National Justice Survey: Canada’s Criminal Justice System

Summary

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EKOS RESEARCH ASSOCIATES

**Ottawa Office**359 Kent Street, Suite 300   
Ottawa, Ontario   
K2P 0R6  
Tel: (613) 235 7215   
Fax: (613) 235 8498  
E-mail: pobox@ekos.com

www.ekos.com

This certification is to be submitted with the final report submitted to the Project Authority.

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Signed by

Susan Galley, Senior Vice President

EKOS Research Associates Inc.

Summary

To inform policy development, public engagement and communications, and to support its mandate, the Department of Justice commissions periodic national surveys to understand Canadians’ perceptions, understanding, and priorities on justice-related issues. In particular, the current survey focuses on the criminal justice system (the system), in order to inform the current criminal justice system review, to engage with all regions of Canada, and to promote government transparency and openness. Specifically, the study measures awareness, knowledge, and confidence in the criminal justice system and criminal law; examines Canadians’ perceptions of the criminal justice system, the values they want the criminal justice system to reflect, and priorities with respect to criminal justice issues; and Canadians’ expectations of the criminal justice system to support reforms and new initiatives in this area.

#### Methodology

The study design of the National Justice Survey includes four components:

1. A **large scale survey** of 4,200 Canadians on awareness and top-of-mind perceptions, values and expectations regarding the criminal justice system. Survey respondents were randomly sampled from EKOS’ in-house panel (Prob*it[[1]](#footnote-2)).* The survey was designed to be self-administered, online or through a mailed out paper copy. The response rate for the sample is 16 per cent, on a questionnaire that took an average of 17 minutes to complete. The survey was conducted in July and August 2016. This sample size yields a level of precision of ±1.5% at a 95% confidence interval for the sample overall and ±3% to 6% for most sub-groups that could be isolated in the analysis (including age and gender). Survey results were weighted by age, gender, region, and education. Results can be extrapolated to the broader population of Canadians;
2. A series of in-person **focus group** discussions to explore selected findings from the survey. Six focus groups were held with a subset of respondents from the survey to further discuss and contextualize findings. One group was held in English in each of Halifax, Toronto, Winnipeg and Calgary. Two groups were held in Montreal; one in English and one in French;
3. A **second,** **follow-up survey (called the information-choice survey)** of 1,863 respondents from the first survey. This in-depth survey provided information to respondents designed to increase understanding of the criminal justice system, in order to explore informed perceptions, values and expectations. Since the second survey relies on a subset of respondents given more information and who are arguably, more interested/engaged in the criminal justice system than the average Canadian, a margin of error cannot be calculated. This is due to the fact that there are no population estimates for Canadians who have been engaged in thinking about the criminal justice system. Therefore, the results of the second survey, while demographically representative of the Canadian population, should be considered as representing Canadians who have thought about the criminal justice system, rather than a general population of Canadians; and,
4. A three-day **online discussion** with 25 respondents who had completed the second, in-depth survey, seeking additional clarification on some of the findings. Questions covered an exploration of their views on key objectives outlined for the criminal justice system, opinions on incarceration and community-based solutions as well as on rehabilitation as a form of crime prevention and their perceptions of the value of rehabilitation compared with primary crime prevention (before crimes occur).

#### Key Findings

#### Phase 1 – Public Opinion Survey and Focus Groups

This study was conducted in two phases. Results of the first survey and in-person focus groups are presented in Phase I.

#### Experience with the System

Most respondents in the first survey report having had some exposure to or direct involvement with the criminal justice system, including knowing someone who was a victim or accused or as a witness. About one in four reports having been a victim of a violent or non-violent crime. Some report having been accused or convicted of a crime. One in four is a family member of a victim or someone accused or convicted of a crime. Still others work in the system, a related field, or have been involved as a jury member in a trial. Naturally, there is also considerable overlap between these experiences, with individuals falling into several categories. There are some key demographic dimensions such as gender, education and age that are associated with different reported experiences with the system. It should be noted that the numbers reflect self-reported experiences and thus are affected by willingness to report and perceptions of what it means to have “contact with the criminal justice system”. For example, it is unlikely that 23% of respondents were witnesses in criminal cases in court, and more likely that they witnessed some type of crime, or witnessed people going through the system. It is also possible that those reporting having been a victim of crime may not have reported the crime to police and not been involved formally in the criminal justice system.

#### Sources of Information

Other than news media, almost half of Canadians in the first survey indicated they get information about the criminal justice system from their personal experience or the experience of someone they know. Another third get information from professionals in the system (e.g., police, lawyers, etc.). But, more than one in four cite television and movies as a key source of information. Compared to those who get their information from other sources, those who rely on television and movies typically have a lower level of education, and tend to have different views about crime rates and guiding principles about the system and be more fearful and uninformed.

Meetings and discussions form a central source for just over one in five, and about one in six point to educational institutions, government websites, and community organizations as key sources of information. These individuals are often more informed and less fearful, expressing greater confidence in criminal law in Canada.

Preferred avenues for obtaining information are the Justice Canada website and direct email (i.e., using email lists). Face to face meetings, Facebook and direct mail are also good options for more than one in four in each case. Community organizations are also a preferred source of information for more than one in five, while educational institutions and blogs hosted by Justice Canada are also of interest to just over one in ten. Results suggest that there is a strong thirst for reliable information about the criminal justice system in Canada; Canadians look for information that can be sent directly or found in reliable, easy to access sources. Since other results point to a strong relationship between accurate information and stronger trust and confidence in the system, increasing access to information about the system and increasing awareness of how and where to find the information are key implications coming from the results of survey.

Most focus group participants cited the media as their primary source of information about the criminal justice system. Although the media is a predominant source, most participants tend to trust other sources of information perceived to be impartial such as local publications and newsletters more than the media. Most participants do not know where to find information about the criminal justice system and self-describe as having a low understanding of the system.

#### Perception of Crime Rates and Confidence in Canadian Criminal Law

Overall, respondents of the first survey demonstrated inaccurate perceptions of the crime rate in Canada. This aligns with previous research that indicates members of the public tend to overestimate the proportion of crimes committed in Canada that are violent. Similarly, respondents tend to believe that crime rates are rising, when they have in fact been declining steadily over the past decade or more, with the exception of a marginal increase in 2015 over 2014. Three in ten understand that the rate has been dropping over the past five years; however, one in five believe it is stagnant and almost half believe it rose over the last five years (when most years there has been a decline). The average percentage of crime that is violent is also believed to be 45 per cent, when in fact it is actually less than half of this percentage (20 per cent), highlighting the same exaggerated sense of crime in Canada. In each case, results vary considerably by education, and gender, where those less educated and women cite higher rates of violent crime.

Most focus group participants explained that media coverage, the incidence of hearing about many crimes, and, in particular, sensational stories in the criminal justice system, have created a perception of increased crime rates and a general lack of safety. Some believed that although the number of crimes is increasing, the per capita crime rate is decreasing. Most participants said that the types of crimes have changed, and they are hearing more reports of property crime, personal theft and white collar crimes.

Canadians’ confidence in the adult and youth criminal law varied greatly. In general, however, confidence is modest with more than half rating their confidence around the middle on a ten point scale. In terms of adult criminal law, about one in four indicated high confidence and about 16 per cent rated their confidence as low. Ratings are even lower for youth criminal law, where only 15 per cent provided a positive rating and almost three in ten provided a negative rating. Confidence varies strongly along the lines of perception of crime rates, and consequently also along education and gender lines. Those least accurate in their assessment of crime rates, more often including women and those less educated, expressed the least confidence in criminal law.

#### Guiding Principles of the Justice System

Respondents were asked in the first survey to rate their level of agreement with five broad statements about the principles guiding the criminal justice system. Almost all agreed that all Canadians need access to legal representation regardless of income, and that the “functioning and performance” of the system should be reviewed regularly. Interestingly, there was a similar, moderately high percentage (about seven in ten) of respondents agreeing that the primary goal of the system should be to separate those committing serious offences from the rest of society, and/or that the primary goal should be rehabilitation and reintegration of offenders. Although it may appear that these goals are at opposite philosophical ends of the spectrum, there is a group of respondents for whom both are important objectives of the system, and a group for whom neither are important. Many respondents also agree that incarceration rates should be reduced in favour of less restrictive measures where appropriate. Views also vary consistently across education and to a lesser extent gender lines, and there are a few key regional and generational differences, with Albertans and older Canadians taking a less progressive view about the value of rehabilitation and restricting the use of incarceration.

#### Goals and Values of the Criminal Justice System

Results of the first survey highlight the considerable value that the majority Canadians place on accuracy and reducing the chances of erroneous convictions, along with clear and transparent rules and guidelines, and the promotion of trust and confidence in the system. A system that is timely, and promotes respect for the law is also seen as important by about three in four. Almost as many Canadians feel that crime prevention, fair treatment, and giving consideration for personal circumstances are also important. Giving equal consideration to addressing underlying social causes and punishment, and considering the circumstances of those who are vulnerable and marginalized are valued by just over half. Similarly, just over half feel that the provision of information accounting for tax dollars spent is also important in guiding the system.

Rankings of these values or principles place fair treatment at the top as the single most important value, and for two in five choose this items was among the top three important values (40 per cent). Reducing the chances of wrongful convictions was also an important value. Several other factors sit high in the ranking as well: crime prevention and focusing on underlying factors as much as on punishment is also seen as “most important” . Promoting confidence and trust in the system, and timeliness and transparency ranked as “most important by fewer Canadians, although a significant number still ranked these values and principles as top three in guiding the system. Consideration for those who are vulnerable or marginalized and information accounting for financial expenditure were least often raked as important values or goals.

Following the first survey, focus group participants elaborated on the need for public trust and confidence in the criminal justice system. Concerns hampering trust in the system involve perceived targeting of vulnerable segments of the population, delays in the system, the need for trust between police and communities, leniency or inconsistency in sentencing, and the perception that some judges lack sufficient understanding of the nature of some types of crime and offender segments to make appropriate decisions. In the focus groups, fairness was described as taking into consideration the circumstances of an individual in making decisions. These circumstances would include for example the socioeconomic circumstances of the offender, any mental illness or cognitive disabilities, and their intent in committing the crime.

#### Key Considerations in Sentencing

Respondents in the first survey were also asked about the importance of ten different considerations in making decisions about sanctions. In this situation, harm to the victim and consideration of past offences sat at the top two of the list of 10 considerations important in sentencing.

Promoting a sense of acknowledgement of responsibility, condemning illegal activity and acknowledging the harm caused, as well as deterring further crime are each considered important factors by many respondents. Lower, on the list, but still important to a majority of Canadians was separating offenders from society and assisting with the rehabilitation of offenders. Interestingly, some advocate consideration for both separation and rehabilitation, while others place more value on one or the other in making decisions about sanctions. Slightly fewer, but still rated as important by a slim majority of Canadians was consideration of the opportunity to repair harm or the presence of mental illness or intellectual challenges in the offender should be important factors to consider. Very few argue for serious consideration given to the cost of the sentence. In fact, slightly more respondents believe hat cost of the sentence should not have a bearing on the decision than those who thought it important.

With respect to the importance of factors to consider in sentencing decisions, results from ranking the top three are largely reflective of the individual ratings. Harm to the victim and number of past offences were most often ranked in the top three. Consideration for rehabilitative efforts, was next most frequently ranked in the top three.

Following the first survey, many focus group participants confirmed that they perceive value in separating serious offenders from society which was described as a means to keep citizens safe. At the same time, most participants felt that the best approach to prevent crime is to address root causes, particularly during impressionable stages of an individual’s life, through means such as social programs and support systems. Stronger sentences and punishment were not viewed by most focus group participants as an effective way to dissuade individuals from committing crime. Once a crime has been committed, many felt that rehabilitation helps to reduce the chances of reoffending.

Focus group participants strongly support consideration of mental illness and intellectual challenges in the criminal justice system, and identify a need for a more integrated system that increases options for health and social support for offenders with these challenges.

#### Phase II – Information Choice Survey and Online Discussion

Phase II of the research featured the follow-up information-choice survey and online focus groups.

As a result of the first survey, the Department of Justice placed a greater focus on four objectives for the criminal justice system in the information-choice survey. Of the four objectives, ensuring safety and lasting protection for the Canadian public, and accountability are more consistent with public values according to eight in ten respondents in the second survey, while fewer respondents feel that providing support to offenders and providing opportunities to repair harm are closely aligned with their values. Results of the information-choice survey indicate modest public confidence in the current system’s equal focus on the four objectives. Respondents feel strongly, however, about the positive impact that making greater efforts to focus on all four objectives could have on the criminal justice system. Most respondents believe a greater focus on these objectives would put offenders on a better path, increase public safety, have a positive effect on the overall crime rate, improve fairness for those who are vulnerable and marginalized, increase crime prevention, and also increase public trust and confidence in the system.

Results of the online discussions, following the information-choice survey, again indicated that many place greater emphasis on safety and protection along with accountability of offenders, than on opportunities to repair harm and support offenders through rehabilitation and address root causes of crime. Some online discussion participants, however, believe that these latter two objectives are more important for any reforms to the system that many believe is currently not working well.

#### Crime Prevention

As a result of the importance placed on crime prevention in the first survey, respondents in the information-choice survey were asked to further explore important areas of focus for crime prevention. Key areas identified were: addressing warning signs, identifying the social circumstances or conditions that may give rise to crime, and generally stopping crime from occurring. Efforts to stop re-offending were seen as a second order priority by comparison. In terms of possible methods of reducing crime, nearly all respondents were convinced that greater focus on community-based responses would reduce crime at least to some extent. Respondents were less convinced of the value of increasing Canadians’ education regarding the legal system to crime prevention, with one in ten doubtful it would have a positive impact.

#### The Use of Incarceration

Based on survey results and the online discussions, there is some inconsistency in Canadians’ views regarding the use of incarceration in the criminal justice system. As in the first survey, the majority in the information-choice survey agree that incarceration should be reserved for those committing serious crimes, although fewer respondents agree that there are generally too many people incarcerated in Canada, and a sizable proportion was unsure.

In online discussions, participants talked about balancing public safety with fairness and constructive solutions, but some argued for greater emphasis specifically in one area. Most said that in cases of violent crime and repeat offenders, incarceration is appropriate and current rates are not overly high. When asked, focus group participants theorized that survey respondents may have been unsure because they are not sufficiently aware of the numbers and types of offenders in the system, nor the types of alternative, community-based options that exist.

When asked about how to address Indigenous over-representation in the criminal justice system, the majority of information-choice survey respondents support increasing community-based alternatives to prosecution, and nearly half also agree that the number of Indigenous support workers helping people to navigate the criminal justice system should be increased. In terms of over representation of those with mental health or cognitive functioning issues in the criminal justice system, most see greater investment in programs and resources for community mental health as the primary solution.

#### Community-Based Responses

Two-thirds of respondents in the information-choice survey agree that breaches of conditions or of probation that do not involve a criminal act should be dealt with outside of the criminal justice system to allow the system to focus on more serious offences. The public is split however on whether cases of failure to comply with an order/probation should be referred back to the criminal justice system.

Respondents in the information-choice survey highlighted the value that Canadians place on community-based remand. More than three-quarters agree that, when there is a low risk to public safety, accused persons should remain in the community while awaiting trial. There is also strong support for increased discretion in sentencing decisions with most agreeing that judges should have greater latitude to employ conditional sentences when there is a low risk to public safety. Canadians also support community-based sentences such as conditional sentences and probation in the case of non-violent crimes; support is considerably weaker in cases involving violent crime such as common assault (e.g., bar fight, domestic disputes).

There is strong support in the information-choice survey for criminal justice system officials informing victims/survivors and accused people of the availability of restorative justice options that provide opportunities for the acceptance of responsibility and reparation of harm. While communicating the availability of restorative justice is supported, over one-third of Canadians expressed concerns about the use of restorative justice processes in the criminal justice system. These concerns are predominantly related to the types of crimes and offenders considered eligible for restorative justice, and accountability among offenders and the criminal justice system. Almost one in four said that they did not have sufficient information or awareness on which to base their answers.

When asked to consider ways of ensuring that offenders have access to rehabilitative programs, most information-choice survey respondents indicated support for imposing a requirement that incarcerated individuals begin immediate treatment, and/or compulsory attendance in rehabilitation programs in the community. Most believe that greater use of rehabilitative treatment programs during incarceration and/or in the community would have at least some impact on putting offenders on a more successful future path, decreasing rates of re-offending, and reducing crime.

Respondents in the information-choice survey also feel that community-based responses would result in positive benefits (to a moderate or great extent) including: greater efficiency in the system, increased safety and lasting protection for the public, fewer offenders committing further crime, and increased trust and confidence in the criminal justice system.

In online discussions following the information-choice survey, participants described the need for solutions that fit the crime, including consequences that serve as sufficient deterrence and adequate supervision and monitoring of offenders. Advantages/benefits of community-based responses included: opportunities for offenders to develop closer ties to their community and possibility for accepting responsibility and repairing harm, avoidance of an environment where offenders are put into close contact with other offenders, and possible increases in efficiencies that would result in a more economical and timely system. Concerns about community-based responses were often tied to the perception of a lack of resources in the community to supervise and monitor offenders, and a lack of knowledge about what the options are or how effective they are. Community-based responses are not seen as appropriate for violent or repeat offenders among online discussion participants. Many of the comments pointed to the public desire for a viable alternative solution to incarceration, but indicated that community-based responses are not well understood by the public. Areas needing better understanding included: what these options look like, the perception of being too lenient (i.e., not severe enough of a consequence to be a deterrent), the perception of not being well administered, and the lack of evidence about effectiveness. The discussion suggested that alternatives to incarceration would likely be supported, provided they: do not compromise public safety; are seen as reasonable punishment for the crime; are well monitored and enforced; demonstrate effectiveness; feature mandatory elements of rehabilitation and restitution; are cost effective; and are acceptable to the community and those harmed.

#### Fairness of the System

When asked to take the information presented throughout the questionnaire into consideration, respondents to the information-choice survey rated the current criminal justice system as largely unfair in a number of areas. The majority of respondents rated the current criminal justice system as only moderately fair to those who have committed non-violent crimes, to persons who are in jail awaiting trial, or to those who might be vulnerable or marginalized. Two in five also said the system is not fair to victims of crime.

#### Goals and Values of the Criminal Justice System

After receiving additional information on the criminal justice system, and responding to questions in the information-choice survey, respondents in the follow-up were asked to rank the same ten goals and values presented in the first survey, in terms of importance. Overall, having a criminal justice system that treats everyone fairly was ranked as the most important most often. Equal focus on addressing underlying social factors related to crime as well as punishment was also selected as important, as was preventing crime. Comparing results with the first survey, fair treatment, equal focus on addressing underlying social factors related to crime as on punishment, and timeliness gained prominence in the survey where respondents were more informed. Wrongful conviction, on the other hand, became less important.

#### Key Considerations in Sentencing

Following the provision of detailed information, respondents in the information-choice survey, continued to rank harm to victims as important in sentencing decisions. Condemning illegal activity and the harm done to victims and communities was also selected as an important consideration. Assisting in the rehabilitation of offenders and separating offenders from society are also both seen as important considerations. Compared with results of the first survey, once respondents were more informed, greater importance was placed on: assisting offenders with rehabilitation, promoting a sense of responsibility and acknowledgement of harm done to victims and community, and providing an opportunity for offenders to repair the harm done. The shift towards greater importance was particularly strong for the latter two. The emphasis was reduced on harm done to the victim and the number of past offences.

#### Value of Exercise on Public Engagement

Information-choice survey and online discussion responses suggest that participation in this research, through reading and considering the issues presented in the survey, had a positive impact on public engagement. When asked about whether participation in the survey has increased their engagement and/or curiosity in the criminal justice system and its problems, most said that it has to at least some extent.

The total expenditure for the POR project is $234,070.46 (including HST).

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To obtain more information on this study, please e-mail Research Publications / Publications de Recherche (JUS / JUS) <rsd.drs@justice.gc.

1. Prob*it* offers complete coverage of the Canadian population (i.e., Internet, phone, cell phone), random recruitment (i.e., all respondents to our panel are recruited by telephone using RDD and are confirmed by live interviewers – they do not opt themselves into our panel), and equal probability sampling (which means that results are generalizable to the broader population). [↑](#footnote-ref-2)