



Access to Justice in Detention in Quebec:

Notes on the few number of requests for a temporary absence in preparation for conditional release



*Release, Reentry, and
Community Supervision*

#LSACA18
Toronto, June 10, 2018

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Outline of the presentation

**Introduction: Canadian Carceral System
and Quebec Parole 101**

Contextualizing the Research Project:

Socio-legal Context, Question and Partnership

Data and Preliminary Results:

Broad Picture, Methods and Analysis

Conclusion: Next Steps in the Project

Canadian Carceral System 101

Dual Regime: Federal and Provincial (State)

Criminal Law: Federal Jurisdiction, BUT...

- A puzzle of jurisd. (police, adm. of just., prisons)

Terms of imprisonment of 2 years or more

- Federal (Corrections + Parole)

Terms of imprisonment of less than 2 years

- Provincial (Corrections + Parole)

[Pre-trial & Immigration Detention are often served in Provincial Correctional Facilities]

Incarceration Rates (139 Can; 76 Qc)

On an average day in 2015/2016, there were 40,147 adults in custody (sentenced + remand); 25,405 in provincial and territorial custody and 14,742 in federal custody.

Average daily counts of adults in correctional services, by jurisdiction, 2015/2016

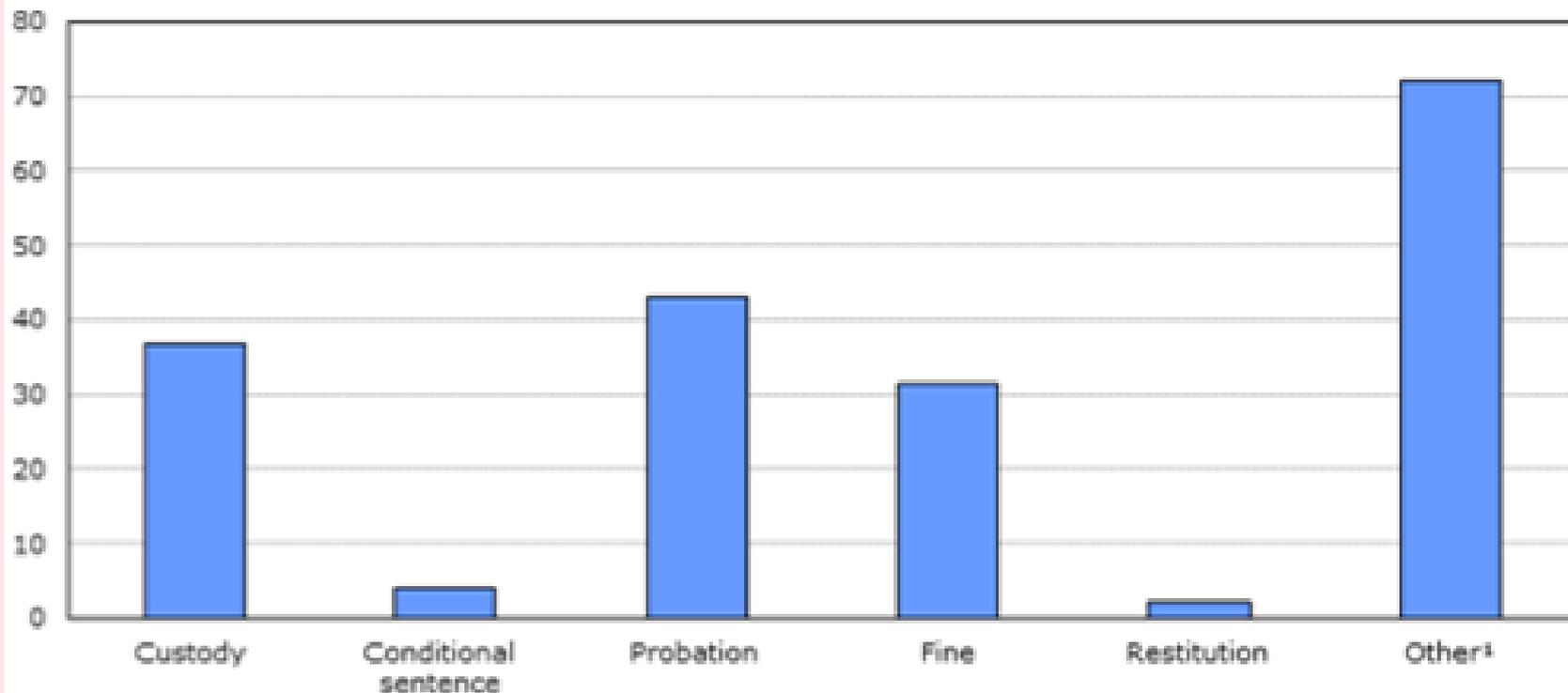
Jurisdiction	Custody ¹		Percent change in incarceration rate from 2014/2015 to 2015/2016	Community supervision ²		Percent change in community supervision rate from 2014/2015 to 2015/2016 ³	Total correctional services ³		Percent change in total rate from 2014/2015 to 2015/2016 ³	Percent change in total rate from 2011/2012 to 2015/2016 ³
	number	rate ⁴		number	rate ⁴		number	rate ⁴		
Newfoundland and Labrador	359	82	15	1,610	369	-2	1,968	452	1	-14
Prince Edward Island	84	71	-20	824	698	-6	907	769	-8	-11
Nova Scotia	483	62	-5	..	..	..	..	..	..	..
New Brunswick	442	71	8	..	..	..	..	..	..	..
Quebec	5,097	76	-2	13,581	202	-2	18,678	277	-2	-4
Ontario	7,960	72	1	43,977	396	-7	51,937	467	-6	-25
Manitoba	2,424	242	0	7,202	719	-5	9,627	960	-4	-4
Saskatchewan	1,812	207	6	6,495	742	16	8,307	948	14	10
Alberta	3,673	112	10	8,767	267	..	12,441	379	..	-15
British Columbia	2,653	69	9	12,146	316	-4	14,798	385	-2	-16
Yukon	94	317	23	336	1,128	-8	431	1,445	-2	1
Northwest Territories	189	570	8	389	1,172	-13	578	1,742	-4	-33
Nunavut	136	575	6	760	3,222	-13	895	3,797	-10	-28
Provinces and territories—total ²	25,405	88	3	96,087	349	-4	120,568	438	-3	-16
Federal ⁵	14,742	51	-4	8,215	28	3	22,956	79	-1	-6
Total	40,147	139	0	..	..	..	..	..	..	..

Type of Sentence

In 2014/2015, custodial sentences were imposed in 37% of all adult criminal court cases. This was the lowest number (76,340) in the last 10 years, yet it represented the highest proportion of cases receiving this sentence in period.

Guilty cases in adult criminal court, by type of sentence, Canada, 2014/2015

percent of guilty cases

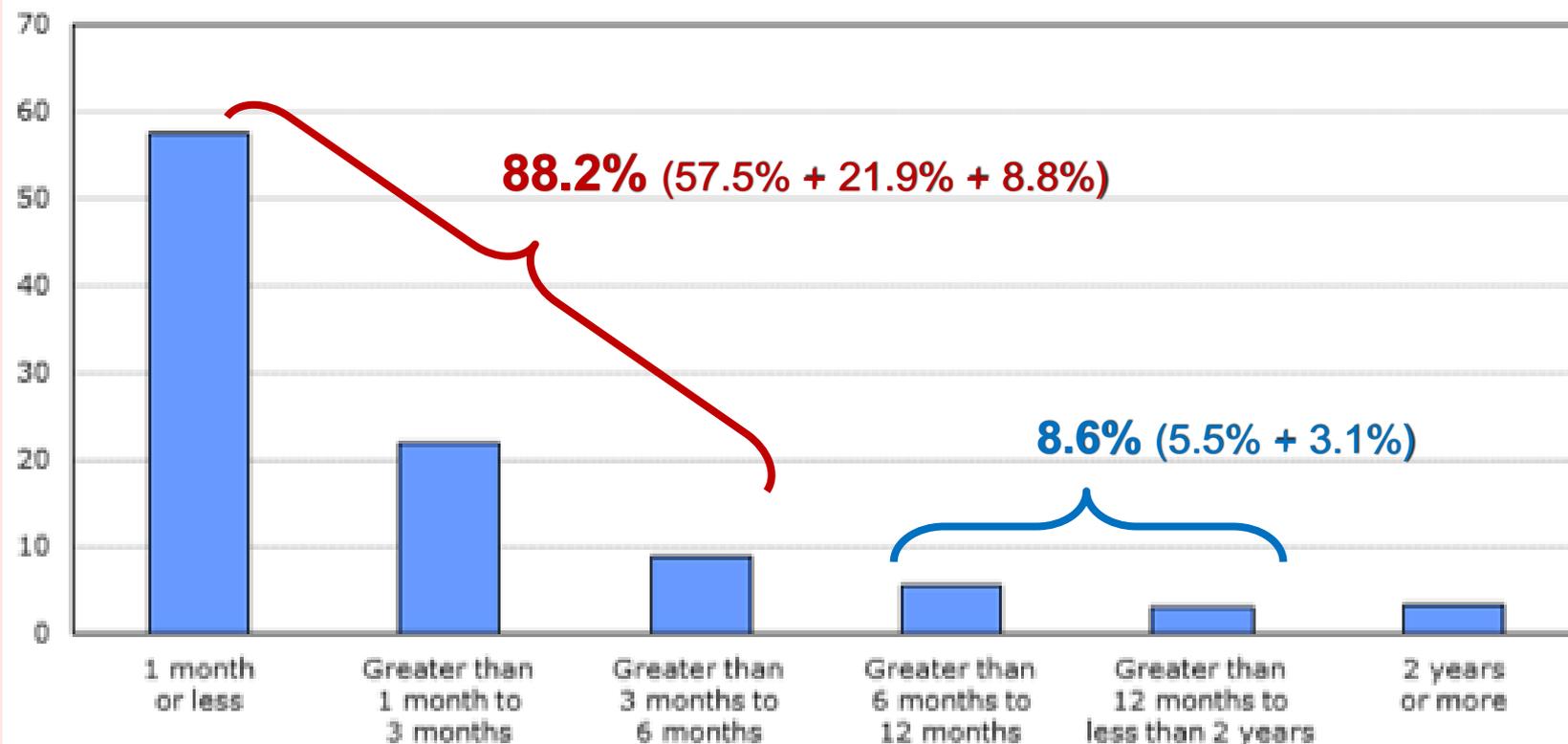


Length of Sentences

In 2014/2015, 88.2% of individuals sentenced to custody received a sentence of 6 months or less; 8.6% of between 6 months and 2y; and 3.2% of 2y or more.

Guilty cases in adult criminal court, by length of custody sentence, Canada, 2014/2015

percent of cases sentenced to custody



JURISTAT (2017). Adult criminal court statistics in Canada, 2014/2015.

Quebec Parole 101

Loi sur le système correctionnel du Québec (2002)

Act respecting the Québec correctional system

- Came into force in 2007 (after the Act Regs.)

General principle: “facilitate the reintegration of offenders into the community.” (s.1)

Target population: serving sent. of 6 months to 2y

Types of release and temporality:

1/6 → Temporary absence in preparation for...

1/3 → Conditional release (Parole)

2/3 → Statutory release (if Parole is not granted)

Contextualizing the Research Project (I)

Socio-legal Context

Still struggling to implement the new regime...

Two distinct moments:

- **from ~2000 (2002) to 2007**
 - law reform “in the books”
- **after 2007**
 - law reform “in action”

A heavier and formalist management process:

- delays in the evaluation of correctional files
- decrease of the number of releases
- **very high reentry due to breaches of conditions**

Contextualizing the Research Project (II)

Research Question

Why anticipated releases are not working and how to improve the new parole regime?

Figuring out the few number of requests for **1/6 releases**
(temporary absence in preparation for conditional release)

+ the significant number of adjournments of hearings
and the high rates of waivers for **1/3 releases**
(conditional release)

Contextualizing the Research Project (III)

A Partnership

Access to Justice in Detention

ADAJ
Accès au
Droit et
À la Justice

SSHRC Partnership Grant

Key Institutional Actors of the Quebec Carceral System
are Partners of the Research Project:

Correctional Services: *Evaluations, follow-ups, preparation of files for release hearings;*

Quebec Parole Board: *Independent Administrative Tribunal granting release decisions;*

Association des Services de Réhabilitation Sociale: *Comm. support and supervision;*

The Quebec Ombudsman: *Prison Ombudsman in Quebec.*

Broad Picture and Methods

1/6 releases (temporary absence in preparation for conditional release):

- **between 15% and 19% of admissible detainees request a hearing**
- **important variations depending on facilities (12% and +30%) and on years**
 - For instance, variations between 6% and 23% within the same facility

1/3 releases (conditional release)

- **important rates of adjournments: 31% of parole decisions (2010-2016)**
- **a good part could possibly be avoided** (missing docs, superv. place in comm.)
- **high rate of waivers of hearings:**
 - **fairly one person in two give up their right to be heard by the Board**
 - **recurring phenomenon** (the rate varies between 42 and 54% since 2011)
 - this rate varies a lot from one institution to another (17% to 72%) and years

Mix Method Approach relying on different sources of data:

- Corrections + Parole Board databases (stats + files)
- Interviews + Ethnographic Observation
(trajectories of all kinds of abandon, institutional practices, etc.)

Certain socio-ethnic profile and vulnerability

Role of correction agents (recommendations)

Temporality (especially on 1/6 releases)

Statutory releases (2/3 of the sentence)

- **Ongoing project**
- **Pilot project w/ partners**

