



# Just Facts

December 2017

Research and Statistics Division

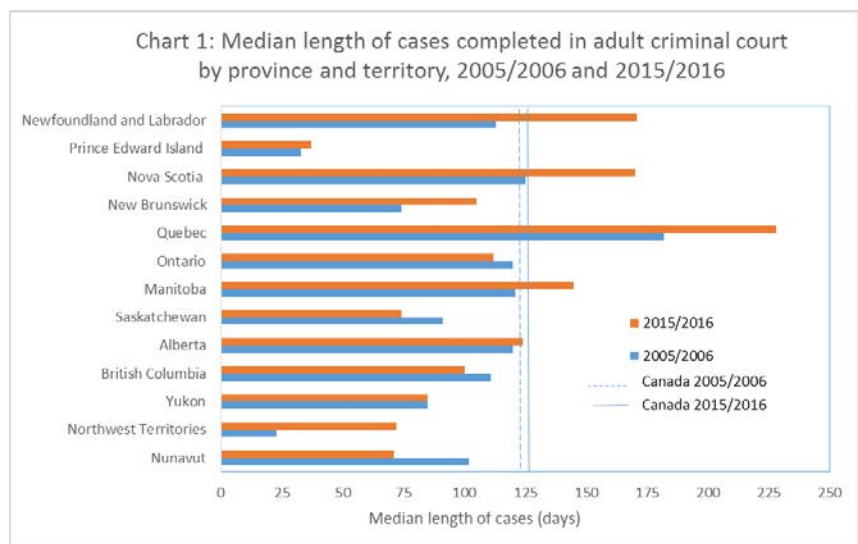
## Jordan: Statistics Related to Delay in the Criminal Justice System

This fact sheet is based on publicly available data from Statistics Canada<sup>1</sup> and provincial databases, a number of Justice Canada, Canadian government (federal and provincial/territorial) and academic studies released from 2009 to 2017, as well as data from an internal research report prepared by Justice Canada in 2013.

### The overall length of time to complete adult criminal cases in Canada has been steady for the past three years but it has increased from a decade ago<sup>2</sup>

In 2015/2016, the median length of time from an individual's first court appearance to the completion of their case was 127 days (around 4 months), which was the same as the two previous years. The 2015/2016 time to case completion is seven days longer

Chart 1: Median length of cases completed in adult criminal court by province and territory, 2005/2006 and 2015/2016



<sup>1</sup> Data from superior courts in Prince Edward Island, Ontario, Manitoba and Saskatchewan as well as municipal courts in Quebec were not available for extraction from their electronic reporting systems and were therefore not reported. This limitation applies to all Statistics Canada court related data presented throughout this document, unless otherwise noted. The absence of data from superior courts in these four jurisdictions may have resulted in an underestimation of case elapsed times as more serious cases generally require more court appearances and take more time to complete. The median length of case completion in Quebec may be over-estimated given that data from municipal courts, which tend to handle the least serious matters, are unavailable. See: Maxwell, A. (2017). Adult criminal court statistics in Canada, 2014/2015, *Juristat*. Statistics Canada Catalogue no. 85-002-X.

<sup>2</sup> Statistics Canada. *Adult criminal courts, cases by median elapsed time in days*, CANSIM Table 252-0055. (Accessed: December, 27<sup>th</sup>, 2017).





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than 2011/2012 and 2012/2013 and three days longer than a decade ago (2005/2006). Looking at the last decade, the last three reporting years have the highest national case processing time.

### **The length of time to complete adult criminal court cases varies significantly across jurisdictions<sup>3</sup>**

In 2015/2016, the median number of days to complete adult criminal cases was highest in Quebec (228 days)<sup>4</sup>, Newfoundland/Labrador (171 days), Nova Scotia (170 days), and Manitoba (145 days) (see Chart 1). Compared to a decade ago (2005/2006), all jurisdictions have seen increases in the time to complete cases, except for Ontario, Saskatchewan, British Columbia and Nunavut where decreases were observed.

### **The median number of appearances to complete an adult criminal case remained unchanged over the past decade<sup>5</sup>**

In 2015/2016 the median number of appearances it took to complete a case was five, a number which has been consistent over the last 10 years.

### **Cases involving more serious offences or cases involving multiple charges take longer to complete<sup>6</sup>**

In 2015/2016, homicide cases took a median of 469 days and required a median of 16 appearances to complete, while cases involving administration of justice offences were completed in almost three months (81 days) and required a median of five appearances. Similarly, in 2015/2016, cases involving multiple charges (i.e., 62% of all cases) took five months to complete (154 days) while cases with a single charge (i.e., 38%) took about three months to complete (92 days).<sup>7</sup>

### **Superior court cases required more days and appearances to complete than provincial court cases<sup>8</sup>**

In 2015/2016, provincial court cases (i.e., 99% of the completed case load that year) had a median case length of 127 days, and a median of five appearances. Superior court cases (i.e., which include some of the most serious offences) had a median case length of 593 days, and a median of 11 appearances.

<sup>3</sup> Ibid.

<sup>4</sup> See footnote 1 for specification regarding Quebec data.

<sup>5</sup> Statistics Canada. *Adult criminal courts, cases by median elapsed time in days*, CANSIM Table 252-0055. (Accessed: December, 27<sup>th</sup>, 2017); Statistics Canada, Canadian Centre for Justice Statistics, Integrated Criminal Court Survey (ICCS). Excludes information from superior courts in Prince Edward Island, Ontario, Manitoba and Saskatchewan as well as municipal courts in Quebec due to the unavailability of data.

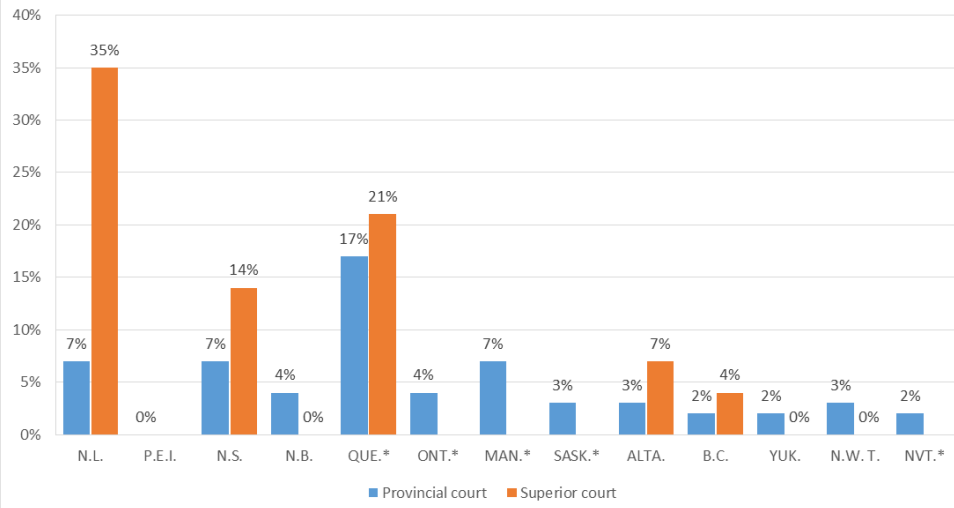
<sup>6</sup> Ibid.

<sup>7</sup> Ibid.

<sup>8</sup> Statistics Canada, Canadian Centre for Justice Statistics, Integrated Criminal Court Survey (ICCS).



Chart 2: Percentage of charges completed above the presumptive ceiling, by province and territory, 2015/2016



### The majority of provincial and superior court charges are completed within the presumptive ceilings; this proportion varies across jurisdictions<sup>9</sup>

Across Canada, 94% of provincial court charges were completed within 18 months (or 30 months with a preliminary inquiry), a trend that has remained steady for the past decade. In superior court, 85% of court charges were completed within the 30

month ceiling. Jurisdictions with the highest proportion of charges completed above the presumptive ceiling include Quebec (17% and 21%), Newfoundland/Labrador (7% and 35%) and Nova Scotia (7% and 14%) (see Chart 2).

### Legal representation is shown to impact case processing time<sup>10</sup>

Data from Justice Canada's Justice Effectiveness study indicate that legal representation was shown to be a factor associated with case processing time. Cases with intermittent legal representation required, on average, 298 days to reach conclusion. In comparison, cases with total representation took an average of 160 days and those with no representation took an average of 189 days to reach completion.<sup>11</sup>

### Preliminary inquiries may impact the amount of time required for case completion

<sup>9</sup> Ibid.

As indicated by the asterisks in the chart, data excludes information from superior courts in Prince Edward Island, Ontario, Manitoba and Saskatchewan and municipal court charges from Quebec due to the unavailability of data. The absence of these courts may result in an underestimation in case time in the first four jurisdictions missing superior court data and an overestimation of case time in Quebec as it is missing municipal court data. See also: Statistics Canada. (2017). *How much time does it take to complete charges in adult criminal courts in Canada?* (Infographic prepared by Statistics Canada for internal use).

<sup>10</sup> This study included a sample of 3,093 closed criminal cases from five Canadian Provincial and Superior Courts in four jurisdictions. For confidentiality reasons, the jurisdictions included in this study are not publically divulged. A case started with a law enforcement agency's arrest of an individual and was considered 'completed' or 'closed' if it recorded a disposition date and, where necessary, a sentencing date. The majority (90%) of cases were closed in 2008. Source: Solecki, A. (2013). *The Lifespan of Justice: An examination of criminal court cases and their length*. Justice Canada.

<sup>11</sup> Note the Justice Effectiveness study presents average case processing time, in comparison to Canadian Centre for Justice Statistics, which refers to median case processing time.



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In 2015/2016, the majority (81%) of adult criminal court cases (completed in provincial and superior court) that had at least one charge with a preliminary inquiry requested and/or held were completed in less than 30 months. The remaining cases (19%) took 30 months or longer to complete.<sup>12</sup>

### Preliminary Inquiries have decreased over the last 10 years<sup>13</sup>

The number of preliminary inquiries, that were scheduled and/or held, for the most serious offence in the case, has decreased by 36% over the last ten years (including adults and youth - see Chart 3).

### The time adult accused spend on remand has increased or stayed the same for most jurisdictions<sup>14</sup>

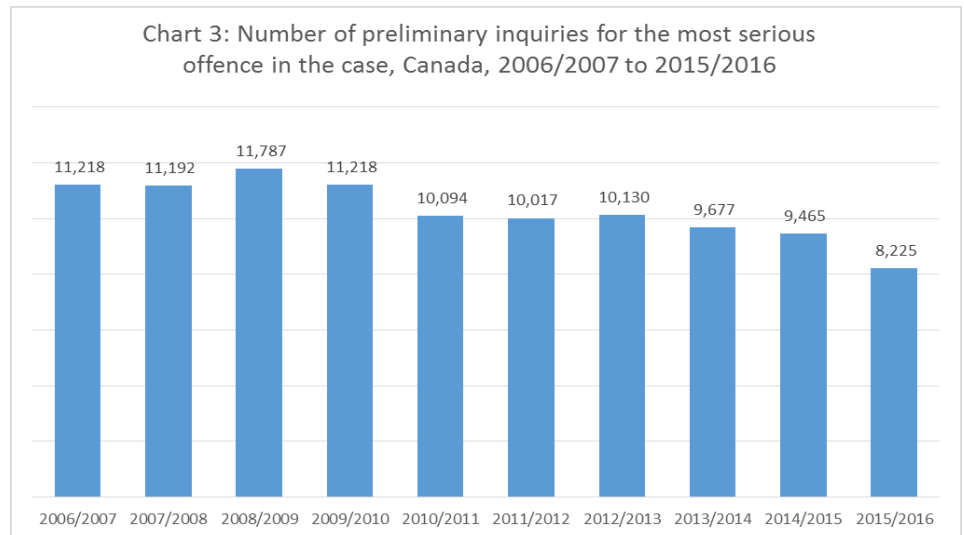
When compared to 2005/2006, figures from 2015/2016 indicate that the median number of days adults spent in remand remained the same in Newfoundland and Labrador, New Brunswick, Quebec, Manitoba, and Saskatchewan. Ontario (29%), British Columbia (33%), Yukon (27%), Northwest Territories (82%), and Nunavut (82%) all experienced increases in the median number of days adults spent in remand. Nova Scotia was the only jurisdiction to see a decrease (-14%).

### Research has indicated that a “culture of adjournment” has resulted in delays in court

<sup>12</sup> This excludes information from superior courts in Prince Edward Island, Ontario, Manitoba and Saskatchewan due to the unavailability of data. As such, missing data may have an impact on the presented proportion. Source: Statistics Canada, Canadian Centre for Justice Statistics, Integrated Criminal Court Survey (ICCS).

<sup>13</sup> This information was provided by Statistics Canada and is based on data from the adult and youth components of the Integrated Criminal Court Survey (ICCS). Currently, preliminary inquiry information is not reported by Newfoundland and Labrador - Superior Court. In addition, it is not fully reported by Manitoba and Nova Scotia. As of 2005/2006, all provincial and territorial courts in 10 provinces and 3 territories report to the survey. Information from superior courts in Prince Edward Island, Ontario, Manitoba and Saskatchewan was not available for extraction from their electronic reporting systems and was therefore not reported to the survey. ICCS data is currently not able to distinguish between preliminary inquiries which are scheduled and held, as opposed to those which may be scheduled, but are not held.

<sup>14</sup> Excludes data from Prince Edward Island and Alberta as information was not available. Statistics Canada. *Adult correctional services, custodial releases from provincial and territorial programs by sex and aggregate time served CANSIM Table 251-0030* (Accessed: December 27<sup>th</sup>, 2017). See also: Porter, Lindsay and Donna Calverley. 2011. Trends in the use of remand in Canada. *Juristat*. Statistics Canada Cat. no. 85-002-X. and Statistics Canada. (2017). Trends in the use of remand in Canada, 2004/2005 to 2014/2015, *Juristat*. Statistics Canada Cat. no. 85-002-X.







A study conducted in eight courts across Ontario, from 2006 to 2008, indicated that a significant number of bail hearings were routinely adjourned; on an average day, bail decisions were delayed for between 57% and 81% of cases.<sup>15</sup> Similar results were found by another study conducted in five jurisdictions in 2013, where on average each day, about 54% of all cases observed were adjourned. This proportion varied by jurisdiction.<sup>16</sup>

### **Median case processing time for charges with a mandatory minimum penalty (MMP) increased<sup>17</sup>**

The median case processing time for MMP charges shows a general increasing trend over time. Between 2000/2001 and 2013/2014, the number of days from first appearance to decision increased 54%, from 208 days to 321 days.

### **Administration of justice offence (AOJO)<sup>18</sup> charges have increased over time and represent one quarter of all cases in adult criminal court**

While the overall rate of charging has declined over the years, the rate of persons charged for administration of justice offences (AOJO) has increased 26% over the last ten years (from 412 incidents per 100,000 population in 2006 to 519 incidents per 100,000 population in 2016).<sup>19</sup> In 2015/2016, there were 77,993 AOJO cases<sup>20</sup> in adult criminal court, representing 23% of all criminal court cases.<sup>21</sup> In 2015/2016, 42% of AOJOs in adult criminal court were for failure to comply with an order, 39% were for breach of probation, and 10% were other administration of justice offences.<sup>22</sup>

### **Impaired driving court cases represent one in ten criminal court cases and have seen a significant decrease in their case processing time<sup>23</sup>**

There were 35,379 impaired driving cases in adult criminal court in 2015/2016, down 29% from 2010/2011.<sup>24</sup> These cases represent 10% of all criminal court cases heard in adult court in 2015/2016.

<sup>15</sup> A total of 4,085 cases were observed. Observations took place over 148 days between April 2006 and December 2008. Source: Myers, N.M. (2009). *Shifting Risk: Bail and the Use of Sureties*, *Current Issues in Criminal Justice*, 21(1): 127-147.

<sup>16</sup> A total of 718 bail cases were observed across five jurisdictions (BC, ON, NS, MB, YK) over 44 days between June and November 2013. Of these, 389 cases were released on bail. Source: Canadian Civil Liberty Association and Education Trust. (2014). *Set Up to Fail: Bail and the Revolving Door of Pre-Trial Detention*. Retrieved from <https://ccla.org/cclanewsites/wp-content/uploads/2015/02/Set-up-to-fail-FINAL.pdf>.

<sup>17</sup> Analyses conducted by Justice Canada's Research and Statistics Division using a list of MMP offences and Statistics Canada. *Adult criminal courts, cases by median elapsed time in days, annual* (number unless otherwise noted), CANSIM Table 252-0055.

<sup>18</sup> Administration of justice offences (AOJO) are *Criminal Code* violations and include, for example: failure to comply with conditions, escape or help escape from custody, prisoner unlawfully at large, failure to appear, breach of probation, and other offences against the administration of justice.

<sup>19</sup> Statistics Canada, *Incident-based crime statistics, by detailed violations (annual) (number unless otherwise noted)*, CANSIM Table 252-0051. (Accessed: December 27<sup>th</sup>, 2017).

<sup>20</sup> Where the AOJO was the most serious offence in the case.

<sup>21</sup> Note comparisons should not be made between police data (calendar year) and court data (fiscal year).

<sup>22</sup> Statistics Canada, *Adult criminal courts, number of cases and charges by type of decision*, CANSIM Table 252-0053. (Accessed: December 27<sup>th</sup>, 2017).

<sup>23</sup> Statistics Canada. *Adult criminal courts, number of cases and charges by type of decision, annual*, CANSIM Table 252-0053 (Accessed: December 27<sup>th</sup>, 2017).

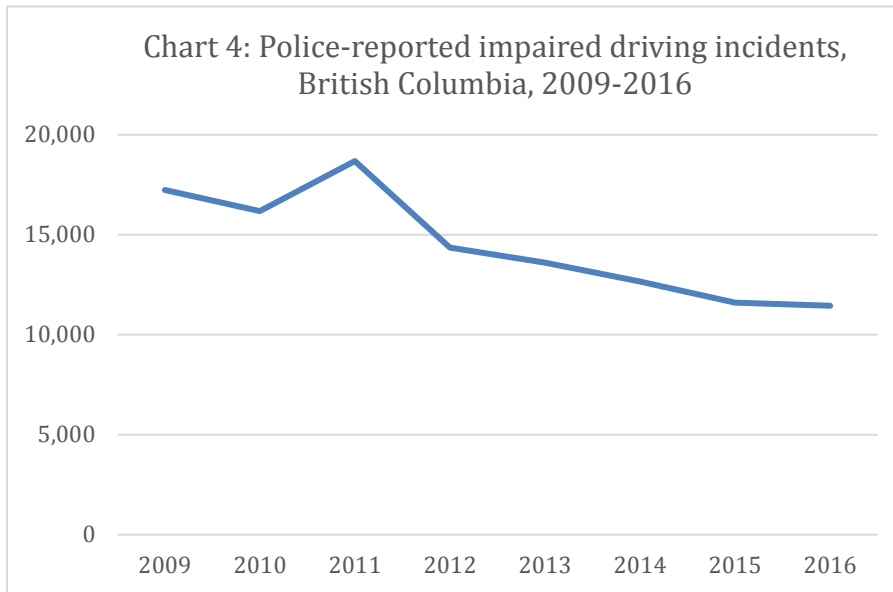
<sup>24</sup> Where the impaired driving offence was the most serious offence in the case.



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In 2005/2006 the median case processing time for impaired driving offences was 158 days. The most recent data for 2015/2016 shows the median case processing time for impaired driving cases has dropped to 106 days, which brings this offence in line with some of the shortest case processing times, such as drug possession which has a median case processing time of 99 days, administration of justice offences which have a median case processing time of 81 days, and offences against property which have a median case processing time of 113 days.



### Alternative means of dealing with certain types of offences have resulted in a reduced clearance rate by charge under the *Criminal Code*<sup>25</sup>

In British Columbia, since 2011, impaired driving cases have been dealt with under the *Motor Vehicle Act*. Police-reported data from BC show a gradual decline in the number of police-reported *Criminal Code* impaired driving incidents in the province since the implementation of the Immediate Roadside Prohibition in 2011 (see Chart 4). The clearance rate by charge under the *Criminal*

*Code* fell from 69% in 2009 to 27% in 2011.<sup>26</sup>

<sup>25</sup> Note: In 2011, the introduction of the Immediate Roadside Prohibition (IRP) in British Columbia provided an alternative method for officers to proceed with penalties for impaired drivers and may account for the trends reported for 2011 and 2012. Source: Statistics Canada, *Incident-based crime statistics, by detailed violations and police services, British Columbia, annual*. CANSIM Table 252-0081. (Accessed: December 27<sup>th</sup>, 2017).

<sup>26</sup> Perreault, S. (2016). Impaired driving in Canada, 2015. *Juristat*. Statistics Canada Catalogue no. 85-002-X.