

Women Accused in Ottawa: Two Weeks in Provincial Remand Court

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Highlights

- The number and types of offences faced by women and men in Ottawa generally conform to expected Canadian national patterns: only one-in-five adults charged with Criminal Code offences in Ottawa were women; and women are proportionally charged with fewer offences against the person and more property crimes than are men.
- Both women and men in Ottawa face significantly fewer property crimes and crimes against the person compared to national averages.
- Both women and men in Ottawa are charged with significantly more offences against the administration of justice, such as breaches, compared to national averages.

Introduction

Canadian analyses of the incidence of crime by gender have consistently shown that as a whole, women are charged with fewer criminal offences than are men and the charges women face tend to be less serious in nature than the charges laid against men. The Elizabeth Fry Society of Ottawa provides a wide variety of help for women in the city of Ottawa who are experiencing conflict with the law. A full understanding of the nature and quantity of the criminal charges faced by women in our jurisdiction helps us determine the kind of services we need to provide our clients as well as guides our advocacy on their behalf.

The last detailed examination of Canadian crime rates by gender was the Juristat study done by Rebecca Kong and Kathy AuCoin (2008)¹, which examined Uniform Crime Reporting Survey (UCR2) data up to the year 2005. The Elizabeth Fry Society of Ottawa's Courthouse Office wanted to see if we could use data readily available at the Ottawa Provincial Courthouse to generate our own current assessment of the quantity and quality of the criminal charges faced by women and men in the city of Ottawa.

All adults charged with a Criminal Code of Canada (CCC) offence alleged to have occurred within Ottawa city limits are required to appear in the central remand court in Courtroom # 5 in the Ottawa Provincial Courthouse, 161 Elgin St. People facing charges

¹ Kong, R. & AuCoin, K. (2008) Female Offenders in Canada. *Juristat*, 28(1), 1-28. Canadian Centre for Justice Statistics; Statistics Canada.

exclusively under the Controlled Drug and Substance Act (CDSA) and youths under the age of eighteen attend different courts, however they comprise a much smaller number than those charged with Criminal Code offences. People who are awaiting bail on CCC charges also begin in a different court, but once they make bail, their charges are sent to Courtroom #5. Courtroom #5 is therefore the largest criminal remand court in the Ottawa jurisdiction.

Courtroom #5 remand court runs every Monday to Friday morning. The day of the week on which a person appears in #5 depends on the alphabetical order of their last name or their co-accused's last name and the type of charge—Friday mornings are reserved for domestic assault cases. Matters remain in remand court, usually adjourned two weeks at a time, until disclosure and/or legal advice is obtained and the accused person is ready to make a decision about whether to set a trial date or otherwise resolve their matter.

A list of the people scheduled to appear in court, known as a docket, is printed for Courtroom #5 daily. The docket contains the name of each person and each count of each criminal offence with which they're charged. The docket is posted outside the courtroom.

The Elizabeth Fry Society of Ottawa runs a Court Support Program to assist women in the Ottawa Provincial Courthouse. The program is run by volunteers supervised by staff, and includes accompanying accused women to their court appearances.

Method

Elizabeth Fry Society of Ottawa volunteers collected the Courtroom Number 5 dockets for each day of the two week period from July 20, 2009 to July 31, 2009. A two week period was chosen for two reasons: 1) to provide a manageable amount of data; 2) to ensure minimum overlapping because the majority of matters in remand court are adjourned to intervals of at least two weeks. People who appeared in court more than once in the two week period were only counted once.

The name of each person on each day's docket was examined to determine whether the name could be classified as female, male or too ambiguous to be classified. For example, the name "Jean" is a female first name in English and a male first name in French. Since Ottawa is on the Quebec border and has a relatively substantial francophone population, all accused with the first name "Jean" were deemed ambiguous and excluded from analysis. Only names that were beyond a reasonable doubt culturally male or female were assigned to their respective gender group. Our volunteers come from a wide variety of cultural backgrounds and were able to ensure that we had a broad knowledge base for the assignment.

For each person identified as either female or male, the criminal code section with which they were charged was noted (offence), as well as the number of charges under each section (counts).

For example, one woman might be charged with communication for the purpose of prostitution contrary to S213 CCC and two counts of breach of undertaking S.145(3), one for being in “red zone” and a second for being out past her curfew. In this case, we tracked it as:

- 1 woman;
- 2 offences: S. 213 & S. 145(3);
- 3 counts: 1x213 and 2x145(3)

Results & Analysis

Number of Women vs. Number of Men

1074 people had matters remanded in Courtroom Number 5 in the two week period from July 20 to July 31. 233 were identified as female. 786 were identified as male. 55 had names deemed to be too ambiguous to classify. Table 1 gives the raw numbers and the percentages.

Table 1

Name Classification from Docket

Names on Docket	Number	Percentage of Total
All Persons in Court	1074	100 %
Female Names	233	22 %
Male Names	786	73 %
Ambiguous Names	55	5 %

These proportions of women and men match those found in previous examinations of crime in Canada. Kong & AuCoin’s (2008) Juristat review of 2005 UCR2 data found that 21% of the people accused of a crime in Canada were women. Our finding that women accounted for 22% of the people appearing in remand court is essentially identical.

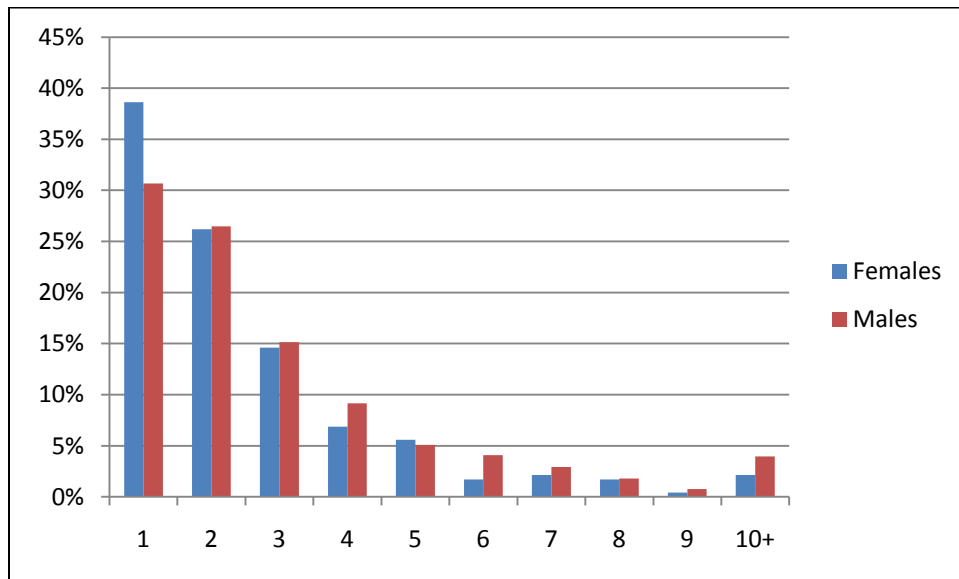
Number of Charges

38% of the women and 31% of the men in Courtroom #5 faced only a single charge. This is a slightly significantly greater percentage of women than men.

The remaining women and men each faced more than one charge, either on different CCC offences or multiple counts of the same offences. Chart 1 shows the percentage breakdown by gender and number of charges. There were no significant differences between men and women other than for the single charge group, although for each number of charges over one, the percentage of women was smaller than the percentage of men.

Chart 1

Number of Charges by Gender



Number of Charges vs. Number of Counts

As discussed in the method section, for each person in court, we noted the number of different criminal code offences with which they were charged as well as the counts, or the number of charges, under each offence. Offences tracked the different CCC sections that each person faced. Counts tracked how many times they were charged under each CCC section. The number was often the same, 1, because so many people faced only one criminal charge. However there were many people who were charged with more than one section of the Criminal Code and often people faced multiple counts of the same charges, making the number of counts significantly larger than the number of offences. Table 2 provides the number and percentages of offences and counts by gender.

Table 2

Offences and Counts by Gender

Gender	Number of Offences	Raw Count	Capped Count
Female	444 (21%)	785 (24%)	727 (23%)
Male	1676 (79%)	2436 (76%)	2436 (77%)
Total	2120(100%)	3221(100%)	3163(100%)

The person who faced the most criminal charges during the two week period was one woman who had 46 counts of importing credit card instruments contrary to S.342(1)(c) and 52 counts of fraud under five thousand contrary to S380(b). She also had 6 other counts of possession of credit card instrument, one count of theft under and one count of failing to keep proper business accounts, for a total of 106 charges on five offences. She was counted as 1 woman, with 5 offences, and 106 counts.

Two other women had extremely high numbers of counts—one with 71 and the other with 43. Not one of the other 230 women faced more than 12. Three men also had more than 20 counts but the largest number of counts faced by a man was 22.

When the outliers with more than 20 charges are capped at 20 to eliminate distortion, there is no statistical difference between the gender percentages obtained for offences and for counts. Using uncapped counts gives a slightly significantly higher percentage of females than using offences.

For policy reasons, the number of offences will be used for our analyses rather than the number of counts. The purpose of our research is to assist the Elizabeth Fry Society of Ottawa in its mandate to help women experiencing conflict with the law. While knowing the number of counts is useful, using count has a bias towards over-inflating the numbers of women in our jurisdiction who need our help. For example, when trying to allocate resources for theft prevention programming, it is more useful to know how many women are charged with theft than to know how many counts of theft each woman faces. No matter how many counts with which she is charged, the woman is still a single client who may need theft prevention programming.

Summary Table of Results

Table 3 gives our overall results, using the same general categories of offences as Kong & AuCoin.

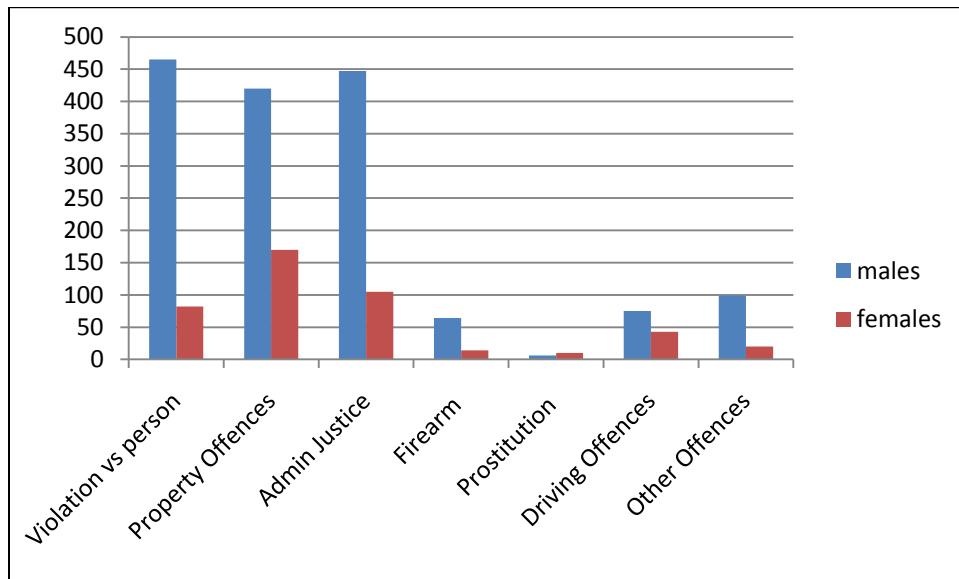
Table 2: Categorized Offence by Gender

	Total	Females	Males
Totals Offences	2120	444	1676
Totals violation vs. person	547	82	465
Robbery	26	3	23
Sexual assault	19	0	19
Other Sexual Offences	21	1	20
Major assaults	141	30	111
Assault	195	30	165
Threats	76	8	68
Criminal harassment	28	0	28
Other offenses vs Person	41	10	31
Total Property Offences	590	170	420
Taking motor vehicle	2	1	1
B & E & possession tools	22	3	19
Trespass night	5	0	5
Theft & possession under	239	69	170
Theft & possession Over	20	6	14
Fraud over	23	7	16
Fraud under	44	23	21
Accommodation fraud	6	1	5
Transportation fraud	3	3	0
All forgery	22	7	15
Mischief	137	28	109
All Arson	11	2	9
Other property offences	56	20	36
Total Admin Justice	552	105	447
Obstruct police	58	15	43
Obstruct justice	4	2	2
Public mischief	9	1	8
Not attending/at large	161	42	119
Fail to comply	297	42	255
Operate disqualified	13	0	13
Other admin justice	10	3	7
Firearms Offences	78	14	64
Prostitution Offences	16	10	6
Driving Offences	218	43	175
Other Offences	119	20	99
Cause disturbance	42	9	33
Harassing phone calls	1	0	1
Other Offences	76	11	65

Comparing Women and Men across Types of Offences

Chart 2 compares the number of charges faced by women and men on each category of offence.

Chart 2
Categories of Offences by Gender



The only category where more women than men were charged was that of prostitution offences, although prostitution offences were the smallest category of criminal offence observed in the two week period of remand court. There were only 13 charges of communication for the purpose of prostitution in total, a number too small to allow meaningful statistical inference. But of these charges, 7 were against women and 6 were against men, the same even pattern of gender charging found by Kong & AuCoin for this offence. Courtroom #5 also had 3 charges against women of the prostitution-related offence of keeping a common bawdy house. No men were charged with this offence during the period in question, but again, the numbers are too small to permit conclusive analysis.

For every other category of offence, however, men faced significantly more charges than did women.

The greatest disparity between women and men was for offences against the person where women were charged with only 15% of the offences against the person in Courtroom #5, followed by firearm offences (only 19% of charges were against women) and offences against the administration of justice (19% of charges against women). Men were also charged with 80% of the criminal driving offences, most of which were dangerous driving and impaired operation of a motor vehicle.

The category of offences with the least disparity was that of property offences, which is not surprising, given that this is the category of offence most likely to be committed by women. But even in property offences, men are nearly twice as likely to be charged as are women: 72% of the property charges were against men vs. 38% against women.

Using a more detailed breakdown of the charges than did Kong and AuCoin, we were able to compare property offences like fraud and theft under five thousand dollars to those over five thousand. One would expect to see more women being charged with the relatively minor theft and fraud offences under five thousand. We did find that more women were charged with theft and possession of stolen property under five thousand than were charged with theft and possession over five thousand. However, this pattern was true for men as well. Indeed, the percentage of women's charges of theft and possession under five thousand (29%) was virtually the same as the percentage of women's charges of theft and possession over five thousand (30%). The proportion of women's minor thefts and possession charges relative to men was not greater than the proportion of more serious theft and possession charges.

There were, however, some CCC offences against property where the proportion of charges faced by women was as high or even higher as that for men. For the offence of fraud under five thousand, there were actually more charges against women than against men, although the difference between the genders was not statistically significant. In addition, there were three charges of transportation fraud against women and none against men, but the small number of these offences makes meaningful comparison difficult.

Proportion of Offences within Each Gender

Figure 1 gives the relative percentages of all of the categories of charges faced by women. Figure 2 does the same for men.

Figure 1

Types of Offences within Gender: Females

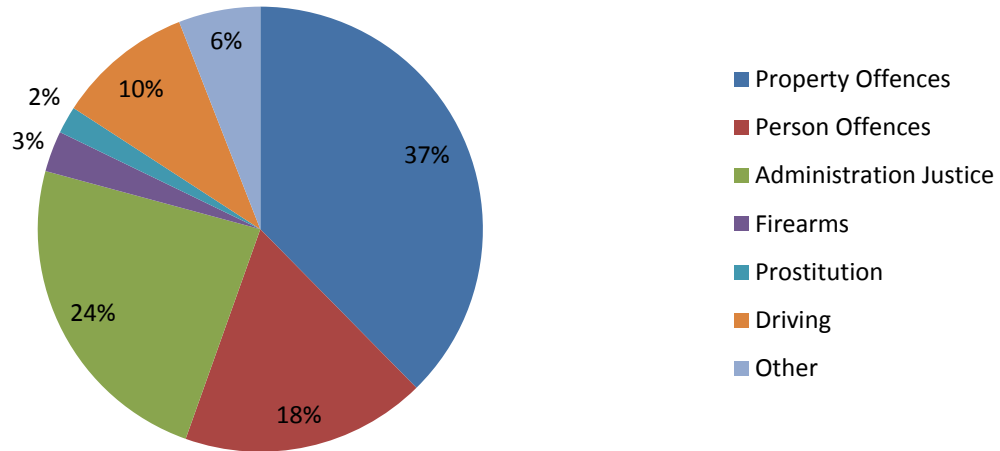
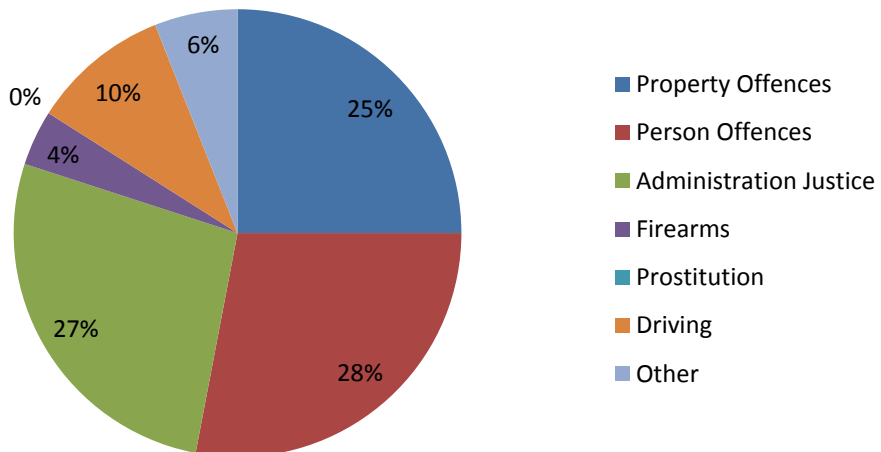


Figure 2

Types of Offences within Gender: Males



Property offences are the types of charges most frequently faced by women. Offences against the person are the most frequent type of offence laid against men.

The fact that property crimes are the most common type of charge women face in Ottawa remand court is consistent with Kong & AuCoin's national UCR2 survey results. But Kong & AuCoin also found that property crimes were also the most common type of charge against men, whereas we found that men faced more crimes against the person and crimes against the administration of justice than they did property crimes.

Furthermore, the percentages we observed for property offences for both women and men are significantly lower than those found by Kong & AuCoin who reported that for adults, property crimes accounted for 44% of women's charges and 39% of men's charges. In contrast, we found that property offences accounted for only 37% of the charges faced by women and merely 25% of the charges faced by men. One reason for our lower proportion of property crimes might be that as Kong & AuCoin note, their UCR2 data defined people as "charged" even when they were not actually charged by the police because they may have participated in pre-charge diversionary or alternative measures programming. Ottawa is one of the jurisdictions in Ontario with a pre-charge diversion program for minor criminal offences. If the person successfully participates in rehabilitation programming, the charge is never laid and so the person would never appear in Ottawa remand court. Further study is needed to see if and how diversion affects the number of property charges laid in Ottawa.

The proportion of offences against the person in Ottawa remand court also differed for both men and for women from those found by Kong & AuCoin. We found that only 18% of the charges faced by women were for offences against the person, compared to the 28% for adult women in the Juristat study, a significant difference. And even though offences against the person were the most common charges against men in Ottawa remand court, this percentage of 28% is significantly lower than the 35% for crimes against the person for males reported by Kong & AuCoin. So although in Ottawa, men are charged with more offences against the person than any other type of crime, our proportion of men charged with this category of offence is lower than the percentage for Canada overall. It's difficult to know why we have such low proportions for crimes against the person for both men and women. It's doubtful that pre-charge diversion has any impact on the number of these types of charges. Assaults are less likely than theft to be sent to pre-charge diversion, and Ottawa, like many jurisdictions, has a zero tolerance policy regarding domestic abuse. More research needs to be done before we can understand these low proportions of crimes against the person and property crimes.

There was one category of offences where Ottawa significantly exceeded the national percentages described by Kong & AuCoin: crimes against the administration of justice. Indeed, women and men in Ottawa both seem to face a disproportionately large number of charges against the administration of justice. It was the second most frequent type of charge laid for each gender. At 24% of the charges faced by women and 27% of the charges faced by men, our percentages

for offences against the administration of justice were significantly larger than Kong & AuCoin's 19% for women and 20% for men.

One possible reason may be that offences against the administration of justice do not qualify for pre-charge diversion as frequently as other types of offences. By definition, many involve prior court involvement which would preclude pre-charge diversion since the program is usually reserved for those who have not been previously in conflict with the law. This would apply to all offences of breach of undertaking or failing to appear in court which require a prior criminal charge.

Another possible reason for our high proportion of charges against the administration of justice might be that Ottawa bail courts may impose such restrictions on pre-trial judicial release that there is an increased likelihood people will breach their conditions. This opinion has been voiced by some of the Elizabeth Fry Society of Ottawa clients. For example, Ottawa is a jurisdiction that imposes wide "red zones" on people charged with communication for the purpose of prostitution to keep them out of certain areas of the city. Looking at the breakdown of specific offences within the category of administration of justice offences, there is support for the notion that the high proportional incidence of these offences are due to the high number of breaches: for women, 40% of their charges against the administration of justice were for breaches of release conditions as were 50% of charges faced by men.

Conclusion

Two weeks in the life of Ottawa's largest Criminal remand court yielded a rich supply of data which was well worth the efforts of volunteers to collect and analyze. As a result of their work, we were able to compare our jurisdiction to Juristat's Canada-wide review of the 2005 crime rate between men and women and add an up-to-date and local perspective on the important issue of the nature and quantity of criminal offences that women face. Furthermore, this paper is only one perspective from which this data can be examined. The information about the number and types of charges faced by women and men in Ottawa could be further analyzed in many different ways, including assessing the coverage of the Elizabeth Fry Society of Ottawa's Post-Charge Diversion Program and looking at the differences between the charges faced by women and men in Domestic Court.

Our results, in general, were consistent with other surveys comparing the crime rates between men and women in Canada. In Ottawa, as in the rest of Canada, fewer women than men

are charged with criminal offences and when women are charged it is more likely to be for minor property offences than for other crimes.

It is interesting to note that within the Ottawa jurisdiction, there seems to be a greater than expected proportion of charges against the administration of justice. As discussed, one explanation might be the availability of pre-charge diversion for other types of offences. Another might be that the restrictions on pre-trial releases that accused persons must obey are such that breaches of court orders inevitably occur. The high proportion of these types of offences supports the anecdotal evidence of our clients suggesting that there are too many conditions of release with which to comply. More research is needed to see if this indeed reflects the reality. In the meantime, advocates for both women and men in conflict with the law should be aware that our jurisdiction seems to have significantly higher charge rates than the rest of the country.

We would strongly recommend that we continue to collect data from the courthouse dockets. It is a non-intrusive and inexpensive way to obtain a variety of data which can be analyzed in many different ways to serve our clients and community.

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