



ADMINISTRATION OF JUSTICE OFFENCES

Over half of Canadians indicated that administration of justice offences (AOJOs)¹ would be better dealt with outside of the courts. Canadians also thought an accused person’s individual circumstances should be taken into account in tailoring responses to AOJOs.

What we also found

- Focus group participants were surprised and concerned when informed of the high proportion of AOJO cases in criminal court.² Most felt a criminal charge was unreasonable for actions that are not in themselves criminal offences (such as a curfew violation or arriving late to a court proceeding).
- Three quarters (75%) of Canadians felt that criminal justice system (CJS) professionals should take into account individual circumstances when responding to AOJOs.
- Over half of Canadians (55%) felt that breaching conditions such as missing a curfew, drinking alcohol, or not attending a prearranged meeting with their probation officer should be dealt with outside of the courts.
- Focus group participants felt that conditions of release should be accompanied by support so accused are not set up to fail, especially those who are vulnerable or marginalized. Conditions could include support from probation officers to find appropriate programs/services (e.g., mental health, addictions), or providing supports to abide by conditions (e.g., transit passes, arranging transportation).
- Canadians believed that there were certain circumstances that are important to consider when deciding how to deal with a breach of conditions:
 - 81% felt CJS professionals should consider whether breaches are due to practical or unforeseeable issues such as work schedules, lack of transportation, unavoidable delays or unexpected situations.
 - 79% felt CJS professionals should consider addictions, mental health problems or cognitive functioning issues because these issues affect an accused’s/offender’s ability to comply with an order.
- Some focus group participants were concerned that a criminal charge for a breach of condition could result in a criminal record for someone innocent of their original charge. Some felt that some conditions (e.g., curfews, requirements to show up for prearranged meetings) could be barriers to healthy participation in society.
- Many focus group and survey respondents expressed interest in seeing a “laddered” approach to dealing with AOJOs, whereby the response becomes increasingly more serious the more times a person breaches his or her conditions. A laddered response might start with treatment or warnings and escalate to revocation of release, and/or new charges.

In more depth





Research at a Glance

March 2018

Research and Statistics Division

Administration of justice offences (AOJOs) were described to survey and focus group participants as new criminal charges that are laid against people released on bail or probation who do not follow the conditions set out in their release order. They may involve acts that are not considered criminal in themselves but are considered as such because the accused was given an order not to engage in the behaviour as a condition of their release. Respondents were also informed that AOJOs account for one quarter of the cases in criminal courts in Canada and that the cost to taxpayers amounts to an estimated \$807 million each year.³

Canadians thought the following circumstances were important to consider when deciding how to respond to a breach of conditions:

- Whether breaches are due to practical or unforeseen issues such as work schedules, lack of transportation, unavoidable delays (81%);
- Whether the accused/offender has addictions, mental health problems or cognitive functioning issues because these issues affect their ability to comply with an order (79%);
- The degree of intent behind the breach (e.g., did not respect the order on purpose or due to other circumstances) (79%);
- The number of past breaches (74%);
- Whether there was any risk to vulnerable people (children, victims) (74%); and
- The personal circumstances and history of the accused/offender (69%).

Women (60% vs. 49% of men), persons with a university education⁴ (71% vs. 45% of those with high school or less⁵) and persons with a household income of \$100,000-\$120,000 (67% vs. 54% of those with an income less than \$40,000) were more likely to say AOJOs should be dealt with outside of the courts.

Persons with a university education (84% vs. 69% of those with high school or lower) and those with a household income of \$120,000-\$150,000 compared to those making less than \$40,000 (81% vs. 72%) were more likely to believe that CJS professionals should take the accused/offender's circumstances into consideration.

Method

The Department of Justice conducted National Justice Surveys (NJS) in both 2016 and 2017. Each NJS included several public opinion research projects with Canadians 18 and over from across Canada. The 2016 NJS included two surveys (surveys 1 and 2), six in-person focus groups and three online discussions. The 2017 NJS included two surveys (surveys 1 and 2), twelve in-person focus groups and twenty one-on-one telephone interviews. Survey samples were drawn randomly and the surveys were completed online or via paper. The data were weighted for age, gender, geographic region and education to match the Canadian population.

NJS 2017: The first survey (N=2,019) focussed on discretion, sentencing and mandatory minimum penalties (MMPs). This survey included information (e.g., statistics and definitions of concepts such as sentencing guidelines) and three scenarios depicting offences that carry MMPs in order to provide context for responses. The second survey (N=2,027) focussed on specific criminal justice system topics including restorative justice, problem-solving justice, administration of justice offences, diversion, performance measurement, and confidence in the criminal justice system. Focus groups discussed the issues covered in the two surveys in more depth.





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Respondents for both the survey and focus groups/interviews were provided with a basic definition of administration of justice offences (AOJOs) and were then asked questions to gauge their views. Questions focussed on how Canadians viewed AOJOs (such as breach of conditions), whether these should be criminal offences or dealt with in other ways, and the factors that should be considered in making decisions when accused/offenders breach their conditions.

For further information on the findings and/or surveys mentioned in this document please contact the Department of Justice Canada Research and Statistics Division (rsd.drs@justice.gc.ca)

¹ Administration of justice offences (AOJOs) were described to survey and focus group participants as new criminal charges that are laid against people released on bail or probation who do not follow the conditions set out in their release order.

² See Maxwell, Ashley. (2016). **Adult criminal court statistics in Canada, 2014/2015**. <http://www.statcan.gc.ca/pub/85-002-x/2017001/article/14699-eng.pdf>

³ Wade, D., & Zhang, T. 2013. **The Justice system cost of administration of justice offences in Canada, 2009**. Research and Statistics Division. Note that numbers were adjusted to reflect 2015 dollars using the Bank of Canada Inflation Calculator. Accessed on May 18, 2017). <http://www.justice.gc.ca/eng/cj-jp/tcis-tsip/about-ausujet.html>

⁴ University education includes those with a certificate, an undergraduate degree or higher.

