



Just Facts

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Research and Statistics Division

Bail Violations, AOJOs and Remand

This fact sheet is based on publicly available data from the Canadian Centre for Justice Statistics, a number of Justice Canada, Statistics Canada and academic studies conducted in Canada from 2011 to 2017 as well as data from an internal research report prepared by Justice Canada in 2013.

The vast majority of bail violations involve an administration of justice offence (AOJO)¹

A Justice Canada study (2013) found that based on a sample of 3,093 closed cases (as of 2008) collected from five courts across four Canadian jurisdictions, fewer than one fifth (18%) of accused released on bail violated their terms of release by the court. The vast majority (98%) of bail violations were breaches of release conditions or a failure to attend court.²

In a number of cases, bail conditions are onerous and unrelated to the offence, which increases the accused's chances of breaching their conditions

A 2013 study³ conducted in four courts in Ontario (Metropolitan area of Toronto), found that a number of bail conditions imposed on youth were unrelated to the offence and to the grounds for detention (e.g., abide by curfew, attend school, attend counseling). Specifically, about 41% of conditions imposed had no

¹ Beattie, K., Solecki, A. & Morton-Bourgon, K. E. (2013). *Police and Judicial Detention and Release Characteristics: Data from the Justice Effectiveness Study*. Department of Justice Canada.

² New substantive offence occurred in only 2% of cases.

³ A total of 199 youth bail cases were observed across four courts in the Toronto area.





apparent connection to the allegations or grounds for detention, and a further 22% were only ambiguously connected.⁴

Further, a study⁵ conducted in 2013 by the John Howard Society of Ontario found that these types of bail conditions were positively correlated to breaches. For example, over 81% of accused persons with a known alcohol issue in the sample were given a condition to not consume alcohol. Considering the accused's addiction issues, it becomes onerous for the individual to abide by the condition.⁶

AOJO charges have increased over time

While the overall rate of charging has declined over the years, the rate of charges for administration of justice offences has increased by 8% over the last ten years (respectively from 412 incidents per 100,000 population in 2006 to 443 incidents per 100,000 in 2015).⁷ Similarly, the proportion of adult AOJO charges relating to failing to comply with an order, breach of probation and failing to appear, have almost doubled from 12% in 1998 to 23% in 2015.⁸

Trends in AOJO charges vary across Canadian jurisdictions and by types of offence⁹

In 2015, the rate of AOJO charges was greater in Saskatchewan (2,170 charged per 100,000 population) and in the territories (Northwest Territories – 1,627 charged per 100,000 population; Yukon – 1,494 charged per 100,000 population and Nunavut – 1,132 charged per 100,000 population) compared to other provinces. Further, jurisdictional differences were also found between types of administration of justice offence. For example, in 2015, Manitoba had one of the lowest rates of charges for failure to appear but the second highest rate of charges for failure to comply with an order, after the territories.

AOJOs are more likely to result in a custodial sentence¹⁰

⁴ Myers, N.M. & Dhillon, S. (2013). "The Criminal Offence of Entering Any Shoppers Drug Mart in Ontario: Criminalizing Ordinary Behaviour with Youth Bail Conditions." *Canadian Journal of Criminology and Criminal Justice*, 55(2).

⁵ The review included 337 case files based on the bail supervision client case files and bail orders reviewed at different BVSP sites in Ontario. Of these, 158 of the accused persons were released to the Bail Verification and Supervision Program for supervision.

⁶ John Howard Society of Ontario. (2013). *Reasonable Bail?* Retrieved from <http://www.johnhoward.on.ca/wp-content/uploads/2014/07/JHSO-Reasonable-Bail-report-final.pdf>

⁷ Information from superior courts in Prince Edward Island, Ontario, Manitoba and Saskatchewan as well as municipal courts in Québec was not available for extraction from their electronic reporting systems and was therefore not reported. Source: Statistics Canada, *Incident-based crime statistics, by detailed violations (annual [number unless otherwise noted])*, CANSIM Table 251-0051. (Accessed: February 27, 2017).

⁸ Ibid.

⁹ Ibid.

¹⁰ Information from superior courts in Prince Edward Island, Ontario, Manitoba and Saskatchewan as well as municipal courts in Québec was not available for extraction from their electronic reporting systems and was therefore not reported. Source: Statistics Canada, *Adult criminal courts, guilty cases by type of sentence, annual (number)*, CANSIM Table 251-0056. (Accessed: February 27, 2017).



Across Canada, in 2014/15, about 51% of charges with an AOJO as the most serious offence received a custodial sentence whereas this proportion was 37% for all cases with a finding of guilt.

AOJOs are responsible for an important proportion of admissions to remand facilities and bail hearings

Data from five provinces indicate that in 2008/09, over two-thirds (68%) of admissions to remand involved non-violent offences. Of these, the most common offences were AOJOs, including failure to comply with a condition and breach of probation.¹¹ Similarly, a retrospective study based on data collected from various courts in five jurisdictions from April to June 2011 found that AOJO charges were present in over one third of cases in bail court (proportion varied by jurisdictions, ranging from 29% to 42%).¹²

The population of adults on remand has increased and surpasses the number of sentenced adults

In 2015/16, adults in remand accounted for 59% of the custodial population in provincial and territorial facilities, up from 26% in 1990/91.^{13,14} Remand admissions have consistently surpassed sentenced admissions over the last ten years.¹⁵ The same trend is seen in the youth system; in 2015/16, more than half (58%) of youth in custody were in pre-trial detention, up from 23% in 1997/98.^{16,17}

There is variation in the trend in the number of days adults spend in remand across the country¹⁸

¹¹ Data were only available in five provinces: Newfoundland and Labrador, Nova Scotia, New Brunswick, Ontario and Saskatchewan. Source: Porter, L. & Claverly, D. (2011). "Trends in the use of remand in Canada." *Juristat*. Statistics Canada Catalogue no. 85-002-x.

¹² This study included only bail decisions made at first phase of process (i.e., 5,311 cases from BC, 201 cases from Alberta, 1,783 cases from Ontario, 2,190 cases from Québec and 147 cases from Nova Scotia). Data collection methods varied across for each jurisdictions resulting in a number of limitations. Source: Steering Committee on Justice Efficiencies & Access to Justice. (October 27, 2015). *National Bail Survey and Data Collection Project*. Presentation retrieved on March 8, 2017.

¹³ This is the earliest year in which data were available. Due to several data limitations, comparisons in time should be made with caution.

¹⁴ Statistics Canada, *Adult correctional services, average counts of offenders in provincial and territorial programs, annual*, CANSIM Table 251-0005. (Accessed: March 21, 2017).

¹⁵ Statistics Canada. (2017). "Trends in the use of remand in Canada, 2004/2005 to 2014/2015." *Juristat*. Statistics Canada Catalogue no. 85-002-X.

¹⁶ This is the earliest year in which data were available. Due to several data limitations, comparisons in time should be made with caution.

¹⁷ Statistics Canada, *Youth correctional services, average counts of young persons in provincial and territorial correctional services, annual (persons unless otherwise noted)*, CANSIM Table 251-0008. (Accessed: March 21, 2017).

¹⁸ Excludes Prince Edward Island, Alberta and Nunavut for 1999/00 and 2008/09 and Prince Edward Island, Alberta for 2004/05 and 2014/15 as data were not available. Sources: Porter, Lindsay and Donna Calverley. 2011. "Trends in the use of remand in Canada." *Juristat*.



In 2014/15, the median number of days on remand varied across jurisdictions, from 4 (Québec) to 29 (Northwest Territories). Increases in these figures were reported from 1999/00 and 2008/09 in all provinces and territories that provided data with the exception of Ontario (where the length remained unchanged). Recent data suggest that as of 2014/15, the median number of days on remand has decreased since 2008/09 for all jurisdictions except Ontario, Quebec and British-Columbia (where the length remained unchanged). However, 2014/15 figures remain higher than in 1999/00, except for Ontario and Manitoba (remained unchanged) and Newfoundland and Labrador (decreased by 6%).

Indigenous people are overrepresented in the number of people receiving AOJOs and are more likely to be admitted to remand

Research has suggested that Indigenous people are over-represented in the number of people who receive AOJOs.¹⁹ In 2014/15, Indigenous people represented one quarter (25%)²⁰ of adult admissions to remand, a proportion 8 times greater than their representation in the overall population (3%).²¹ This proportion is up 9% from 2004/05 when 16% of adults admitted to remand were Indigenous.

Remand and AOJOs represent a significant cost to the criminal justice system

A study (2014) found that in Ontario, the average cost to incarcerate a person in jail is \$183 a day.²² This cost is significantly higher than the \$5/day it costs to supervise an accused person in the community.²³ It was estimated that in 2009 the cost of AOJOs to the Canadian criminal justice system was \$729 million.²⁴

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.

¹⁹ Although no data is collected on Indigenous offenders charged with AOJOs, this trend is supported by internal reports from the Aboriginal Court worker program. Source: Public Works and Government Services Canada & Orsi, M. M. (2013). *Administration of Justice Offences among Aboriginal People: Courtworkers' Perspective*. Research and Statistics Division, Department of Justice Canada.

²⁰ Excludes Alberta and Prince Edward Island.

²¹ Statistics Canada. (2017). "Trends in the use of remand in Canada, 2004/2005 to 2014/2015." *Juristat*. Statistics Canada Cat. no. 85-002-X.

²² This amount excludes costs associated with court services, duty counsel, Crown counsel, judicial resources, and transportation of accused.

²³ 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>.

²⁴ Wade, D., & Zhang, T. (2013). *The Justice system cost of administration of justice offences in Canada, 2009*. Research and Statistics Division.