

Title: The (Differential) Utilization of Conditional Sentences among Aboriginal Offenders in Canada

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Abstract:

Canada's community-based custody sanction – the conditional sentence of imprisonment – came into effect in 1996 with major statutory reforms to the *Criminal Code*. While the new sanction was found to reduce incarceration rates among the general offender population, there has been no evidence that it resulted in decreases of incarceration among Aboriginal offenders. Now 20 years following its introduction, this study sets out to document recent trends in the use of conditional sentences and for the first time, focus on trends of Aboriginal offenders. Using a new metric, the Conditional Sentence Utilization (CSU) percent, the analyses reveal a shift in general utilization of the sanction. At the onset of the new millennium, Aboriginal offenders received a greater proportion of community-based imprisonment sentences. This pattern reversed in 2008/09 and for the next five years non-Aboriginals received a greater proportion of community based imprisonment sanctions. Analyses conducted at the provincial/territorial-level find widespread variation in the use of community custody among the two offending populations. In Quebec, Aboriginal offenders consistently receive conditional sentences in far greater proportion to non-Aboriginals. In Manitoba, the opposite was found. The implications of these findings on criminal justice policy are discussed.

¹ I would like to thank Professor Julian Roberts for comments on an earlier draft of this article.

The (Differential) Utilization of Conditional Sentences among Aboriginal Offenders in Canada

Introduction

The over-representation of disadvantaged minority groups in criminal justice systems has been documented in all Western, developed nations.² The over-incarceration of Aboriginal peoples is one area of over-representation in particular, that has received considerable attention. Research has found Aboriginal offenders to be over-represented in the correctional systems of Australia³, New Zealand⁴, and the United States⁵. This has led to a variety of remedial efforts including the development of diversion programs and alternative sanctions to custody.

Canada has revealed an historical pattern very similar to these countries. Aboriginal over-incarceration was first officially recognized in a 1984 Government of Canada report titled *Sentencing*.⁶ Since then, several attempts have been made to reduce incarceration rates of Aboriginal offenders. To date, the most authoritative legislative initiative came in 1996 when major statutory reforms were made to the *Criminal Code*. The enactment of Bill C-41 introduced Part XXIII of the *Code* which among other additions, included a statement of the purpose and principles in sentencing. Going forward, judges were to observe a variety of principles including that of restraint whereby “an offender should not be deprived of liberty, if less restrictive sanctions may be appropriate in the circumstances”.⁷ With specific reference to Aboriginal offenders, a separate principle stated:

² Michael Tonry, “Ethnicity, Crime, and Immigration” (1997) 21 *Crime Justice* 1 at 1.

³ Australian Government, *Diverting Indigenous Offenders from the Criminal Justice System*, (Commonwealth of Australia: Closing the Gap Clearinghouse, 2013) at 3.

⁴ New Zealand Department of Corrections, *Trends in the Offender Population 2014/15*, (New Zealand, 2015) at 11.

⁵ Todd D Minton, *Jails in Indian Country, 2007*, (Washington, D.C.: U.S. Department of Justice at 13.

⁶ Government of Canada, *Sentencing*, (Ottawa: Government of Canada, 1984).

⁷ *Criminal Code*, RSC 1985, c C-46 s. 718.2(d).

all available sanctions, other than imprisonment, that are reasonable in the circumstances and consistent with the harm done to victims or to the community should be considered for all offenders, *with particular attention to the circumstances of Aboriginal offenders*.⁸

To assist judges under this new sentencing regime, Bill C-41 introduced an important alternative to incarceration, the conditional sentence of imprisonment. The new sanction was introduced as a custodial sentence that would be served in the community rather than a provincial prison. Conditional sentence orders would, however, include the threat of institutional incarceration upon a breach of court-ordered conditions.⁹ By granting the freedom to select from a broad range of optional conditions¹⁰ that would supplement a set that were mandatory¹¹, the new sanction allowed judges to draw from sentencing objectives such as deterrence, denunciation, rehabilitation and the promotion of a sense of responsibility.¹² This allowed judges to move toward the principles of restorative justice while maintaining a punitive component.¹³

The use of conditional sentences was carefully prescribed in Section 742 of the *Criminal Code*. In order for a judge to impose a conditional sentence, four key criteria had to be met: 1) the offence committed by the offender must not include a minimum term of imprisonment; 2) a custodial sentence of less than two years must be the only suitable sanction; 3) the public must not be put in danger by allowing the offender to serve the term in the community; and 4) the sentence must be consistent with the purposes and principles stated in sections 718 through

⁸ *Ibid* at s. 718.2(e), emphasis added.

⁹ Allan Manson, *The Law of Sentencing*, (Toronto, ON: Irwin Law, 2001) at 284; Julian V. Roberts, "The Evolution of Conditional Sentencing: An Empirical Analysis" (2003) 3 Criminal Reports 267 at 281.

¹⁰ Lamer in *R. v. Proulx* at 26: "In the case of a conditional sentence, s. 742.3(2)(f) provides that the court may order that the offender comply with such other reasonable conditions as the court considers desirable "for securing the good conduct of the offender and for preventing a repetition by the offender of the same offence or the commission of other offences".

¹¹ As specified in the *Criminal Code* *supra* note 6 at s. 742.3(1), mandatory conditions of a conditional sentence of imprisonment include that the offender keep the peace and be of good behaviour, appear before the court when required to do so, report to a supervisor after the making of a conditional sentence order and thereafter when required by the supervisor, remain within the jurisdiction of the court, and notify the court or supervisor in advance of any change of name or address, or change of employment or occupation.

¹² Kent Roach, "Conditional Sentences and Net Widening" (2000) 43 *Crim.L.Q.* 273 at 275.

¹³ Julian V. Roberts & Patrick Healy, "Conditional Sentencing: Recent Developments" (2001) 80 *Can. B. Rev.* 1035 at 1035; Julian V. Roberts & Patrick Healy, "The Future of Conditional Sentencing" (2001) 44 *Crim. L.Q.* 309 at 309.

718.2. In other words, the new sanction was not intended to be a novel way for judges to respond to the broad pool of offenders; the conditional sentence was intended only to be used in place of a term of institutional imprisonment of less than two years when it was deemed safe and suitable to do so.

This approach was well aligned with the goal of reducing judicial reliance on institutional incarceration. As noted by Gremmell:

Canada continues to have one of the highest rates of imprisonment among the Western, developed countries and an explicit alternative to imprisonment, like conditional sentencing, at least has the potential to reduce that rate, by diverting offenders away from the jail system into a form of community supervision.¹⁴

Although not explicitly stated as an objective of the new sanction, the conditional sentence was expected to have the greatest impact on imprisonment rates of Aboriginal offenders. The special consideration granted by Section 718.2(e) of the *Criminal Code* meant that while judges should consider alternatives to imprisonment for all offenders, they should pay particular attention to the circumstances of that specific subset of offenders. In other words, the conditional sentence was a community-based alternative to institutional confinement that was viewed as an opportunity to reduce rates of incarceration in provincial prisons, and a particularly attractive opportunity to reduce those rates among Aboriginal offenders.

The Impact of Conditional Sentences

In the years following the introduction of conditional sentences, evidence of a reduction in incarceration began to emerge. Roberts and Gabor demonstrated that compared to the pre-1996 period, prison sentences had declined by 13% between 1997/98 and 2000/01 in nine (combined) provincial jurisdictions.¹⁵ Considering the nine jurisdictions individually, all but one

¹⁴ Jack Gremmell, "Conditional sentences" in Julian V. & David P. Cole, *Making Sense of Sentencing* (Toronto, ON: University of Toronto Press, 1999) at 64.

¹⁵ Julian V. Roberts & Thomas Gabor, "The Impact of Conditional Sentencing: Decarceration and Widening of the Net" (2003) 8 Can. Crim. L. Rev. 33 at 36.

experienced some level of decline with reductions ranging from 5% to 47%.¹⁶ In raw counts, this meant that 53,900 offenders had been diverted out of the prison system over the four-year period.¹⁷

Contrary to the decline of imprisonment rates generally, there was little evidence of a reduction in Aboriginal imprisonment rates. Roberts and Melchers, conducted a study that focused on Aboriginal incarceration trends in Canada between 1978 and 2001. They found that although Aboriginal incarceration declined following the 1996 reforms, there was no evidence of a causal effect from the statutory amendments geared to Aboriginal offenders.¹⁸ In fact, Roberts and Melchers found that non-Aboriginal admissions to prison declined at a much faster pace than did Aboriginal admissions during that period.¹⁹

Trends in prison sentences are, however, only one measure of the impact of the 1996 statutory amendments. Considered alone, they do not provide a direct line of inquiry into the use of conditional sentences. Although the sanction has drawn a large body of literature over the years, surprisingly no research has documented the use of conditional sentences among Aboriginal offenders. As a result, there are several important questions that remain unanswered. What has been the relative utilization of conditional sentences with Aboriginal and non-Aboriginal offenders? How has that frequency interacted with the use of institutional imprisonment? Is the use of conditional sentences among Aboriginal offenders consistent across the country or do jurisdictional differences exist?

The Current Focus

¹⁶ *Ibid* at 38.

¹⁷ *Ibid* at 40.

¹⁸ Julian V. Roberts and Ronald Melchers, "The Incarceration of Aboriginal Offenders: Trends from 1978 to 2001" (2003) 45:2 Can. J. Criminol Crim 211 at 236.

¹⁹ *Ibid* at 235.

Now 20 years following the 1996 sentencing reforms, this study sets out to answer these questions. Specifically, this study documents recent trends among 10 provincial/territorial jurisdictions and for the first time, focuses on trends in the Aboriginal offender population. By employing a metric that captures the relationship between the use of conditional sentences and institutional imprisonment, accurate comparisons may be made across different offending groups. The goal of this approach is to provide a foundation upon which more advanced questions may be developed concerning the sentencing of Aboriginal offenders. Although it is not the intention of this study to explain the patterns that are observed, some potential explanations are discussed to identify avenues for further research.

Methods

Data

This study draws data from the Adult Correctional Services Survey (ASC). The ASC provides a comprehensive database of correctional admissions to both custodial and community-based programs across the 13 provincial/territorial jurisdictions in Canada. Data for admissions to sentenced custody and conditional sentences were retrieved for the period 2000/01 through 2014/15. While comprehensive in its scope, the ASC includes some important limitations. Most notably, data are missing at intermittent time periods in several jurisdictions. This limitation disproportionately effects three jurisdictions. As a result, Alberta, Prince Edward Island, and Northwest Territories are excluded from the data analyzed here.²⁰ In addition, Aboriginal identity is unknown in approximately 5% of conditional sentences and 1% of prison admissions. In order not to bias the results, these data were excluded from the analyses. All other data limitations are reported in notes of tables/figures as they apply to individual components of the analyses.

²⁰ The limited analyses that are possible with these three jurisdictions are available to the interested reader.

Analytic Strategy

The key objective of this study is to document historical trends in the use of conditional sentences while highlighting important differences between jurisdictions, time periods, and offending groups. In order to make accurate comparisons across space, time, and different populations, it is essential to control for intervening factors. Caseload characteristics are known to impact patterns in outcomes of criminal proceedings and ultimately, influence sentences. Changes to rates of offending, arrest, charge, and conviction are all relevant in this respect. In addition, variation in the size of different ethnic groups among the general population will undoubtedly influence sentencing patterns for those groups. As a result, a combination of metrics is used to provide a transparent representation of sentencing trends while making accurate comparisons.

Specifically, counts provide the raw number of admissions to each of the custodial and community-based correctional programs. Counts serve to highlight year-over-year changes in the number of sentences handed down and provide a backdrop to compare relative changes in prison and conditional sentences, respectively. In order to account for differences in rates at earlier stages of the criminal justice system, a new metric is employed. The Conditional Sentence Utilization (CSU) percent is calculated as follows:

$$CSU (\%) = \frac{\text{conditional sentence (count)}}{\text{conditional sentence (count)} + \text{prison admission (count)}}$$

Because a conditional sentence is a form of imprisonment, it combined with custodial sentences served in a provincial facility make up the total count of imprisonment sanctions (the denominator). In other words, the CSU reports the percent conditional sentences of total

imprisonment sanctions and may be used to represent the relative utilization of the community-based imprisonment sanction.

In order to capture differences in the population sizes of offending groups, it would be most judicious to account for differences in general population statistics. The focus on Aboriginal verses non-Aboriginal offenders in this study, however, precludes such an approach. Reliable population data identifying Aboriginal identity are simply not available on a year-to-year basis for provincial/territorial jurisdictions across the country. As an alternative approach, CSU statistics are calculated for each offending group, individually. By taking this approach, it is possible to compare the utilization of conditional sentences between Aboriginal and non-Aboriginal offenders in separate, uncontaminated calculations. The results are unbiased by this approach.

Results

General Utilization of Conditional Sentences

Table 1 presents the general trends of prison admissions and conditional sentences since 2000/01 for the 10 (combined) provincial/territorial jurisdictions. Prison admissions remained relatively stable throughout the 15-year period with minor year-over-year fluctuations not exceeding 5%. In fact, the count of prison admissions in 2014/15 is virtually unchanged compared to 2000/01. There was, however, an increasing trend from 2008/09 to a peak in 2011/12. Since then, there has been a declining trend that has fallen below the 15-year average.

< Insert table 1 about here >

Conditional sentences reveal a somewhat similar trend with only minor year-over-year fluctuations. There are, however, features in the most recent years of the trend that are worth highlighting. As reported by McLellan, conditional sentences reached a peak in 2005/06 and declined in the two years following.²¹ After that, however, conditional sentences increased to levels comparable to the 2005/06 peak and have since embarked on an even more dramatic decline. In fact, in the most recent year of data, conditional sentences were at the lowest level of use in the 15-year period. These count data do not, however, account for changes to case processing in earlier stages of the criminal justice system. In order to more clearly describe trends in the use of conditional sentences relative to prison admissions, the final column in Table 1 reports the annual CSU²² percent. The 15-year average reveals that one in every five imprisonment sentences are served in the community under a conditional sentence order. The metric reached a peak of 21.8% in 2004/05, and since 2008/09 it has declined to its lowest level, 17% in 2014/15. From these data it may be concluded that while prison sentences have gone down in recent years, the relative use of conditional sentences has declined at a faster pace.

Differential Utilization of Conditional Sentences

Table 2 provides a 15-year average snapshot of prison admissions and conditional sentences broken down by provincial/territorial jurisdiction. Consistent with previous studies on inter-provincial variation in sentencing, there is considerable variation in the raw counts of correctional admissions. Ontario alone, accounts for nearly half (48%) of total prison admissions while Quebec, British Columbia, and Manitoba combined, account for just over one third (36%). Counts of conditional sentences reveal a very different pattern. While Ontario has the highest count of conditional sentences, it only accounts for 30% of the total use among the remaining

²¹ Myles Frederick McLellan, "The Prospective Devitalization of Conditional Sentences" (2011) 57 Crim. L.Q. 265 at 270.

²² See description under "Analytic Strategy" of the Methods section.

nine jurisdictions. Together, Quebec, British Columbia, and Manitoba account for close to half (49%) of the total number of conditional sentences.

< Insert table 2 about here >

The CSU metric summarizes the relationship between the two sanctions and allows for comparisons to be made with greater clarity. Saskatchewan is the most progressive province in its use of the community-based imprisonment sanction. Conditional sentences account for 29% of its imprisonment sanctions. Quebec is very similar in this regard. Despite having the second highest count of prison admissions, 28% of total imprisonment sentences are served in the community in that province. This is a marked difference from Ontario. Ontario reveals a CSU percent of 14, meaning that more than 85% of all imprisonment sentences are served in institutional custody. Turning to one of the smallest imprisonment caseload jurisdictions, Nunavut reveals a similar low CSU percent. 17% of imprisonment sentences are served in the community in that territory. Clearly, there are very different patterns of use between jurisdictions with respect to the two forms of custody.

Non-Aboriginal and Aboriginal Offending Populations

Figure 1 summarizes the general trend in non-Aboriginal and Aboriginal CSU statistics for the 10 (combined) provincial/territorial jurisdictions. The CSU is higher for Aboriginal offenders between 2000/01 and 2008/09. Specifically, the CSU is 4% higher than that of non-Aboriginals in the first year and between 1% and 2% over the next seven years. After that, it intersects the non-Aboriginal trend line and remains lower until 2014/15 when the CSUs converge. In practical terms this means that for the first eight years of the timeframe, conditional

sentences were used more liberally with Aboriginal offenders than they were with non-Aboriginal offenders. Following that period and up to 2014/15, however, non-Aboriginals received more community-based custody sentences than did Aboriginal offenders. The general decline in the CSU since 2008/09 which was identified in Table 1 is also visible here. The rate of decline is comparable between the two offending populations.

< Insert figure 1 about here >

One might expect such patterns to emerge from changes in the use of conditional sentences over time. Perhaps there was a disproportionate increase in the use of conditional sentences for non-Aboriginal offenders from 2006/07 through to 2008/09. Equally, there could have been a decline in the use of community custody for Aboriginal offenders from 2007/08 onward. In fact, the patterns are not that simple. As can be seen in Table 3, the trend of conditional sentences is somewhat unstable for non-Aboriginal offenders. Over the 15-year time period there are several increasing and decreasing shifts in the raw counts. Although there was an increasing trend in the use of conditional sentences after 2005/06, the trend continues beyond the start of the 2009/10 decline depicted in Figure 1. Further, the increasing trend in conditional sentence counts among Aboriginal offenders does not fit well with the declining trend shown in Figure 1. Specifically, there is a clear increasing trend in counts from 2000/01 through to 2012/13 while the CSU percent is on a steep decline from 2007/08 forward. What then, may account for the patterns shown in Figure 1?

< Insert table 3 about here >

Table 3 also reports counts of prison admissions. Over the 15-year timeframe there is a general decrease in the count of prison admissions for non-Aboriginal offenders and a general increase among Aboriginal offenders. Most importantly, the trends are not comparable in magnitude. There is a 17% decline in non-Aboriginal custody between the first and last years of the analysis. Conversely, there is a 66% increase in custody among Aboriginal offenders. Although the count of conditional sentences was increasing for Aboriginals during this same period, the increase was simply not pronounced enough to result in an increasing CSU or to maintain the elevated likelihood of receiving a conditional sentence compared to non-Aboriginals. In other words, proportionately, Aboriginal offenders received fewer conditional sentences in six of the last seven years of the time period.

Selected Provincial/Territorial Trends

As demonstrated in Tables 1 and 2 above, combined jurisdiction trends mask important variation among provinces and territories. As a result, a more in-depth consideration of individual jurisdictions is warranted here. We do not present results for all provinces and territories. Instead, we focus on seven to highlight the extent of variation. Those not reported here, however, are available to the interested reader.

We begin by looking at the province with the most liberal use of conditional sentences. Table 4 compares trends of prison admissions and conditional sentences between non-Aboriginal and Aboriginal offenders in Saskatchewan. While both correctional sanction types rose substantially among the two offending groups, increases in conditional sentences were not as pronounced. Consequently, CSU percentages are found to decline. Non-Aboriginal conditional sentences declined from one in every three (33%) imprisonment sentences to 28%. Aboriginal

CSUs reveal a smaller decline from 27% to 25%. Interestingly, the trends of the two CSU metrics differ from the general, 10-jurisdiction pattern shown in Figure 1. The non-Aboriginal CSU remains higher than the Aboriginal CSU throughout the entire 15-year period. In other words, over the past 15 years non-Aboriginal offenders received a greater proportion of conditional sentences compared to their Aboriginal counterparts.

< Insert table 4 about here >

Table 5 reports trends for the province with the second highest overall average CSU percent. Quebec reveals very different patterns in trends of sanction counts compared to Saskatchewan. With respect to institutional prison sentences, the trend for non-Aboriginals declined while the trend for Aboriginals increased. There were decreases among both groups for conditional sentence counts. More interesting, however, are the differences between CSUs among the two groups. In a major shift from the trends described for Saskatchewan, annual Aboriginal CSUs are found to be considerably higher than non-Aboriginals for the entire 15-year period. In fact, differences between the two groups range between 10% and 24%. Said differently, in 2011/12 the proportion of imprisonment sentences that would be served in a Quebec community was 10% greater among Aboriginal offenders compared to non-Aboriginal offenders. In 2002/03, the proportion was 23% greater for Aboriginals compared to non-Aboriginal offenders.

< Insert table 5 about here >

Trends in the use of prison and conditional sentences between the two offending populations in British Columbia are presented in Table 6. Similar to the trend in prison admission counts for Quebec, British Columbia reveals a decline in non-Aboriginal prison sentences and an increase in Aboriginal prison sentences. There was also a notable decline in the number of conditional sentences given to non-Aboriginals while the number given to Aboriginals exhibited a small increase. Irrespective of these count patterns, non-Aboriginals maintained a greater proportion of conditional sentences throughout the entire timeframe. While similar to the trend presented for Quebec, differences between the two groups' CSUs are not as substantial. Differences between the two CSUs range between 2% and 9% with a 15-year average difference of 6%.

< Insert table 6 about here >

Table 7 presents results for the province of Manitoba. Over the 15-year period non-Aboriginals and Aboriginals alike, experienced increases in prison and conditional sentence counts. The proportions of the increases differed considerably, however. This is most evident in the trends of CSU metrics. While the CSU percent of non-Aboriginals rose slightly from 25 to 27, the CSU for Aboriginals declined from 16 to 8. Comparing the two CSU trends, it is clear that non-Aboriginals maintained a higher proportion of conditional sentences. This is a similar pattern to those observed for Saskatchewan and British Columbia. Differences in the magnitudes of the CSU values, however, distinguish Manitoba's trends from the latter provinces. The range of difference between the two groups' CSUs is 9% to 24%. That is comparable to the range of

difference noted for Quebec but here, conditional sentences favour the non-Aboriginal population.

< Insert table 7 about here >

Table 8 presents results for the province with the highest frequency of both prison admissions and conditional sentences, Ontario. While counts of prison admissions and conditional sentences decreased for non-Aboriginals, they both increased for Aboriginals. Due to differences in the timing and magnitude of the changes, there is a shift early in the 15-year period where non-Aboriginals move from having a greater proportion of community-based custody sentences to a smaller proportion. Differences between the CSU percentages are relatively minor throughout the timeframe. The maximum difference between the two trends is 5%. The most interesting aspect of the trends in CSUs, however, is that the shift in conditional sentence utilization from being in favour of non-Aboriginals to being in favour of Aboriginals is opposite of the general, 10-jurisdiction combined trend. Although Ontario processes the greatest number of correctional dispositions in the country, it has not influenced the broader pattern enough to set the combined-jurisdiction trend.

< Insert table 8 about here >

Table 9 presents results for Newfoundland and Labrador. There were increases in prison admissions for both sets of offending populations but while the number of conditional sentences increased for Aboriginals, it declined slightly for non-Aboriginals. The small counts of prison

admissions and conditional sentences for Aboriginals early in the 15-year period makes it difficult to distinguish the relative use compared to non-Aboriginals. By the end of the timeframe, however, the pattern is clear. There is a much larger CSU percent for non-Aboriginals between 2002/03 and 2014/15. The average CSU is 38% for non-Aboriginals while it is just 20% for Aboriginal offenders. Consistent with the combined jurisdiction trend, both offending groups reveal CSUs that decline toward the end of the data timeframe.

< Insert table 9 about here >

Finally, Table 10 presents results for the territory of Nunavut. Nunavut is unique in that it has the greatest proportion (86%) of Aboriginal persons compared to the population of any other province or territory (Statistics Canada, 2013). As a result, it may not be surprising that Aboriginal offenders account for the greatest number of correctional dispositions. Nevertheless, as shown in the raw counts of both custody and conditional sentences, Aboriginals are over-represented compared to the general population. Specifically, non-Aboriginals account for only four prison sentences and no conditional sentences. In comparison, Aboriginals account for at least 269 prison terms and 33 conditional sentences in any year. While there is not enough data to calculate and present a CSU percent for non-Aboriginals, the trend for Aboriginals mimics many other provinces/territories with an initial increase and subsequent decrease to a 15-year low in 2015/16. The trend also reveals an average Aboriginal CSU that is less than Saskatchewan, Quebec, British Columbia, and Newfoundland and Labrador. In other words, the proportion of community-based imprisonment sentences for Aboriginal offenders was less in Nunavut than in these other provinces.

< Insert table 10 about here >

Discussion

There is no doubt that conditional sentences have had an important impact on adult correctional populations in Canada. Roberts and Gabor noted a reduction of 53,990 admissions to custody in the four-year period following the introduction of the new sanction.²³ This application of conditional sentences did not, however, come without complications. In their analyses, Roberts and Gabor also noted that there had been evidence of net-widening.²⁴ Specifically, five of the nine provinces had delivered conditional sentences to offenders who prior to 1996, would have received a non-custodial sanction. In other words, judges had used conditional sentences of imprisonment for offenders who previously would have received probation, a fine, or some other less severe option. In raw counts this amounted to 5,399 custodial sentences to offenders across the country. Despite this unintended application of the sanction, Roberts and Gabor concluded that the reduction in prison sentences due to the introduction of conditional sentences was “remarkable” for such a short time period.²⁵

Since then, there has been a further 225,700 conditional sentences used with adult offenders in the 10 jurisdictions included in this study. Although the extent to which net-widening continues to play a role is unknown, the fact that on average, one in every five imprisonment sentences has been served in the community over the past 15 years means there has likely been a considerable impact on prison admissions. The recent trend in utilization of conditional sentences, however, does not bode well for a further reduction in prison populations.

²³ Roberts & Gabor *supra* note 14 at 40.

²⁴ *Ibid* at 40.

²⁵ *Ibid* at 40.

Specifically, this study revealed a declining use of community-based imprisonment over the past six years. This may be due, in part, to recent statutory amendments that have restricted use of the sanction.

Bill C-9, An Act to Amend the Criminal Code (Conditional Sentence of Imprisonment)

received Royal Assent in 2007 and amended section 742.1 of the *Criminal Code*

to provide that a person convicted of a serious personal injury offence as defined in section 752, a terrorism offence, or a criminal organization offence prosecuted by way of indictment, the maximum term of imprisonment **in any of these cases being** 10 years or more, is not eligible for a conditional sentence.²⁶

In addition, Bill C-10, *The Safe Streets and Communities Act* received Royal Assent in 2012 increasing several minimum penalties and creating new minimum sentences for a variety of sexual and weapons-related offences. This has further restricted the availability of conditional sentences as the sanction may not be used with offences that carry a minimum term of imprisonment.

This study also found variation between provinces in the use of conditional sentences. This, however, is not a new discovery. Jurisdictional variation was identified shortly after the introduction of the new sanction.²⁷ Following the Supreme Court of Canada judgements in *R. v. Proulx*²⁸ (and related appeals), however, it was noted that “those decisions may well have promoted a more uniform appellate and trial court response to conditional sentencing”.²⁹ From the results presented here, it appears this has not been the case. Specifically, the average use of

²⁶ Robin MacKay, *Bill C-9: An Act to Amend the Criminal Code (Conditional Sentence of Imprisonment)* (Legislative Summary) (Ottawa: Parliamentary Information and Research Service, 2006) at 1 (emphasis in original).

²⁷ Correctional Services Program, *Highlights of the Conditional Sentencing Special Study* (Catalogue no. 85F0027XIE) (Ottawa: Canadian Centre for Justice Statistics, 2002) at 5; Patrick Healy, “Questions and Answers on Conditional Sentencing in the Supreme Court of Canada” (1999) 42 Crim. L.Q. 12 at 16; Dianne Hendrick et al, *Conditional Sentencing in Canada: A Statistical Profile 1997-2001* (Catalogue no. 85-560-XIE) (Ottawa: Canadian Centre for Justice Statistics, 2003) at 19; Julian V. Roberts *supra* note 8 at 268; Julian V. Roberts and Thomas Gabor *supra* note 14 at 38.

²⁸ *R. v. Proulx*, [2000] 1 SCR 61, 2000 SCC 5 (CanLII) [*Proulx*]

²⁹ Julian Roberts & Thomas Gabor *supra* note 14 at 39.

conditional sentences over the 15-year period varied between 14% and 29% among the 10 provinces/territories. Further, the use of conditional sentences declined in most jurisdictions but in Newfoundland and Labrador, it increased. Some of this variation may be explained by differences in offending patterns but as suggested by Roberts and Gabor, differences between provinces probably have more to do with judicial attitudes toward the use of community-based imprisonment.³⁰

Comparisons between non-Aboriginal and Aboriginal offending groups revealed several other important findings in this study. By employing the CSU metric, widespread variation was identified between the two offending groups over the past 15 years.³¹ At the onset of the new millennium, Aboriginal offenders received on average, a greater proportion of conditional sentences. This pattern reversed in 2008/09 and for the next five years non-Aboriginals received a greater proportion of community custody sentences. Because the CSU percentages converged in 2014/15, it may on the surface, appear that the use of community-based imprisonment has become more equitable in the country. As it was shown, however, that general pattern masks important provincial/territorial variation.

Aboriginal offenders in Quebec and Ontario have on average, experienced greater utilization of conditional sentences. In other provinces including Saskatchewan, British Columbia, Manitoba, Newfoundland and Labrador, non-Aboriginals have seen a greater utilization of the sanction. Interestingly, the trend analyses revealed consistent temporal patterns within several provinces. Saskatchewan, British Columbia, and Manitoba exhibited CSU percentages that were greater for non-Aboriginals throughout the entire study period.³²

³⁰ *Ibid* at 39.

³¹ Unfortunately, data limitations render historical trends prior to 2000/01 elusive.

³² Although not for the entire study period, Newfoundland and Labrador maintained CSU percentages in favour of non-Aboriginal offenders for 14 of the 15 years included in the analyses.

Conversely, Quebec maintained CSUs that were greater for aboriginals over the 15-year period. Most compelling, however, is that for many of these jurisdictions the divide is not inconsequential. At one point in Quebec for example, Aboriginals experienced a 24% greater use of community-based imprisonment. In Manitoba, the opposite was true; Aboriginal offenders experienced a 24% lesser use of conditional sentences.

Explanations for differences between these provincial/territorial trends are difficult to locate. Over the years, the Supreme Court of Canada has made a number of landmark decisions that have attempted to clarify the use of conditional sentences among different offender groups in order to create more consistency in the lower courts. In *Proulx* for example, the Court clarified the sentencing principles that may be achieved by the sanction.³³ By providing this clarification, the Supreme Court emphasized that conditional sentences could be used with offenders for both punitive and restorative objectives. With respect to the use of conditional sentences among Aboriginal offenders specifically, the Supreme Court ruled in *R. v. Gladue* that the sanction ought to be seen as a viable alternative to incarceration to reduce Aboriginal over-representation in the criminal justice system.³⁴ As a result, one might expect the use of conditional sentences to be greater among Aboriginal offenders compared to non-Aboriginal offenders in all

³³ Lamer, C.J. in *Proulx*, *supra* note 27 at para. 22: "The conditional sentence incorporates some elements of non-custodial measures and some others of incarceration. Because it is served in the community, it will generally be more effective than incarceration at achieving the restorative objectives of rehabilitation, reparations to the victim and community, and the promotion of a sense of responsibility in the offender. However, it is also a punitive sanction capable of achieving the objectives of denunciation and deterrence." (para. 22).

³⁴ Cory and Iacobucci J.J. in *R. v. Gladue*, [1999] 1 SCR 688, 1999 CanLII 679 (SCC) [*Gladue*] at para. 40: "It is true that there is ample jurisprudence supporting the principle that prison should be used as a sanction of last resort. It is equally true, though, that the sentencing amendments which came into force in 1996 as the new Part XXIII have changed the range of available penal sanctions in a significant way. The availability of the conditional sentence of imprisonment, in particular, alters the sentencing landscape in a manner which gives an entirely new meaning to the principle that imprisonment should be resorted to only where no other sentencing option is reasonable in the circumstances. The creation of the conditional sentence suggests, on its face, a desire to lessen the use of incarceration. The general principle expressed in s. 718.2(e) must be construed and applied in this light."

provincial/territorial jurisdictions. The findings reported here, however, do not support that expectation.

A few explanations may be offered for these findings. First, it could be that s. 718.2(e) has not been adequately implemented in the courts of provinces with lower CSU percentages for Aboriginal offenders.³⁵ In this respect, it is possible that defendants or their advocates may not be bringing the statutory provision to the attention of the sentencing judge. It could also be the case that the provision is being brought to the attention of sentencing judges but it is not being given the attention it deserves.³⁶ Still another possibility is that s. 718.2(e) is being brought to the attention of sentencing judges, it is being given appropriate attention, yet the circumstances of the offence and/or offender are causing judges' to select incarceration over a conditional sentence. As noted in *R. v. Wells*, s. 718.2(e) is not an instruction to provide a sentence that differs from what would otherwise be given to a non-Aboriginal offender.³⁷ Instead, s. 718.2(e) allows judges to use alternatives to incarceration only when they are "reasonable in the circumstances".³⁸ Iacobucci J. noted that "the availability of a conditional sentence depends upon the sentencing judge's assessment of the specific circumstances of the case, including a consideration of the aggravating factors, the nature of the offence, the community context, and the availability of conditions which have the capacity to properly reflect society's condemnation".³⁹ As a result, it may be that case-specific circumstances are constraining judges'

³⁵ Gillian Balfour, "Do Law Reforms Matter? Exploring the Victimization-Criminalization Continuum in the Sentencing of Aboriginal Women in Canada" (2013) 19:1 Int'l. Rev. Victimol. 85 at 98; Renée Pelletier, "The Nullification of Section 718.2 (e): Aggravating Aboriginal Over-Representation in Canadian Prisons" (2001) 39 Osgoode Hall LJ 469 at 480.

³⁶ This was the ruling in *R. v. Ipeelee*, [2012] 1 SCR 433, 2012 SCC 13 (CanLII), for example, where at 437 per McLachlin C.J. and Binnie, LeBel, Deschamps, Fish and Abella JJ. it was noted that: "The courts below erred in concluding that rehabilitation was not a relevant sentencing objective. As a result of this error, the courts below gave only attenuated consideration to I's circumstances as an Aboriginal offender".

³⁷ *R. v. Wells*, [2000] 1 SCR 207, 2000 SCC 10 (CanLII) [Wells] at 229-230.

³⁸ *Ibid* at 228.

³⁹ *Ibid* at 226.

use of the conditional sentencing option. In order for any of these explanations to align with the findings of this study, however, they would have to correspond with the provincial variations noted above.

Even though explanations for the trends observed here are scarce, the findings do help to explain recent trends of Aboriginal incarceration that have been documented in other studies. It is well known that variation among provincial/territorial jurisdictions is not limited to conditional sentences. As noted by Perrault, “in all provinces and territories, the representation of Aboriginal adults in correctional services exceeds their representation in the general population, with gaps being wider in some jurisdictions than others”.⁴⁰ A province like Quebec which was, in this study, found to have the most progressive use of conditional sentences among Aboriginals, was also found to have relatively lower over-representation in the adult prison population.⁴¹ Conversely, conditional sentence use was found to favour non-Aboriginals in Saskatchewan and Manitoba. These provinces have historically, had a great over-representation of Aboriginal incarceration.⁴²

Conclusions

One of the rationales for introducing the conditional sentence of imprisonment was to provide judges with a sentencing option that would reduce their reliance on institutional incarceration. To a great extent, the sanction has done just that. With one in every five custodial sentences being served under a conditional sentence order and only minimal evidence of net-widening, there is no doubt that a considerable proportion of Canada’s correctional caseload has

⁴⁰ Samuel Perrault, “The Incarceration of Aboriginal People in Adult Correctional Services” (2009) 29:3 *Juristat* 1 at 9.

⁴¹ *Ibid* at 21.

⁴² Julian V. Roberts & Ronald Melchers *supra* note 17 at 227; Julian V. Roberts & Andrew A. Reid, “Aboriginal Incarceration in Canada since 1978: Every Picture Tells the Same Story” (2016) (currently under review) at Table 3 and Table 4.

shifted from prison to the community. Recent trends in the use of conditional sentences, however, do not appear to be well aligned with that original goal. The general decline in conditional sentence use reported by the CSU percent here means that judges are trending toward a greater reliance on institutional prison sentences. As a result, continued efforts at reducing incarceration in the general population of offenders need to consider ways of reversing this trend.

With respect to Aboriginal offenders specifically, the conditional sentence was expected to be an attractive sentencing option that would help to remedy the historical over-representation of Aboriginals in the criminal justice system. Recent research suggests that this has not come to fruition. In fact, nearly all provinces/territories in Canada have experienced increases in the percent of Aboriginal admissions to provincial prisons over the past 20 years.⁴³ The findings of this study show that this is not simply due to increased proportions of Aboriginals being sentenced. Instead, the proportion of Aboriginal offenders receiving a conditional sentence may have contributed to these patterns. Instead of greater use of conditional sentences among Aboriginals being the norm, in this study it appears to be the exception among the provincial/territorial jurisdictions. Elevated use of community-based custody with Aboriginal offenders in provinces such as Quebec and Ontario over the past 15 years appears to be aligned with the initial expectation; Aboriginal offenders have experienced greater use. On the other hand, the disproportionate use of the sanction in favour of non-Aboriginal offenders in provinces such as Saskatchewan, Manitoba, and British Columbia, does not seem to align well.

⁴³ Julian V. Roberts and Andrew A. Reid *supra* note 41 at Table 2.

A recent United Nations report documented concern about “the disproportionately high rate of incarceration of indigenous people, including women, in federal and provincial prisons across Canada”.⁴⁴ The report went on to recommend:

The State party should ensure the effectiveness of measures taken to prevent the excessive use of incarceration of indigenous peoples and resort, wherever possible, to alternatives to detention. It should enhance its programmes enabling indigenous convicted offenders to serve their sentences in their communities.⁴⁵

If the Canadian government is to follow these recommendations, it may be practical to focus its attention on provinces with the lowest use of community custody among Aboriginal offenders. In order to reduce incarceration of Aboriginal offenders, criminal justice policy must more closely reflect the underlying rationale of the 1996 sentencing reforms by finding ways to use community custody more frequently.

Although this study has uncovered important patterns in the use of conditional sentences in Canada, it does not provide a complete picture. There are a few notable limitations that should be recognized. First, as noted in the Methods section, data included in this study are not complete. Because three provincial/territorial jurisdictions were not able to be included, the findings reported here may not be representative of national patterns, nor of those individual jurisdictions. Second, this study focuses solely on the number of custodial and community admissions to correctional programs. Consequently, details about the length of sentences, conditions of sentences, and breaches of conditions are absent. In addition, data limitations prevented more fine grain analyses that distinguish between offence types and seriousness. As a result, it is unknown if recent statutory amendments that have restricted the use of conditional sentences may affect Aboriginal offenders disproportionately compared to non-Aboriginal offenders. Due to these limitations, further research should consider the role that these play in the

⁴⁴ United Nations, *Concluding Observations on the Sixth Periodic Report of Canada* (2015) (Human Rights Committee, United Nations: International Covenant on Civil and Political Rights) at 6.

⁴⁵ *Ibid* at 7.

patterns observed here. Third, this study focused on two broad populations – non-Aboriginal and Aboriginal offenders. Because other variables such as gender and age are known to interact in the sentencing process, further research should attempt to consider the influence these have on the findings presented here. Finally, while a few potential explanations were offered for the findings observed here, further research is required to test their validity.

Tables and Figures

Table 1: Prison Admissions and Conditional Sentences; 10 Jurisdictions, 2000/01-2014/15.

Year	Prison Admissions	Conditional Sentences	CSU (%)
2000-01	61551	14099	18.6
2001-02	63850	15924	20.0
2002-03	64438	16605	20.5
2003-04	61388	16266	20.9
2004-05	59022	16427	21.8
2005-06	61993	17231	21.7
2006-07	62878	16331	20.6
2007-08	63591	16526	20.6
2008-09	63310	17243	21.4
2009-10	62967	17194	21.4
2010-11	64881	16748	20.5
2011-12	66017	16522	20.0
2012-13	64791	15660	19.5
2013-14	63520	14548	18.6
2014-15	61358	12476	16.9
<i>Average</i>	<i>63157</i>	<i>16237</i>	<i>20.2</i>

Source: Statistics Canada, Adult Correctional Services Survey.

Note: New Brunswick and Nunavut missing data for 2000-01; Manitoba missing data for 2000-01 through 2004-05.

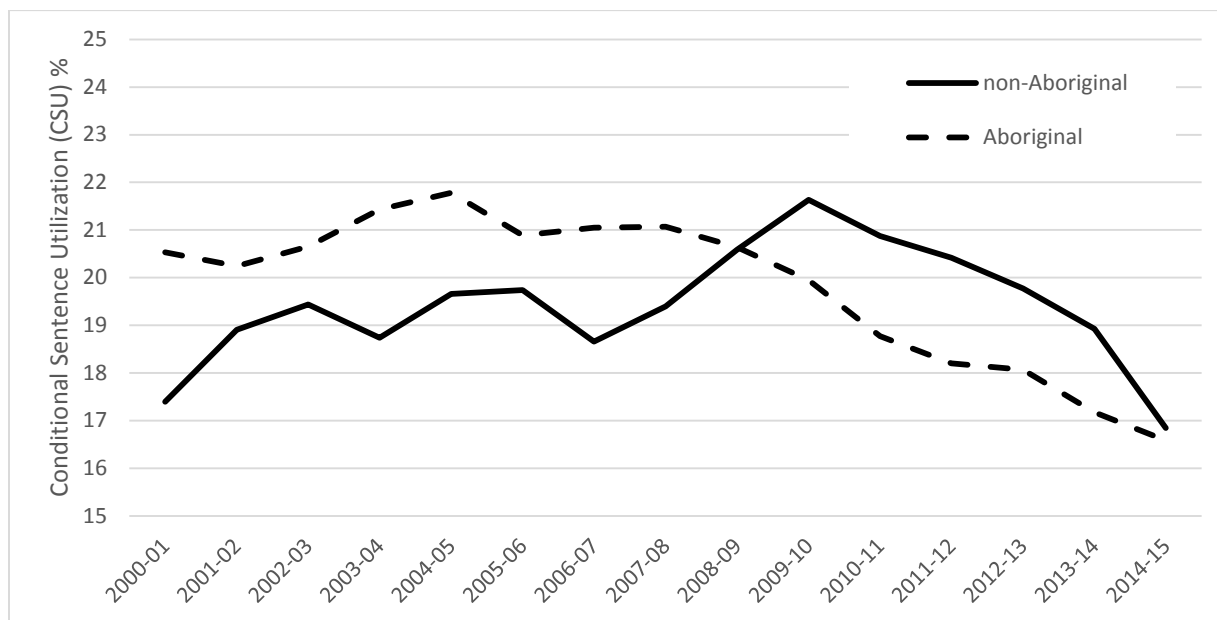
Table 2: Prison Admissions and Conditional Sentences; 10 Jurisdictions, 2000/01-2014/15.

Jurisdiction	Average Prison Admissions	Average Conditional Sentences	Average CSU (%)
Newfoundland	1109	409	27
Nova Scotia	1940	721	27
New Brunswick	2431	599	20
Quebec	9838	3856	28
Ontario	31014	4906	14
Manitoba	4341	1009	19
Saskatchewan	3792	1524	29
British Columbia	9193	3103	25
Yukon	234	88	27
Nunavut	392	83	17
<i>Grand Mean</i>	<i>6428</i>	<i>1630</i>	<i>22</i>

Source: Statistics Canada, Adult Correctional Services Survey.

Note: New Brunswick and Nunavut missing data for 2000-01; Manitoba missing data for 2000-01 through 2004-05.

Figure 1: Non-Aboriginal and Aboriginal Conditional Sentence Utilization (CSU); 10 Jurisdictions, 2000/01-2014/15.



Source: Statistics Canada, Adult Correctional Services Survey.

Note: New Brunswick and Nunavut missing data for 2000-01; Manitoba missing data for 2000-01 through 2004-05.

Table 3: Imprisonment Sentences by Aboriginal Identity; 10 Jurisdictions, 2001/02-2014/15

Year	non -Aboriginal		Aboriginal	
	Prison Admissions	Conditional Sentences	Prison Admissions	Conditional Sentences
2000-01	54579	11493	9599	2480
2001-02	55045	12835	10264	2605
2002-03	55735	13447	10846	2823
2003-04	53280	12286	10371	2829
2004-05	51367	12571	10760	2996
2005-06	50405	12399	11226	2964
2006-07	50985	11696	11470	3058
2007-08	51746	12451	11491	3067
2008-09	50772	13161	12376	3219
2009-10	49266	13602	13568	3381
2010-11	49520	13063	15203	3514
2011-12	49893	12799	15915	3541
2012-13	48264	11895	16336	3603
2013-14	46961	10966	16365	3394
2014-15	45161	9150	15966	3175
<i>Average</i>	<i>50865</i>	<i>12254</i>	<i>12784</i>	<i>3110</i>

Source: Statistics Canada, Adult Correctional Services Survey.

Note: New Brunswick and Nunavut missing data for 2000-01; Manitoba missing data for 2000-01 through 2004-05.

Table 4: Imprisonment Sentences by Aboriginal Identity; Saskatchewan, 2001/02-2014/15.

Year	non- Aboriginal Prison Admissions	non - Aboriginal Conditional Sentences	non- Aboriginal CSU (%)	Aboriginal Prison Admissions	Aboriginal Conditional Sentences	Aboriginal CSU (%)
2000-01	736	361	33	2453	927	27
2001-02	663	396	37	2480	905	27
2002-03	759	400	35	2739	995	27
2003-04	671	405	38	2603	1031	28
2004-05	779	389	33	2643	1013	28
2005-06	719	434	38	2659	975	27
2006-07	659	349	35	2791	1073	28
2007-08	622	375	38	2670	1072	29
2008-09	759	392	34	2811	1092	28
2009-10	874	428	33	3029	1069	26
2010-11	924	472	34	3456	1150	25
2011-12	930	382	29	3343	1140	25
2012-13	966	379	28	3367	1180	26
2013-14	910	390	30	3516	1092	24
2014-15	1007	396	28	3304	1098	25
<i>Average</i>	799	397	33	2924	1054	27

Source: Statistics Canada, Adult Correctional Services Survey.

Table 5: Imprisonment Sentences by Aboriginal Identity; Quebec, 2001/02-2014/15.

Year	non- Aboriginal Prison Admissions	non - Aboriginal Conditional Sentences	non- Aboriginal CSU (%)	Aboriginal Prison Admissions	Aboriginal Conditional Sentences	Aboriginal CSU (%)
2000-01	14456	3598	20	280	193	41
2001-02	13916	3919	22	266	212	44
2002-03	12964	3981	23	296	261	47
2003-04	11490	3634	24	280	225	45
2004-05	9489	3441	27	239	218	48
2005-06	7633	3310	30	260	230	47
2006-07	7214	3060	30	241	201	45
2007-08	7040	3101	31	182	153	46
2008-09	7450	3209	30	208	160	43
2009-10	7556	3433	31	289	212	42
2010-11	7815	3049	28	272	194	42
2011-12	7808	3120	29	274	172	39
2012-13	8171	3080	27	245	212	46
2013-14	9442	2841	23	310	175	36
2014-15	9968	2285	19	322	172	35
<i>Average</i>	<i>9494</i>	<i>3271</i>	<i>26</i>	<i>264</i>	<i>199</i>	<i>43</i>

Source: Statistics Canada, Adult Correctional Services Survey.

Table 6: Imprisonment Sentences by Aboriginal Identity; British Columbia, 2001/02-2014/15.

Year	non- Aboriginal Prison Admissions	non - Aboriginal Conditional Sentences	non- Aboriginal CSU (%)	Aboriginal Prison Admissions	Aboriginal Conditional Sentences	Aboriginal CSU (%)
2000-01	7589	2668	26	1931	558	22
2001-02	7363	2995	29	1900	606	24
2002-03	6848	2901	30	1723	563	25
2003-04	6919	2518	27	1703	511	23
2004-05	7093	2661	27	1784	573	24
2005-06	7162	2370	25	1871	470	20
2006-07	7447	2283	23	2055	535	21
2007-08	7976	2363	23	2094	486	19
2008-09	7115	2516	26	2424	519	18
2009-10	5951	2572	30	2669	694	21
2010-11	5896	2394	29	2751	685	20
2011-12	5967	2244	27	2922	677	19
2012-13	5946	2243	27	2937	642	18
2013-14	6052	1952	24	2936	644	18
2014-15	6325	1598	20	3193	598	16
<i>Average</i>	<i>6777</i>	<i>2419</i>	<i>26</i>	<i>2326</i>	<i>584</i>	<i>20</i>

Source: Statistics Canada, Adult Correctional Services Survey.

Table 7: Imprisonment Sentences by Aboriginal Identity; Manitoba, 2001/02-2014/15.

Year	non- Aboriginal Prison Admissions	non - Aboriginal Conditional Sentences	non- Aboriginal CSU (%)	Aboriginal Prison Admissions	Aboriginal Conditional Sentences	Aboriginal CSU (%)
2000-01	1047	345	25	1854	360	16
2001-02	935	407	30	2090	359	15
2002-03	1070	458	30	2246	340	13
2003-04	998	411	29	2141	328	13
2004-05	1050	515	33	2458	467	16
2005-06	1078	658	38	2670	494	16
2006-07	1101	638	37	2486	447	15
2007-08	1104	586	35	2506	484	16
2008-09	1087	639	37	2717	516	16
2009-10	1235	669	35	3302	430	12
2010-11	1373	720	34	3955	446	10
2011-12	1421	669	32	4425	467	10
2012-13	1488	632	30	4732	471	9
2013-14	1451	670	32	4865	526	10
2014-15	1471	541	27	4758	436	8
<i>Average</i>	<i>1194</i>	<i>571</i>	<i>32</i>	<i>3147</i>	<i>438</i>	<i>13</i>

Source: Statistics Canada, Adult Correctional Services Survey.

Table 8: Imprisonment Sentences by Aboriginal Identity; Ontario, 2001/02-2014/15.

Year	non- Aboriginal Prison Admissions	non - Aboriginal Conditional Sentences	non- Aboriginal CSU (%)	Aboriginal Prison Admissions	Aboriginal Conditional Sentences	Aboriginal CSU (%)
2000-01	28311	3885	12	2688	326	11
2001-02	29203	4095	12	2777	321	10
2002-03	30043	4522	13	3007	398	12
2003-04	28593	3989	12	2764	450	14
2004-05	27978	4062	13	2758	470	15
2005-06	28863	4031	12	2728	505	16
2006-07	29435	3904	12	2782	538	16
2007-08	29803	4461	13	2980	527	15
2008-09	29313	4758	14	3071	643	17
2009-10	28283	4729	14	3168	666	17
2010-11	28104	4682	14	3578	725	17
2011-12	28338	4578	14	3727	818	18
2012-13	26577	3945	13	3772	804	18
2013-14	24388	3596	13	3336	675	17
2014-15	21923	2952	12	2922	592	17
<i>Average</i>	<i>27944</i>	<i>4146</i>	<i>13</i>	<i>3071</i>	<i>564</i>	<i>15</i>

Source: Statistics Canada, Adult Correctional Services Survey.

Table 9: Imprisonment Sentences by Aboriginal Identity; Newfoundland and Labrador, 2001/02-2014/15.

Year	non- Aboriginal Prison Admissions	non - Aboriginal Conditional Sentences	non- Aboriginal CSU (%)	Aboriginal Prison Admissions	Aboriginal Conditional Sentences	Aboriginal CSU (%)
2000-01	1047	874	45	70	16	19
2001-02	935	119	11	18	4	18
2002-03	1070	308	22	71	7	9
2003-04	998	614	38	131	22	14
2004-05	1050	931	47	154	25	14
2005-06	1078	893	45	154	40	21
2006-07	1101	829	43	196	31	14
2007-08	1104	809	42	200	68	25
2008-09	1087	843	44	172	44	20
2009-10	1235	996	45	158	63	29
2010-11	1373	1026	43	227	83	27
2011-12	1421	992	41	217	83	28
2012-13	1488	855	36	255	75	23
2013-14	1451	833	36	252	74	23
2014-15	1471	771	34	360	110	23
<i>Average</i>	<i>1194</i>	<i>780</i>	<i>38</i>	<i>176</i>	<i>50</i>	<i>20</i>

Source: Statistics Canada, Adult Correctional Services Survey.

Table 10: Imprisonment Sentences by Aboriginal Identity; Nunavut, 2001/02-2014/15.

Year	non- Aboriginal Prison Admissions	non - Aboriginal Conditional Sentences	non- Aboriginal CSU (%)	Aboriginal Prison Admissions	Aboriginal Conditional Sentences	Aboriginal CSU (%)
2000-01	---	---	---	---	---	---
2001-02	0	0	---	301	54	15
2002-03	0	0	---	314	89	22
2003-04	0	0	---	269	108	29
2004-05	0	0	---	279	63	18
2005-06	0	0	---	409	96	19
2006-07	0	0	---	385	76	16
2007-08	0	0	---	336	101	23
2008-09	1	0	0	376	95	20
2009-10	0	0	---	400	99	20
2010-11	0	0	---	386	88	19
2011-12	0	0	---	410	50	11
2012-13	1	0	0	417	71	15
2013-14	2	0	0	549	67	11
2014-15	0	0	---	504	33	6
<i>Average</i>	<i>0</i>	<i>0</i>	<i>0</i>	<i>381</i>	<i>78</i>	<i>17</i>

Source: Statistics Canada, Adult Correctional Services Survey.**Note:** Missing data for 2000/01.