

## Legislative Influences

Changes in legislation and the resulting change in the offence classification creates discontinuity in the historical record of particular criminal offences. Legislative changes to assault, sexual assault, theft, arson, mischief, prostitution and youth crime must be considered when making comparisons over time. Some of the more significant changes are as follows:

### Sexual Assault: Bill C-127 (1983):

Bill C-127 abolished the offences of rape, attempted rape and indecent assault and introduced a three-tiered structure for sexual assault offences. The Bill also eased the circumstances under which police could lay charges in incidents of sexual and non-sexual assault.

### Young Offenders Act (1984):

With the proclamation of the YOA in April 1984, 12 years became the minimum age for which criminal charges could be laid. However, the maximum age continued to vary until April 1985, when the maximum age of 17 (up to the 18th birthday) was established in all provinces and territories. Youths, as defined in this publication, refer to those aged 12 to 17 (inclusive). This definition applies to the target group who fall under the delegation of the *Young Offenders Act* (YOA).

### Traffic Offences: Bill C-18 (1985):

In December 1985, Bill C18 made major legislative changes with respect to certain **traffic offences (all 700 series offences)**. It imposed more stringent sentences for dangerous driving and drinking and driving. It also facilitated the enforcement of impaired driving laws by authorizing police to take blood and/or breath samples under certain circumstances. As a result, data previous to 1985 for traffic offences are not comparable and have not been presented.

### Property value limits: Bill C-18 (1985) and Bill C-42 (1995):

In 1985, Bill C-18 altered the property value limits from under and over \$200 to under and over \$1,000. This applies to offences such as theft, possession of stolen goods, mischief and fraud. As of February 1995, Bill C-42 revised the property value limits to under and over \$5,000.

### Alternative measures: Bill C-41 (1996):

Bill C-41 was proclaimed into law September 3, 1996. One of its highlights was the introduction of “alternative measures” for adults, which provided ways of dealing with disputes and minor offences outside the formal court proceedings.

### Firearms: Bill C-68 (1997):

Bill C-68, proclaimed on January 1, 1997, requires that all firearm owners must obtain a Firearms License by January, 2001. This license replaces the Firearms Acquisition Certificate in use since 1977. Commencing October 1, 1998, each weapon must be registered within five years and a Registration Certificate will be issued. Bill C-68 also provides for tougher penalties for using a firearm while committing a crime.

### Controlled Drugs and Substances Act: Bill C-8 (1997):

This new legislation came into force on May 14, 1997. The **Controlled Drugs and Substances Act** (CDSA) repealed and replaced the **Narcotic Control Act (NCA)** and parts of the **Food and Drugs Act (FDA)** in 1996. With this change in legislation, offences related to the possession, trafficking and importation of certain controlled or restricted drugs not identified in the earlier statutes are now (since 1997) included in other drugs category. Hence, comparisons with years prior to 1997 should be made with caution.

### Dangerous Operation Evading Police: Bill C-202 (2000):

Law C-202 came into effect March 30th, 2000. This legislation modifies section 249 of the Criminal Code, thus creating new offences of dangerous operation of a motor vehicle when used for evading police.

### Youth Criminal Justice Act: Bill C-7 (2003):

The extrajudicial measures encouraged by the *Youth Criminal Justice Act*, proclaimed on April 1, 2003, include taking no further action, informal police warnings, referrals to community programs, formal police cautions, Crown cautions, and extrajudicial sanctions programs. It is presumed that extrajudicial measures are adequate to hold accountable non-violent offenders who have not previously been found guilty in court.

Street Racing: Bill C-19 (2006):

Bill C-19, proclaimed on December 14, 2006, addresses the street-racing problem by making four amendments to the Criminal Code: "Street-racing" has been defined, five new street-racing offences have been added, for three of the new offences, it provides maximum prison terms longer than those currently provided for dangerous operation or criminal negligence in the operation of a motor vehicle, and it introduces mandatory driving prohibition orders for a minimum period of time, with the length of the prohibition increasing gradually for repeat offences.

Unauthorized Recording of a Movie: Bill C-59 (2007):

Bill C-59, proclaimed on June 22, 2007, addresses the illegal recording of movies in theatres by creating two offences in the criminal code: recording for personal use of a movie shown in a theatre – liable to imprisonment for not more than two years, and recording for commercial purposes of a movie shown in a theatre – liable to imprisonment for not more than five years.

Tackling Violent Crime: Bill C-2 (2008)

As a result of Bill C-2, which was proclaimed on February 28, 2008, the age of consent was raised from 14 to 16 for the following Criminal Code offences: sexual interference, invitation to sexual touching, sexual exploitation, bestiality and exposure to person under 14. For sexual assault levels 1 to 3, the age changes for complainant (formerly 14) to under the age of 16.

Impaired operation and failure to provide blood sample now includes the separation between alcohol and drugs (or combination of drugs). Fail/refuse to provide breath sample and failure to comply or refusal (drugs) will now have a maximum penalty of 25 years.

New firearm offences will separate offences of breaking and entering by robbery to steal a firearm and to steal a firearm, which carry a maximum penalty of 25 years.

Tackling Violent Crime: Bill C-2 (2009)

As a result of Bill C-2, which was proclaimed on February 28, 2008, the UCR has also created a new code for sexual exploitation of a person with a disability. As well, two new Firearm violations have been added: Robbery to steal a firearm, and Break and Enter to steal a firearm.

Act to amend the Criminal Code (organized crime and protection of justice system participants) Bill C-14 (2009)

Bill C-14 officially came into effect on October 2, 2009. As a result, two new violation codes have been created: Assaulting with a weapon or causing bodily harm to a peace officer, and aggravated assault to a peace officer.

In 2002, legislative changes were made to include the use of the Internet for the purpose of committing child pornography offences. As such, the percent change in this offence is calculated from 2003 to 2009.

Codifying Identity Theft: Bill S4 (2010)

Bill S-4 officially came into effect on January 8, 2010. As a result, two new violation codes were created: Identity Theft and Identity Fraud.

Trafficking in Person's under the age of 18: Bill C-268 (2010)

Bill C-268 officially came into effect on June 29, 2010. As a result, a new section was added to the Criminal Code; Section 279.011(1). This section will be coded into the existing UCR code of Trafficking in Persons.

An Act to amend the Criminal Code (suicide bombings): Bill S-215 (2010)

Bill S-215 officially came into effect on December 15, 2010. This enactment amends the Criminal Code to clarify that suicide bombings fall within the definition "terrorist activity". As such they should be included in UCR codes: Participate in Terrorist Activity, Facilitate Terrorist Activity, and Instruct/Carry Out Terrorist Activity.

#### Tackling Auto Theft and Trafficking in Property Obtained by Crime: Bill S-9 (2011)

Bill S-9 officially came into effect on April 29, 2011. As a result, a new UCR violation code for Motor Vehicle Theft was created, replacing the current UCR violations of Motor Vehicle Theft over \$5,000 and Motor Vehicle Theft \$5,000 and under.

Possession of Stolen Goods is now separated into two categories; Possession of Stolen Goods over \$5,000 and Possession of Stolen Goods \$5,000 and under.

Three new UCR violation codes were also created: Altering/Destroying/Removing a vehicle identification number (VIN), Trafficking in Stolen Goods over \$5,000, Trafficking in Stolen Goods \$5,000 and under.

#### Amendment to the Controlled Drugs and Substances Act: Bill C-475 (2011)

Bill C-475 officially came into effect on June 26, 2011. As a result, a new section was added to the Criminal Code; Section 7.1(1). This section will be coded into the new UCR violation code of Precursor/Equipment (crystal meth, ecstasy).

#### The Safe Streets Act: Bill C-10 (2012)

Bill C-10 officially came into effect on August 9, 2012. As a result, two new sections were added to the Criminal Code; Section 172.2(1) and Section 171.1(1). Section 172.2(1) will be mapped to the existing UCR code of Luring a child via computer. Section 171.1(1) will be mapped to the new UCR violation code of Making Sexually Explicit material available to Children.

#### Combating Terrorism Act: Bill S-7 (2013)

Bill S-7 officially came into effect on July 15<sup>th</sup>, 2013. This enactment amends the Criminal Code to create offences of leaving or attempting to Canada to commit certain terrorism offences, and brought changes in relation to offences of harbouring terrorists. Seven new UCR violation codes were introduced mid-2013 in response to this legislation.

#### Mischief to war memorials: Bill C-217 (2014)

Under Criminal Code sections 430(4.11(a)), 430(4.11(b)) and 430 (4.2), Bill C-217 created new criminal offenses of mischief relating to war memorials (2177) when it came into force on the 19<sup>th</sup> of June, 2014. At the same time, the UCR violation code of mischief in relation to culture property was introduced to the survey.

#### Recruitment to Criminal Organizations: Bill C-394 (2014)

This bill came into force on September 6<sup>th</sup>, 2014 and makes the recruitment of members by a criminal organization a criminal offense under section 467.111 of the Criminal Code. Incidents of this offence will be coded under violation code 3843.

#### Protection of Communities and Exploited Persons Act: Bill C-36 (2014)

Bill C-36 came into effect in December 2014. The new legislation targets “the exploitation that is inherent in prostitution and the risks of violence posed to those who engage in it” (*Criminal Code* Chapter 25, preamble). New violations classified as “Commodification of sexual activity” under “violations against the person” include: the purchasing of sexual services or communicating for that purpose, receiving a material benefit deriving from the purchase of sexual services, procuring of persons for the purpose of prostitution, and advertising sexual services offered for sale. In addition, a number of other offences related to prostitution continue to be considered non-violent offences and are classified under “Other Criminal Code offences”. These include communicating to provide sexual services for consideration, and; stopping or impeding traffic for the purpose of offering, providing or obtaining sexual services for consideration. At the same time, the survey was amended to classify the violations codes of Parent or guardian procuring sexual activity, and Householder permitting prohibited sexual activity under “violations against the person”. The following violations officially expired on December 05, 2014: bawdy house, living off the avails of prostitution of a person under 18, procuring, obtains/communicates with a person under 18 for purpose of sex, and other prostitution. Police services are able to utilize these codes as their Records Management Systems are updated to allow it. As a result, these data should be interpreted with caution.

Effective December 2014, Bill C-36 amended the definition of the term “common bawdy house” in the Criminal Code to remove reference to prostitution. As a result of this amendment, the UCR violation of “Bawdy house” was terminated, and the new violation of “Common bawdy house” was introduced. Police services are able to utilize this

amendment as their Records Management Systems are updated to allow it. As a result, these data should be interpreted with caution.

#### Protecting Canadians from Online Crime Act: Bill C-13 (2015)

On March 9, 2015, Bill C-13 *Protecting Canadians from Online Crime Act* came into effect. As a result, the law created a new criminal offence of non-consensual distribution of intimate images. It also clarified that *Criminal Code* offences of harassing / indecent communications can be committed by any means of telecommunication. Police services are able to utilize these amendments as their Records Management Systems are updated to allow them.

#### Tackling Contraband Tobacco Act: Bill C-10 (2015)

On April 10 2015, Bill C-10 Tackling Contraband Tobacco Act came into effect. As a result, this law created the *Criminal Code* offence of trafficking in contraband tobacco which is counted under the violation "Offences against the administration of law and justice". Prior to April 2015, the offence was counted under "Excise Act". As such, comparisons of these two violations to previous years should be made with caution.

#### Tougher Penalties for Child Predators Act: Bill C-26 (2015)

Coming into effect on July 17<sup>th</sup>, 2015, Bill C-26 increased the maximum penalties for certain sexual offences against children, including failure to comply with orders and probation conditions relating to sexual offences against children. In the UCR, the most serious violation is partially determined by the maximum penalty. As such, changes in maximum penalty may affect the most serious violation in an incident reported by police. Police services are able to utilize these amendments as their Records Management Systems are updated to allow them.

#### Bill C-51 – Anti-terrorism Act, 2015

Bill C-51 came into effect on July 18, 2015. As a result, a new violation code for the offence of "Advocating or promoting commission of terrorism offences" was added to the survey in reaction to this amendment to the Criminal Code.

#### An Act to amend the Criminal Code and to make related amendments to other Acts (medical assistance in dying) (2016)

On June 17, 2016, Bill C-14 "An Act to amend the Criminal Code to make related amendments to other Acts (medical assistance in dying)" came in effect. As a result, the law created new offences around for failing to comply with the safeguards which must be respected before medical assistance in dying may be provided to a person, for forging or destroying documents related to medical assistance in dying, for failing to provide the required information for the purpose of permitting the monitoring of medical assistance in dying and for contravening the regulations made by the Minister of Health respecting that information. Three new UCR2 violation codes were introduced in response to these amendments to the Criminal Code. Police services are able to utilize the survey revision as their Records Management Systems are updated to allow them.

#### Bill C-37 An Act to amend the Controlled Drugs and Substances Act and to make related Amendments to other Acts

On May 18, 2017, Bill C-37 "An Act to amend the Controlled Drugs and Substances Act and to make related amendments to other Acts" came into effect. As a result, the offence of possessing, producing, selling or importing anything knowing it will be used to produce or traffic in crystal meth or ecstasy was expanded to include all substances listed in Schedule I, II , III, IV or V of the Controlled Drugs and Substances Act.

#### Bill C-305 An Act to amend the Criminal Code (mischief)

On December 12, 2017, Bill C-305 "An Act to amend the *Criminal Code* (mischief)" came into effect. This enactment amended the offence of mischief to property primarily used for worship to include mischief in relation to property that is used by an identifiable group for educational purposes, administrative, social, cultural or sports activities or events or as residence for seniors.

### **Comparing UCR Data with Courts and Corrections Data**

It is difficult to make comparisons between data reported by police and data from other sectors of the criminal justice system (i.e., courts and corrections). There is no single unit of count (i.e., incidents, offences, charges, cases or persons) which is defined consistently across the major sectors of the justice system. As well, charges actually laid can be different from the **most serious offence** by which incidents are categorized. In addition, the number and type of charges laid by police may change at the pre-court stage or during the court process. Time lags between the various stages of the justice process also make comparisons difficult.