	230	35
Over 10 appearances	322	34	304	47
Case length³				
Total summary cases	939	100	489	100
1 day	26	3	9	2
2 days to less than 2 months	89	9	41	8
2 to less than 4 months	128	14	40	8
4 to less than 8 months	231	25	120	25
8 to less than 12 months	218	23	106	22
1 year or longer	247	26	173	35
Total indictable cases	961	100	649	100
1 day	10	1	7	1
2 days to 2 months	60	6	26	4
2 to less than 4 months	103	11	59	9
4 to less than 8 months	253	26	144	22
8 to less than 12 months	207	22	137	21
1 year or longer	328	34	276	43

1. Pre-2005 selected cases: Case completed between April 1, 2000 and the enactment of the 2005 MMPs (November 1, 2005). Offence date between April 1, 2000 and September 30, 2002.

2. Post-2005 selected cases: Case completed between November 1, 2005 and June 3, 2011. Date of offence between November 1, 2005 and legislation changing age of consent for sexual violations (May 1, 2008).

3. Case length is elapsed time between the first court appearance to the date of decision.

Note: Includes sexual interference (s. 151), invitation to sexual touching (s. 152), and sexual exploitation (s. 153). MMPs introduced in 2005 were 14 days for summary and 45 days for indictable offences. A case is one or more charges against an accused person or company that were processed by the courts at the same time and received a final decision. Cases that involve more than one charge are represented by the most serious offence. See "Methodology and data quality" for a description of case selection for the definition of time periods pre- and post- 2005 legislation. Excludes 9% of selected cases where type of proceeding (summary or indictable) was not reported. Cases selected from adult criminal courts cases where case completion is between April 1, 2000 and March 31, 2015 for ten jurisdictions (excluding Manitoba, Northwest Territories and Nunavut) based on survey coverage. Data exclude information from superior courts in Prince Edward Island, Ontario, and Saskatchewan as well as municipal courts in Quebec due to the unavailability of data.

Source: Statistics Canada, Canadian Centre for Justice Statistics, Integrated Criminal Court Survey.

Table 2
Court outcomes for sexual violations against children, pre- and post-2005 mandatory minimum penalty (MMP) legislation

Court outcomes of completed court cases	Summary cases				Indictable cases			
	Pre-2005 ¹		Post-2005 ²		Pre-2005 ¹		Post-2005 ²	
	number	percent	number	percent	number	percent	number	percent
Total cases, by decision	939	100	489	100	961	100	649	100
Acquitted	38	4	27	6	38	4	36	6
Stay of proceeding	53	6	36	7	45	5	36	6
Withdrawn, dismissed, discharged	155	17	39	8	86	9	62	10
Other decision	14	1	9	2	6	1	1	0
Guilty	679	72	378	77	786	82	514	79
Total guilty cases, by sentence and custody length	679	100	378	100	786	100	514	100
Conditional sentence	107	16	17	5	188	24	27	6
Probation	293	44	35	10	189	24	18	4
Other non-custodial sentences	13	2	3	1	5	1	5	1
Custody ³	254	38	307	85	392	51	410	89
Less than 14 days	16	2	14	4	19	2	5	1
14 to 44 days	12	2	77	21	7	1	10	2
45 to 89 days	33	5	45	12	19	2	74	16
90 days to less than 6 months	66	10	83	23	41	5	77	17
6 months to less than 1 year	74	11	52	14	135	17	94	20
1 year to less than 2 years	30	4	24	7	87	11	79	17
2 years or longer	17	3	11	3	78	10	70	15
Unknown custody length	6	1	1	0	6	1	1	0

1. Pre-2005 selected cases: Case completed between April 1, 2000 and the enactment of the 2005 MMPs (November 1, 2005). Offence date between April 1, 2000 and September 30, 2002.

2. Post-2005 selected cases: Case completed between November 1, 2005 and June 3, 2011. Date of offence between November 1, 2005 and legislation changing age of consent for sexual violations (May 1, 2008).

3. Custodial sentence lengths reflect the amount of time remaining to be served on a custodial sentence after credit has been awarded for time spent in pre-sentence custody. However, in some jurisdictions, the length of custody information represents the total length of custody imposed by the court. Therefore, some cases falling into the category below the minimum sentence may still meet the mandatory minimum requirement. Percentages exclude cases where sentence type was not reported.

Note: Includes sexual interference (s. 151), invitation to sexual touching (s. 152), and sexual exploitation (s. 153). MMPs introduced in 2005 were 14 days for summary and 45 days for indictable offences. A case is one or more charges against an accused person or company that were processed by the courts at the same time and received a final decision. Cases that involve more than one charge are represented by the most serious offence. See "Methodology and data quality" for a description of case selection for the definition of time periods pre- and post- 2005 legislation. Excludes 9% of selected cases where type of proceeding (summary or indictable) was not reported. Cases selected from adult criminal courts cases where case completion is between April 1, 2000 and March 31, 2015 for ten jurisdictions (excluding Manitoba, Northwest Territories and Nunavut) based on survey coverage. Data exclude information from superior courts in Prince Edward Island, Ontario, and Saskatchewan as well as municipal courts in Quebec due to the unavailability of data.

Source: Statistics Canada, Canadian Centre for Justice Statistics, Integrated Criminal Court Survey.

Table 3
Characteristics of child pornography cases, pre- and post-2005 mandatory minimum penalty (MMP) legislation

Characteristics of completed court cases	Making or distributing child pornography ¹				Possessing or accessing child pornography ²			
	Pre-2005 ³		Post-2005 ⁴		Pre-2005 ³		Post-2005 ⁴	
	number	percent	number	percent	number	percent	number	percent
Number of charges per case								
Total summary cases	26	100	55	100	184	100	358	100
Single charge	5	19	2	4	102	55	133	37
Multiple charges	21	81	53	96	82	45	225	63
Total indictable cases	51	100	110	100	254	100	437	100
Single charge	4	8	8	7	111	44	113	26
Multiple charges	47	92	102	93	143	56	324	74
Number of appearances in case								
Total summary cases	26	100	55	100	184	100	358	100
1 or 2 appearances	0	0	1	2	30	16	38	11
3 to 5 appearances	8	31	3	5	32	17	44	12
6 to 10 appearances	9	35	13	24	57	31	92	26
Over 10 appearances	9	35	38	69	65	35	184	51
Total indictable cases	51	100	110	100	254	100	437	100
1 or 2 appearances	6	12	5	5	28	11	16	4
3 to 5 appearances	6	12	9	8	43	17	45	10
6 to 10 appearances	12	24	22	20	92	36	123	28
Over 10 appearances	27	53	74	67	91	36	253	58
Case length⁵								
Total summary cases	26	100	55	100	184	100	358	100
1 day	0	0	1	2	10	5	13	4
2 days to less than 2 months	3	12	1	2	26	14	42	12
2 to less than 4 months	5	19	5	9	16	9	34	9
4 to less than 8 months	7	27	11	20	34	18	71	20
8 to less than 12 months	5	19	17	31	46	25	65	18
1 year or longer	6	23	20	36	52	28	133	37
Total indictable cases	51	100	110	100	254	100	437	100
1 day	1	2	1	1	9	4	7	2
2 days to less than 2 months	1	2	8	7	19	7	29	7
2 to less than 4 months	10	20	7	6	24	9	41	9
4 to less than 8 months	12	24	20	18	80	31	103	24
8 to less than 12 months	12	24	27	25	49	19	97	22
1 year or longer	15	29	47	43	73	29	160	37

1. Includes child pornography offences of making (s. 163.1 (2)) and of distributing (s. 163.1 (3)) child pornography. MMPs introduced in 2005 were 90 days for summary and 1 year for indictable offences.

2. Includes child pornography offences of possession (s. 163.1 (4)) and accessing (s. 163.1 (4.1)) child pornography. MMPs introduced in 2005 were 14 days for summary and 45 days for indictable offences.

3. Pre-2005 selected cases: Date of offence and case completed between April 1, 2000 and the enactment of the 2005 MMPs (November 1, 2005).

4. Post-2005 selected cases: Date of offence and case completed between November 1, 2005 and June 3, 2011.

5. Case length is elapsed time between the first court appearance to the date of decision.

Note: A case is one or more charges against an accused person or company that were processed by the courts at the same time and received a final decision. Cases that involve more than one charge are represented by the most serious offence. See "Methodology and data quality" for a description of case selection for the definition of time periods pre- and post- 2005 legislation. Excludes 28% of selected cases where type of proceeding (summary or indictable, all offences) was not reported. Cases selected from adult criminal courts cases where case completion is between April 1, 2000 and March 31, 2015 for ten jurisdictions (excluding Manitoba, Northwest Territories and Nunavut) based on survey coverage. Data exclude information from superior courts in Prince Edward Island, Ontario, and Saskatchewan as well as municipal courts in Quebec due to the unavailability of data.

Source: Statistics Canada, Canadian Centre for Justice Statistics, Integrated Criminal Court Survey.

Table 4
Characteristics of child pornography cases, pre- and post-2012 mandatory minimum penalty (MMP) legislation

Characteristics of completed court cases	Making or distributing child pornography ¹				Possessing or accessing child pornography ²			
	Pre-2012 ³		Post-2012 ⁴		Pre-2012 ³		Post-2012 ⁴	
	number	percent	number	percent	number	percent	number	percent
Number of charges per case								
Total summary cases	26	100	39	100	103	100	147	100
Single charge	0	0	3	8	21	20	42	29
Multiple charges	26	100	36	92	82	80	105	71
Total indictable cases	73	100	64	100	140	100	141	100
Single charge	4	5	3	5	29	21	22	16
Multiple charges	69	95	61	95	111	79	119	84
Number of appearances in case								
Total summary cases	26	100	39	100	103	100	147	100
1 or 2 appearances	4	15	3	8	7	7	6	4
3 to 5 appearances	2	8	6	15	17	17	24	16
6 to 10 appearances	7	27	12	31	38	37	50	34
Over 10 appearances	13	50	18	46	41	40	67	46
Total indictable cases	73	100	64	100	140	100	141	100
1 or 2 appearances	2	3	2	3	5	4	3	2
3 to 5 appearances	9	12	3	5	17	12	19	13
6 to 10 appearances	13	18	17	27	37	26	33	23
Over 10 appearances	49	67	42	66	81	58	86	61
Case length⁵								
Total summary cases	26	100	39	100	103	100	147	100
1 day	0	0	1	3	3	3	1	1
2 days to less than 2 months	3	12	6	15	14	14	16	11
2 to less than 4 months	3	12	3	8	12	12	19	13
4 to less than 8 months	11	42	14	36	29	28	40	27
8 to less than 12 months	5	19	9	23	27	26	39	27
1 year or longer	4	15	6	15	18	17	32	22
Total indictable cases	73	100	64	100	140	100	141	100
1 day	1	1	0	0	1	1	0	0
2 days to less than 2 months	7	10	4	6	12	9	10	7
2 to less than 4 months	5	7	2	3	14	10	16	11
4 to less than 8 months	19	26	14	22	41	29	36	26
8 to less than 12 months	22	30	19	30	36	26	37	26
1 year or longer	19	26	25	39	36	26	42	30

1. Includes child pornography offences of making (s. 163.1 (2)) and of distributing (s. 163.1 (3)) child pornography. MMPs were amended in 2012 from 90 days to 6 months for summary offences. There was no change to the 1 year minimum for indictable offences.

2. Includes child pornography offences of possession (s. 163.1 (4)) and accessing (s. 163.1 (4.1)) child pornography. MMPs were amended in 2012 from 14 to 90 days for summary and 45 days to 6 months for indictable offences.

3. Pre-2012 selected cases: Date of offence and case completed between December 19, 2009 and August 9, 2012.

4. Post-2012 selected cases: Date of offence and case completed between August 9, 2012 (enactment of amended MMPS) and March 31, 2015 (latest case end for court data).

5. Case length is elapsed time between the first court appearance to the date of decision.

Note: A case is one or more charges against an accused person or company that were processed by the courts at the same time and received a final decision. Cases that involve more than one charge are represented by the most serious offence. See "Methodology and data quality" for a description of case selection for the definition of time periods pre- and post- 2012 legislation. Excludes 24% of selected cases where type of proceeding (summary or indictable, all offences) was not reported. Cases selected from adult criminal courts cases where case completion is between April 1, 2000 and March 31, 2015 for ten jurisdictions (excluding Manitoba, Northwest Territories and Nunavut) based on survey coverage. Data exclude information from superior courts in Prince Edward Island, Ontario, and Saskatchewan as well as municipal courts in Quebec due to the unavailability of data.

Source: Statistics Canada, Canadian Centre for Justice Statistics, Integrated Criminal Court Survey.

Table 5
Court outcomes for making or distributing child pornography cases, pre- and post-2005 mandatory minimum penalty (MMP) legislation

Court outcomes of completed court cases	Summary cases				Indictable cases			
	Pre-2005 ¹		Post-2005 ²		Pre-2005 ¹		Post-2005 ²	
	number	percent	number	percent	number	percent	number	percent
Total cases, by decision	26	100	55	100	51	100	110	100
Acquitted	0	0	0	0	0	0	0	0
Stay of proceeding	1	4	2	4	2	4	5	5
Withdrawn, dismissed, discharged	9	35	3	5	5	10	9	8
Other decision	0	0	0	0	0	0	0	0
Guilty	16	62	50	91	44	86	96	87
Total guilty cases, by sentence and custody length	16	100	50	100	44	100	96	100
Conditional sentence	5	31	0	0	17	40	1	1
Probation	3	19	1	2	2	5	0	0
Other non-custodial sentences	0	0	0	0	0	0	1	1
Custody ³	8	50	46	98	23	55	91	98
Less than 14 days	2	13	3	6	0	0	2	2
14 to 44 days	1	6	5	11	5	12	1	1
45 to 89 days	2	13	3	6	2	5	2	2
90 days to less than 6 months	1	6	27	57	2	5	5	5
6 months to less than 1 year	2	13	7	15	7	17	9	10
1 year to less than 2 years	0	0	1	2	4	10	55	59
2 years or longer	0	0	0	0	3	7	17	18
Unknown custody length	0	0	0	0	0	0	0	0

1. Pre-2005 selected cases: Date of offence and case completed between April 1, 2000 and the enactment of the 2005 MMPs (November 1, 2005).

2. Post-2005 selected cases: Date of offence and case completed between November 1, 2005 and June 3, 2011.

3. Custodial sentence lengths reflect the amount of time remaining to be served on a custodial sentence after credit has been awarded for time spent in pre-sentence custody. However, in some jurisdictions, the length of custody information represents the total length of custody imposed by the court. Therefore, some cases falling into the category below the minimum sentence may still meet the mandatory minimum requirement.

Percentages exclude cases where sentence type was not reported.

Note: Includes child pornography offences of making (s. 163.1 (2)) and of distributing (s. 163.1 (3)) child pornography. MMPs introduced in 2005 were 90 days for summary and 1 year for indictable offences. A case is one or more charges against an accused person or company that were processed by the courts at the same time and received a final decision. Cases that involve more than one charge are represented by the most serious offence. Case length is elapsed time between the first court appearance to the date of decision. See "Methodology and data quality" for a description of case selection for the definition of time periods pre- and post- 2005 legislation. Excludes 33% of selected cases where type of proceeding (summary or indictable) was not reported. Cases selected from adult criminal courts cases where case completion is between April 1, 2000 and March 31, 2015 for ten jurisdictions (excluding Manitoba, Northwest Territories and Nunavut) based on survey coverage. Data exclude information from superior courts in Prince Edward Island, Ontario, and Saskatchewan as well as municipal courts in Quebec due to the unavailability of data.

Source: Statistics Canada, Canadian Centre for Justice Statistics, Integrated Criminal Court Survey.

Table 6
Court outcomes for possessing or accessing child pornography cases, pre- and post-2005 mandatory minimum penalty (MMP) legislation

Court outcomes of completed court cases	Summary cases				Indictable cases			
	Pre-2005 ¹		Post-2005 ²		Pre-2005 ¹		Post-2005 ²	
	number	percent	number	percent	number	percent	number	percent
Total cases, by decision	184	100	358	100	254	100	437	100
Acquitted	3	2	4	1	0	0	3	1
Stay of proceeding	13	7	27	8	8	3	27	6
Withdrawn, dismissed, discharged	33	18	18	5	20	8	28	6
Other decision	1	1	3	1	0	0	1	0
Guilty	134	73	306	85	226	89	378	86
Total guilty cases, by sentence and custody length	134	100	306	100	226	100	378	100
Conditional sentence	44	33	5	2	111	52	13	4
Probation	49	37	17	6	38	18	11	3
Other non-custodial sentences	12	9	3	1	1	0	2	1
Custody ³	27	20	262	91	62	29	315	92
Less than 14 days	5	4	37	13	6	3	13	4
14 to 44 days	3	2	111	39	5	2	24	7
45 to 89 days	7	5	28	10	6	3	57	17
90 days to less than 6 months	5	4	54	19	11	5	83	24
6 months to less than 1 year	6	5	23	8	24	11	90	26
1 year to less than 2 years	0	0	6	2	4	2	29	9
2 years or longer	0	0	1	0	2	1	19	6
Unknown custody length	1	1	2	1	4	2	0	0

1. Pre-2005 selected cases: Date of offence and case completed between April 1, 2000 and the enactment of the 2005 MMPs (November 1, 2005).

2. Post-2005 selected cases: Date of offence and case completed between November 1, 2005 and June 3, 2011.

3. Custodial sentence lengths reflect the amount of time remaining to be served on a custodial sentence after credit has been awarded for time spent in pre-sentence custody. However, in some jurisdictions, the length of custody information represents the total length of custody imposed by the court. Therefore, some cases falling into the category below the minimum sentence may still meet the mandatory minimum requirement. Percentages exclude cases where sentence type was not reported.

Note: Includes child pornography offences of possessing (s. 163.1 (4)) and of accessing (s. 163.1 (4.1)) child pornography. MMPs introduced in 2005 were 14 days for summary and 45 days for indictable offences. A case is one or more charges against an accused person or company that were processed by the courts at the same time and received a final decision. Cases that involve more than one charge are represented by the most serious offence. Case length is elapsed time between the first court appearance to the date of decision. See "Methodology and data quality" for a description of case selection for the definition of time periods pre- and post- 2005 legislation. Excludes 27% of selected cases where type of proceeding (summary or indictable) was not reported. Cases selected from adult criminal courts cases where case completion is between April 1, 2000 and March 31, 2015 for ten jurisdictions (excluding Manitoba, Northwest Territories and Nunavut) based on survey coverage. Data exclude information from superior courts in Prince Edward Island, Ontario, and Saskatchewan as well as municipal courts in Quebec due to the unavailability of data.

Source: Statistics Canada, Canadian Centre for Justice Statistics, Integrated Criminal Court Survey.

Table 7
Court outcomes for making or distributing child pornography cases, pre- and post-2012 mandatory minimum penalty (MMP) legislation

Court outcomes of completed court cases	Summary cases				Indictable cases			
	Pre-2012 ¹		Post-2012 ²		Pre-2012 ¹		Post-2012 ²	
	number	percent	number	percent	number	percent	number	percent
Total cases, by decision	26	100	39	100	73	100	64	100
Acquitted	0	0	0	0	0	0	0	0
Stay of proceeding	2	8	6	15	3	4	0	0
Withdrawn, dismissed, discharged	4	15	4	10	9	12	5	8
Other decision	0	0	0	0	0	0	0	0
Guilty	20	77	29	74	61	84	59	92
Total guilty cases, by sentence and custody length	20	100	29	100	61	100	59	100
Non-custodial sentence	1	6	2	8	0	0	2	4
Custody ³	17	94	22	92	54	100	55	96
Less than 14 days	0	0	1	4	0	0	0	0
14 to 44 days	1	6	0	0	0	0	0	0
45 to 89 days	1	6	2	8	2	4	0	0
90 days to less than 6 months	11	61	4	17	4	7	1	2
6 months to less than 1 year	3	17	12	50	5	9	6	11
1 year to less than 2 years	1	6	3	13	29	54	38	67
2 years or longer	0	0	0	0	14	26	10	18

1. Pre-2012 selected cases: Date of offence and case completed between December 19, 2009 and August 9, 2012.

2. Post-2012 selected cases: Date of offence and case completed between August 9, 2012 (enactment of amended MMPS) and March 31, 2015 (latest case end for court data).

3. Custodial sentence lengths reflect the amount of time remaining to be served on a custodial sentence after credit has been awarded for time spent in pre-sentence custody. However, in some jurisdictions, the length of custody information represents the total length of custody imposed by the court. Therefore, some cases falling into the category below the minimum sentence may still meet the mandatory minimum requirement. Percentages exclude cases where sentence type was not reported.

Note: Includes child pornography offences of making (s. 163.1 (2)) and of distributing (s. 163.1 (3)) child pornography. MMPs were amended in 2012 from 90 days to 6 months for summary offences. There was no change to the 1 year minimum for indictable offences. A case is one or more charges against an accused person or company that were processed by the courts at the same time and received a final decision. Cases that involve more than one charge are represented by the most serious offence. Case length is elapsed time between the first court appearance to the date of decision. See "Methodology and data quality" for a description of case selection for the definition of time periods pre- and post- 2012 legislation. Excludes 24% of selected cases where type of proceeding (summary or indictable) was not reported. Cases selected from adult criminal courts cases where case completion is between April 1, 2000 and March 31, 2015 for ten jurisdictions (excluding Manitoba, Northwest Territories and Nunavut) based on survey coverage. Data exclude information from superior courts in Prince Edward Island, Ontario, and Saskatchewan as well as municipal courts in Quebec due to the unavailability of data.

Source: Statistics Canada, Canadian Centre for Justice Statistics, Integrated Criminal Court Survey.

Table 8
Court outcomes for possessing or accessing child pornography cases, pre- and post-2012 mandatory minimum penalty (MMP) legislation

Court outcomes of completed court cases	Summary cases				Indictable cases			
	Pre-2012 ¹		Post-2012 ²		Pre-2012 ¹		Post-2012 ²	
	number	percent	number	percent	number	percent	number	percent
Total cases, by decision	103	100	147	100	140	100	141	100
Acquitted	0	0	3	2	0	0	0	0
Stay of proceeding	5	5	15	10	5	4	15	11
Withdrawn, dismissed, discharged	4	4	9	6	11	8	13	9
Other decision	1	1	0	0	1	1	0	0
Guilty	93	90	120	82	123	88	113	80
Total guilty cases, by sentence and custody length	93	100	120	100	123	100	113	100
Non-custodial sentence	2	2	7	6	4	3	2	2
Custody ³	86	98	106	94	111	97	98	98
Less than 14 days	10	11	4	4	4	3	1	1
14 to 44 days	46	52	8	7	8	7	0	0
45 to 89 days	8	9	10	9	17	15	4	4
90 days to less than 6 months	17	19	64	57	23	20	20	20
6 months to less than 1 year	2	2	15	13	30	26	33	33
1 year to less than 2 years	3	3	4	4	17	15	23	23
2 years or longer	0	0	1	1	12	10	17	17

1. Pre-2012 selected cases: Date of offence and case completed between December 19, 2009 and August 9, 2012.

2. Post-2012 selected cases: Date of offence and case completed between August 9, 2012 (enactment of amended MMPS) and March 31, 2015 (latest case end for court data).

3. Custodial sentence lengths reflect the amount of time remaining to be served on a custodial sentence after credit has been awarded for time spent in pre-sentence custody. However, in some jurisdictions, the length of custody information represents the total length of custody imposed by the court. Therefore, some cases falling into the category below the minimum sentence may still meet the mandatory minimum requirement. Percentages exclude cases where sentence type was not reported.

Note: Includes child pornography offences of possessing (s. 163.1 (4)) and of accessing (s. 163.1 (4.1)) child pornography. MMPs were amended in 2012 from 14 to 90 days for summary and 45 days to 6 months for indictable offences. A case is one or more charges against an accused person or company that were processed by the courts at the same time and received a final decision. Cases that involve more than one charge are represented by the most serious offence. Case length is elapsed time between the first court appearance to the date of decision. See "Methodology and data quality" for a description of case selection for the definition of time periods pre- and post- 2012 legislation. Excludes 24% of selected cases where type of proceeding (summary or indictable) was not reported. Cases selected from adult criminal courts cases where case completion is between April 1, 2000 and March 31, 2015 for ten jurisdictions (excluding Manitoba, Northwest Territories and Nunavut) based on survey coverage. Data exclude information from superior courts in Prince Edward Island, Ontario, and Saskatchewan as well as municipal courts in Quebec due to the unavailability of data.

Source: Statistics Canada, Canadian Centre for Justice Statistics, Integrated Criminal Court Survey.

Table 9
Characteristics of selected firearms-related cases, pre- and post-2008 mandatory minimum penalty (MMP) legislation

Characteristics of completed court cases	Firearms-related offences with amended MMP ¹				Firearms-related offences with MMP unchanged ²			
	Pre-2008 ³		Post-2008 ⁴		Pre-2008 ³		Post-2008 ⁴	
	number	percent	number	percent	number	percent	number	percent
Number of charges per case								
Total completed cases	905	100	812	100	1,349	100	1,606	100
Single charge	69	8	32	4	56	4	65	4
Multiple charges	836	92	780	96	1,293	96	1,541	96
Number of appearances in case								
Total completed cases	905	100	812	100	1,349	100	1,606	100
1 or 2 appearances	100	11	35	4	117	9	52	3
3 to 5 appearances	129	14	63	8	252	19	221	14
6 to 10 appearances	249	28	183	23	398	30	510	32
Over 10 appearances	427	47	531	65	582	43	823	51
Case length⁵								
Total completed cases	905	100	812	100	1,349	100	1,606	100
1 day	32	4	8	1	22	2	18	1
2 days to less than 2 months	134	15	72	9	188	14	168	10
2 to less than 4 months	138	15	94	12	197	15	216	13
4 to less than 8 months	277	31	187	23	375	28	397	25
8 to less than 12 months	146	16	176	22	273	20	324	20
1 year or longer	178	20	275	34	294	22	483	30

1. Includes possession of prohibited firearm with ammunition (s. 95), weapons trafficking (s. 99), possession of weapons for trafficking (s. 100), and knowingly importing/exporting unauthorized weapon (s. 103). Some offences with mandatory minimum penalties (MMPs) subject to the 2008 legislation (s. 99, 100 and 103) may involve prohibited weapons for which there is no mandatory minimum penalty. MMPs were amended in 2008 to 3 years for a first offence and 5 years for a second offence where the weapon involved was a firearm, prohibited device or ammunition.

2. Includes use of a firearm in the commission of an indictable offence (s. 85), possession of a weapon obtained by crime (s. 96), and making an automatic firearm (s. 102). MMP introduced in 1995 was 1 year.

3. Pre-2008 selected cases: Date of offence and case completed between June 2, 2001 and the enactment of the 2008 MMPs (May 1, 2008).

4. Post-2008 selected cases: Date of offence and case completed between May 1, 2008 and March 31, 2015.

5. Case length is elapsed time between the first court appearance to the date of decision.

Note: A case is one or more charges against an accused person or company that were processed by the courts at the same time and received a final decision. Cases that involve more than one charge are represented by the most serious offence. See "Methodology and data quality" for a description of case selection for the definition of time periods pre- and post- 2008 legislation. Excludes 56% of s. 99 and s. 102 offences and 33% of s. 95 offences where type of proceeding (summary or indictable) was not reported. Cases selected from adult criminal courts cases where case completion is between April 1, 2000 and March 31, 2015 for ten jurisdictions (excluding Manitoba, Northwest Territories and Nunavut) based on survey coverage. Data exclude information from superior courts in Prince Edward Island, Ontario, and Saskatchewan as well as municipal courts in Quebec due to the unavailability of data.

Source: Statistics Canada, Canadian Centre for Justice Statistics, Integrated Criminal Court Survey.

Table 10
Court outcomes for selected firearms-related offences, pre- and post-2008 mandatory minimum penalty (MMP) legislation, offences with new and old MMPs

Court outcomes of completed court cases	Firearms-related offences with amended MMP ¹				Firearms-related offences with MMP unchanged ²			
	Pre-2008 ³		Post-2008 ⁴		Pre-2008 ³		Post-2008 ⁴	
	number	percent	number	percent	number	percent	number	percent
Total cases, by decision	905	100	812	100	1,349	100	1,606	100
Acquitted	8	1	9	1	48	4	77	5
Stay of proceeding	58	6	71	9	106	8	147	9
Withdrawn, dismissed, discharged	262	29	258	32	637	47	703	44
Other decision	39	4	7	1	29	2	35	2
Guilty	538	59	467	58	529	39	644	40
Total guilty cases, by sentence and custody length	538	100	467	100	529	100	644	100
Probation	35	7	18	4	100	20	105	17
Other non-custodial sentences	41	8	26	6	24	5	18	3
Custody ⁵	443	85	401	90	388	76	502	80
Less than 14 days	44	8	9	2	48	9	27	4
14 to 44 days	25	5	4	1	25	5	32	5
45 to 89 days	23	4	4	1	17	3	25	4
90 days to less than 6 months	55	11	14	3	30	6	36	6
6 months to less than 1 year	95	18	24	5	99	19	144	23
1 year to less than 2 years	144	28	75	17	127	25	203	32
2 years to less than 3 years	40	8	104	23	26	5	18	3
3 years to less than 4 years	9	2	128	29	9	2	10	2
4 years or longer	6	1	38	9	6	1	4	1
Unknown custody length	2	0	1	0	1	0	3	0

1. Includes possession of prohibited firearm with ammunition (s. 95), weapons trafficking (s. 99), possession of weapons for trafficking (s. 100), and knowingly importing/exporting unauthorized weapon (s. 103). Some offences with mandatory minimum penalties (MMPs) subject to the 2008 legislation (s. 99, 100 and 103) may involve prohibited weapons for which there is no mandatory minimum penalty. MMPs were amended in 2008 to 3 years for a first offence and 5 years for a second offence where the weapon involved was a firearm, prohibited device or ammunition.

2. Includes use of a firearm in the commission of an indictable offence (s. 85), possession of a weapon obtained by crime (s. 96), and making an automatic firearm (s. 102). MMP introduced in 1995 was 1 year.

3. Pre-2008 selected cases: Date of offence and case completed between June 2, 2001 and the enactment of the 2008 MMPs (May 1, 2008).

4. Post-2008 selected cases: Date of offence and case completed between May 1, 2008 and March 31, 2015.

5. Custodial sentence lengths reflect the amount of time remaining to be served on a custodial sentence after credit has been awarded for time spent in pre-sentence custody. However, in some jurisdictions, the length of custody information represents the total length of custody imposed by the court. Therefore, some cases falling into the category below the minimum sentence may still meet the mandatory minimum requirement.

Percentages exclude cases where sentence type was not reported.

Note: A case is one or more charges against an accused person or company that were processed by the courts at the same time and received a final decision. Cases that involve more than one charge are represented by the most serious offence. Case length is elapsed time between the first court appearance to the date of decision. See "Methodology and data quality" for a description of case selection for the definition of time periods pre- and post- 2008 legislation. Excludes 56% of s. 99 and s. 102 offences and 33% of s. 95 offences where type of proceeding (summary or indictable) was not reported. Cases selected from adult criminal courts cases where case completion is between April 1, 2000 and March 31, 2015 for ten jurisdictions (excluding Manitoba, Northwest Territories and Nunavut) based on survey coverage. Data exclude information from superior courts in Prince Edward Island, Ontario, and Saskatchewan as well as municipal courts in Quebec due to the unavailability of data.

Source: Statistics Canada, Canadian Centre for Justice Statistics, Integrated Criminal Court Survey.

Table 11
Analysis case selection for selected sexual violations against children

Case selection	Selected sexual violations against children	
	Pre-2005	Post-2005
	number of cases	
Total cases based on year of offence¹	7,118	5,676
Selected cases for analysis ²	2,048	1,279
Summary	939	489
Indictable	961	649
Unknown (excluded)	148	141

1. Cases completed between April 1, 2000 and March 31, 2015.

2. Pre-2005 selected cases: Case completed between April 1, 2000 and the enactment of the 2005 mandatory minimum penalties (November 1, 2005). Offence date between April 1, 2000 and September 30, 2002. Post-2005 selected cases: Case completed between November 1, 2005 and June 3, 2011. Date of offence between November 1, 2005 and legislation changing age of consent for sexual violations (May 1, 2008). See "Methodology and data quality" for a description of case selection for the different time periods pre- and post- legislation.

Note: Includes sexual interference (s. 151), invitation to sexual touching (s. 152), and sexual exploitation (s. 153). A case is one or more charges against an accused person or company that were processed by the courts at the same time and received a final decision. Cases that involve more than one charge are represented by the most serious offence. Cases selected from adult criminal courts cases where case completion is between April 1, 2000 and March 31, 2015 for ten jurisdictions (excluding Manitoba, Northwest Territories and Nunavut) based on survey coverage. Data exclude information from superior courts in Prince Edward Island, Ontario, and Saskatchewan as well as municipal courts in Quebec due to the unavailability of data.

Source: Statistics Canada, Canadian Centre for Justice Statistics, Integrated Criminal Court Survey.

Table 12
Analysis case selection for child pornography

Case selection	Making or distributing child pornography ¹		Possessing or accessing child pornography ²	
	Pre-2005	Post-2005	Pre-2005	Post-2005
	number of cases			
Total cases based on year of offence³	239	496	1,103	1,881
Selected cases for analysis ⁴	116	244	603	1,078
Summary	26	55	184	358
Indictable	51	110	254	437
Unknown	39	79	165	283
Case selection	Pre-2012	Post-2012	Pre-2012	Post-2012
	number of cases			
Total cases based on year of offence³	496	130	1,881	378
Selected cases for analysis ⁵	136	129	323	377
Summary	26	39	103	147
Indictable	73	64	140	141
Unknown	37	26	80	89

1. Includes child pornography offences of making (163.1 (2)) and of distributing (s. 163.1 (3)) child pornography.

2. Includes child pornography offences of possession (s. 163.1 (4)) and accessing (s. 163.1 (4.1)) child pornography.

3. Cases completed between April 1, 2000 and March 31, 2015.

4. Pre-2005 selected cases: Date of offence and case completed between April 1, 2000 and the enactment of the 2005 mandatory minimum penalties (November 1, 2005). Post-2005 selected cases: Date of offence and case completed between November 1, 2005 and June 3, 2011. See "Methodology and data quality" for a description of case selection for the different time periods pre- and post- legislation.

5. Pre-2012 selected cases: Date of offence and case completed between December 19, 2009 and August 9, 2012. Post-2012 selected cases: Date of offence and case completed between August 9, 2012 (enactment of amended mandatory minimum penalties) and March 31, 2015 (latest case end for court data). See "Methodology and data quality" for a description of case selection for the different time periods pre- and post- legislation.

Note: A case is one or more charges against an accused person or company that were processed by the courts at the same time and received a final decision. Cases that involve more than one charge are represented by the most serious offence. Cases selected from adult criminal courts cases where case completion is between April 1, 2000 and March 31, 2015 for ten jurisdictions (excluding Manitoba, Northwest Territories and Nunavut) based on survey coverage. Data exclude information from superior courts in Prince Edward Island, Ontario, and Saskatchewan as well as municipal courts in Quebec due to the unavailability of data.

Source: Statistics Canada, Canadian Centre for Justice Statistics, Integrated Criminal Court Survey.

Table 13
Analysis case selection for selected firearms-related offences

Case selection	Firearms-related offences with new MMPs ¹		Firearms-related offences with 1995 MMPs ²	
	Pre-2008	Post-2008	Pre-2008	Post-2008
	number of cases			
Total cases based on year of offence³	1,487	812	1,849	1,606
Selected cases for analysis ⁴	905	812	1,349	1,606

1. Includes possession of prohibited firearm with ammunition (s. 95), weapons trafficking (s. 99), possession of weapons for trafficking (s. 100), and knowingly importing/exporting unauthorized weapon (s. 103). Some offences with mandatory minimum penalties (MMPs) subject to the 2008 legislation (s. 99, 100 and 103) may involve prohibited weapons for which there is no mandatory minimum penalty.

2. Includes use of a firearm in the commission of an indictable offence (s. 85), possession of a weapon obtained by crime (s. 96), and making an automatic firearm (s. 102).

3. Cases are for case years 2000/2001 to 2014/2015. Pre- and post- 2008 classification determined by date of offence relative to date of legislation (May 1, 2008).

4. Pre-2008 selected cases: Date of offence and case completed between June 2, 2001 and the enactment of the 2008 MMPs (May 1, 2008).

Post-2008 selected cases: Date of offence and case completed between May 1, 2008 and March 31, 2015.

Note: A case is one or more charges against an accused person or company that were processed by the courts at the same time and received a final decision. Cases that involve more than one charge are represented by the most serious offence. Excludes 56% of s. 99 and s. 102 offences and 33% of s. 95 offences where type of proceeding (summary or indictable) was not reported. Cases selected from adult criminal courts cases where case completion is between April 1, 2000 and March 31, 2015 for ten jurisdictions (excluding Manitoba, Northwest Territories and Nunavut) based on survey coverage. Data exclude information from superior courts in Prince Edward Island, Ontario, and Saskatchewan as well as municipal courts in Quebec due to the unavailability of data.

Source: Statistics Canada, Canadian Centre for Justice Statistics, Integrated Criminal Court Survey.