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s. 393 False alarm of fire	ID SD	2 yrs 6m/2000		s. 464 S	s. 450(2)
s. 394(1) Interfering with saving of wrecked vessel	I	5 yrs	6m	s. 464	s. 453
s. 394(2) Interfering with saving of wreck	S	6m/2000	6m	S	s. 450(2)
s. 395(1) Interfering with marine signal, etc. (attaching boat to marker)	S	6m/2000	6m	S	s. 450(2)
s. 395(2) Wilful interference (altering, removing, concealing) with marine signals	I	10 yrs		s. 464	s. 457(1)
s. 396 Removing natural bar without permission	I	2 yrs		s. 464	s. 453
s. 397 Occupant injuring building to the prejudice of a mortgagee/owner	I	5 yrs		s. 464	s. 453
s. 398 Interfering with boundary lines	S	6m/2000	6m	S	s. 450(2)
s. 399 Interfering with international boundary marks, etc.	I	5 yrs		s. 464	s. 453
s. 400 Injuring or endangering cattle	I	5 yrs		s. 464	s. 453
s. 401 Injuring or endangering other animals	S	6m/2000	6m	S	s. 450(2)

Offence Description	Procedure	Sentence Max.	Sentence Min.	Limitation Period	Election	Bail	Comments
s. 402(2) Causing unnecessary suffering (to animals or birds)	S	6m/2000		6m	S	s. 450(2)	
s. 402(6) Ownership, custody or control of animal or bird when prohibited from doing so by court order	S	6m/2000		6m	S	s. 450(2)	
s. 403 Keeping cock-pit	S	6m/2000		6m	S	s. 450(2)	
s. 407 Making of counterfeit money	I	14 yrs			s. 464	s. 457(1)	
s. 408 Possession, buying or receiving or offering to buy or receive, counterfeit money	I	14 yrs			s. 464	s. 457(1)	
s. 409 Having clippings obtained from current gold or silver coins	I	5 yrs			s. 464	s. 453	
s. 410 Uttering, etc., counterfeit money	I	14 yrs			s. 464	s. 457(1)	
s. 411 Uttering coin	I	2 yrs			s. 464	s. 453	
s. 412 Manufacturing or possession of slugs and tokens	S	6m/2000		6m	S	s. 450(2)	
s. 413 Clipping and uttering clipped coin	I	14 yrs			s. 464	s. 457(1)	

s. 414 Defacing current coins	S	6m/2000	6m	S	s. 450(2)	
s. 415 Printing of circulars, etc., in likeness of notes	S	6m/2000	6m	S	s. 450(2)	
s. 416 Making, having or dealing in instruments for counterfeiting	I	14 yrs		s. 464	s. 457(1)	
s. 417 Conveying instruments for coining out of mint	I	14 yrs		s. 464	s. 457(1)	
s. 418 Advertising and dealing in counterfeit money, etc.	I	5 yrs		s. 464	s. 453	
s. 421(a) Attempts, accessories/ indictable, punishable death or life imprisonment	I	14 yrs		s. 464	s. 457(1) or s. 457.7	Election under ss. 427, 430 where attempt offence is lis- ted in s. 427(a)(i) to (vii) or where accessory offence relates to high treason, treason or murder.
s. 421(b) Attempts, accessories/ indictable, punishable 14 yrs or less	I	*		same as offence	varies	*Maximum sentence is one-half of the maximum sentence for committing offence.
s. 421(c) Attempts, accessories/ summary offence, punishable on summary conviction	S	6m/2000	6m	S	s. 450(2)	
s. 421(d) Attempts, accessories/ hybrid offence	ID SD	* 6m/2000		s. 464 or s. 483 S	s. 450(2)	*Maximum sentence if prosecuted by indictment is one-half the maximum indictable sentence for the principal offence.

Offence Description	Procedure	Sentence Max. Min.	Limitation Period	Election	Bail	Comments
s. 422(a) Counselling another person to commit an indictable offence/if offence is not committed	I	same as penalty for attempts		s. 464	varies	
s. 422(b) Counselling another person to commit an offence punishable on summary conviction/if offence is not committed	S	6m/2000	6m	S	s. 450(2)	
s. 423(1)(a) Conspiracy/murder	I	Life		s. 427	s. 457.7	
s. 423(1)(b)(i) Conspiracy to prosecute/ knowing that person innocent (if offence sentence is death, imprisonment for life or 14 yrs)	I	10 yrs		s. 464	s. 457(1)	
s. 423(1)(b)(ii) Conspiracy to prosecute/ knowing that person innocent (if offence sentence is less than 14 yrs)	I	5 yrs		s. 464	s. 453	
s. 423(1)(d) Conspiracy/general for an indictable offence	I	same as principal offence		same as principal offence	varies	
s. 423(1)(e) Conspiracy to commit summary conviction offence	S	6m/2000	6m	S	s. 450(2)	
s. 442(4) Breach of court order restricting public and publicity	S	6m/2000	6m	S	s. 450(2)	

s. 443.2 Publication concerning search, before charges laid	S	6m/2000	6m	S	s. 450(2)
s. 457.2(2) Failure to comply with a court order directing matters not to be published for a specified period	S	6m/2000	6m	S	s. 450(2)
s. 467(3) Failure to comply with order restricting publication of evidence taken at preliminary inquiry	S	6m/2000	6m	S	s. 450(2)
s. 576.1 Failure to comply with a restriction on publication when a jury is not present at trial	S	6m/2000	6m	S	s. 450(2)
s. 576.2 Disclosure of jury proceedings	S	6m/2000	6m	S	s. 450(2)
s. 636 Contempt of court		90 days/ \$100			Not all aspects of contempt of court are included in the table. Note partial statutory definitions of contempt in sections 533 and 636.
s. 666 Failure to comply with probation order	S	6m/2000	6m	S	s. 450(2)
s. 746 Breach of recognizance	S	6m/2000	6m	S	s. 450(2)

NOTES

(a) [S. 450(1)(a)] Peace officer may arrest without warrant a person who has committed or who, on reasonable and probable grounds, he believes has committed or is about to commit an indictable offence.

- (b) If offence is indictable, mode and routing of appeal are those specified in Part XVIII (sections 601 to 624). Sections 747 to 771 specify mode and routing of appeal if offence punishable on summary conviction.
- (c) No application may be made pursuant to subsection 4(2) of *Criminal Records Act* until — in case of imposition on the applicant of sentence of imprisonment, period of probation, or a fine — two years have elapsed if offence is a summary conviction; one or five years, if offence is an indictable one.
- (d) All accused charged with indictable offences are subject to the provisions of *Identification of Criminals Act* whereas accused charged with summary conviction offences are not.
- (e) [S. 562] If the offence is high treason or first degree murder, accused may challenge 20 jurors peremptorily. Other offences, if maximum sentence more than 5 years, 12 jurors. If maximum 5 years or less, 4 jurors.
- (f) [S. 646] If maximum more than 5 years, court may impose fine only in addition to term of imprisonment. If maximum 5 years or less, court may impose fine in addition to, or in lieu of, term of imprisonment.
- (g) [S. 659] Sentence of life, a term of two years or more, or two or more terms which aggregate to two years or more shall be served in penitentiary.
- (h) Document of process is information if offence punishable on summary conviction, section 483 offence or indictable offence which accused elects to have tried by provincial court judge. Document of process is indictment for any other offence.

APPENDIX B

Selected *Criminal Code* Sentencing Data

In this Working Paper we recommend the reclassification of section 483 (absolute jurisdiction) indictable offences, and hybrid and indictable offences punishable by a maximum of two years. These offences would be reclassified as crimes punishable by two years imprisonment or less.

Some hybrid offences punishable on indictment by maximum penalties in excess of two years and other indictable offences carrying maxima exceeding two years might also be considered for reclassification as crimes punishable by two years or less. The limited sentencing data made available to us suggests that actual sentences fall far short of the maximum possible sentences for a number of hybrid offences. The sentences often fall within the penalty range for our class of minor or less serious crimes, even where the possible penalty on indictment exceeds five years. We make no recommendation about reclassifying such offences as crimes punishable by two years or less imprisonment. Nonetheless, we remind Parliament of the often significant disparity between maximum penalties and actual sentences. Some types of conduct that currently attract high potential penalties might therefore be considered for reclassification as crimes punishable by two years or less.

The following is sentencing data for selected hybrid offences that attract possible penalties of five years imprisonment or more. This data, provided by Statistics Canada, concerns sentences reported to it in the years 1971, 1972, 1973, 1978 and 1979. We recognize the inherent shortcomings in utilizing statistics pertaining to only some of the hybrids and of employing data which is not reflective of the experience of the past six years. Consequently, we have been very cautious in drawing conclusions based upon such data. Also, we wish to note that owing to the inadequate reporting of court statistics, the reports which we have gathered are, at best, partial. However, despite these deficiencies and despite the fact that different groups of courts reported in different years, the figures show a remarkable consistency. They thereby yield at least a tentative indication that, in the aggregate, in the period surveyed there has been a commonality of approach to the sentencing of these hybrid offences, both across provinces and across time.

Pointing a Firearm — Subsection 84(1) (possible maximum of five years imprisonment)

	Suspended sentence	Fine only	6m and under	Imprisonment over 6m under 15m	15m and over
1971	52%	20%	22%	4%	2%
1972	47%	24%	22%	4%	3%
1973	37%	23%	34%	5%	1%
1978	55%	18%	25%	2%	—
1979	36%	36%	19%	5%	4%

Carrying a Concealed Weapon — Section 87 (possible maximum of five years imprisonment)

	Suspended sentence	Fine only	6m and under	Imprisonment over 6m under 15m	15m and over
1971	31%	23%	37%	6%	3%
1972	29%	19%	40%	6%	6%
1973	19%	31%	37%	8%	5%
1978	39%	46%	15%	—	—
1979	39%	27%	27%	5%	2%

Possession of a Prohibited Weapon and Being the Occupant of a Motor Vehicle Knowing It Contains a Prohibited Weapon — Section 88 (possible maximum of five years imprisonment)

(a) Possession of a Prohibited Weapon

	Suspended sentence	Fine only	6m and under	Imprisonment over 6m under 15m	15m and over
1971	22%	48%	26%	4%	—
1972	32%	49%	16%	—	3%
1973	24%	19%	51%	—	6%
1978	16%	52%	19%	5%	8%
1979	19%	53%	21%	2%	5%

(b) Occupant of Motor Vehicle

	Suspended sentence	Fine only	6m and under	Imprisonment over 6m under 15m	15m and over
1971	20%	40%	40%	—	—
1972	33%	56%	11%	—	—
1978	16%	74%	10%	—	—
1979	29%	53%	18%	—	—

Possession of Unregistered Restricted Weapon — Subsection 89(1) (possible maximum of five years imprisonment)

	Suspended sentence	Fine only	6m and under	Imprisonment over 6m under 15m	15m and over
1971	20%	46%	20%	12%	2%
1972	27%	40%	22%	5%	6%
1973	18%	40%	30%	9%	3%
1978	20%	68%	8%	1%	3%
1979	31%	23%	23%	3%	20%

Public Mischief — Section 128 (possible maximum of five years imprisonment)

	Suspended sentence	Fine only	6m and under	Imprisonment over 6m under 15m	15m and over
1971	22%	57%	19%	1%	1%
1972	28%	58%	13%	1%	—
1973	24%	59%	16%	1%	1%
1978	23%	65%	11%	—	1%
1979	20%	62%	18%	—	—

Dangerous Operation of a Motor Vehicle, Vessel or Aircraft where No Injury — Subsection 233(1) (possible maximum of five years imprisonment)

This offence, new with the *Criminal Law Amendment Act, 1985*, replaces a number of offences — criminal negligence in the operation of a motor vehicle (formerly s. 233(1)), dangerous driving (formerly s. 233(4)) and dangerous operation of a vessel (formerly s. 240(1)). Here we show sentencing statistics for criminal negligence.

Criminal Negligence in the Operation of a Motor Vehicle

	Suspended sentence	Fine only	6m and under	Imprisonment over 6m under 15m	15m and over
1971	4%	44%	40%	4%	8%
1972	17%	8%	67%	—	8%
1973	33%	10%	33%	16%	8%
1978	12%	54%	29%	3%	2%
1979	11%	47%	36%	1%	5%

Assaulting a Peace Officer, Etc. — Subsection 246 (possible maximum of five years imprisonment)

	Suspended sentence	Fine only	6m and under	Imprisonment over 6m under 15m	15m and over
1971	16%	43%	38%	2%	2%
1972	16%	48%	33%	1%	2%
1973	19%	41%	36%	2%	2%
1978	22%	55%	21%	1%	1%
1979	17%	56%	26%	—	1%

Theft, Forgery of Credit Card — Section 301.1 (possible maximum of ten years imprisonment)

	Suspended sentence	Fine only	6m and under	Imprisonment over 6m under 15m	15m and over
1978	27%	7%	45%	7%	14%
1979	26%	5%	23%	44%	2%