Sentencing Criminal Offenders in Canadian Courts: Do Individual Characteristics predict DUI Sentencing Outcomes?

Limited Access and Legal Transparency: Uncovering the Obstacles of Early Research

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Starting Point

The focus of my work was to find a way to track the sociological trends which could account for the variation in verdicts for the same crime. More specifically, I focused on the legal process and outcomes of impaired driving cases in the aims to uncover a manner in which to accumulate qualitative and quantitative data in a resource efficient manner.

Principle Questions

❖ Who are the main actors in the sentencing process of impared driving cases?

❖ What are the legal technicalities surrounding these actors and their role in this process?

❖ Where does this process begin, unfold, and end?

❖ Is there a paper trail that would render said actors accountable throught this process?

❖ What research has been done on this topic, or similar topic, which could guide my research?

❖ What are the ressources that my university provides that could help guide and refine my research?

Main Findings

Impaired driving cases now make up 12 percent of all criminal charges, the largest single offence group with some 53,000 impaired cases that are heard every year in criminal trial courts across Canada, this offense being more likely to go to trial than any other offence.
("Impaired Driving in Canada" fourth edition Justice Joseph F. Kenkel, 2015)

Despite this abundance in potentially revealing data, the access to basic case information is riddled with technicalities despite the declared intentions of our criminal justice system of transparency; the cases' "proces-verbaux" being practically inaccessible. Other methods to obtain relevant information have been proven to be ineffective. Access to the previously mentioned information will enable practical use of courtroom audio etc.

Mention of Appreciation

Jason Carmichael, Supervising Professor

The ARIA team at AIO

And All Donors Who Support Such Invaluable Opportunities

Strategy

I began the project by researching the specificities of impaired driving in Canada. I then visited the law library, who's consultants aided me with my navigation of their numerous resources. After having obtained an understanding of impaired driving's history and and legal technicalities, I sought out the perspective of those who have one of the first hands in said legal process; the police. I was able to interview police officers by arranging an appointment via email or call, asking for the station's community officer, from occupied regions such as Montreal to calmer suburbs like Rosemere. Combining the theoretical perspective provided by my research with the practical perspective of those who have had to stop inebriated drivers, I then found myself ready to visit the Palais de Justice in Montreal to observe and record DUI cases first hand. The aim of my internship was to find a resource efficient method to acquire qualitative and quantitative data in regards to who was being stopped and how different social qualifiers could potentially help predict the sentencing process. After multiple visits, it was clear that attempting to accumulate the necessary data by following the proceedings of DUI cases would require too much time with a minimal return in investment. This is when I became aware of the difficulties that arise when one attempts to actualize research; especially when that research is intertwined with a heavily guarded information such as is the case with information classified in our criminal justice system. From that point on I discover that research is much more multifaceted than simply reading and writing in order to overcome technical obstacles of our limited access to certain information.

Conclusion

❖ There were many challenges during my journey but I was fortunate enough to have such an understanding mentor as Professor Carmichael who was always readily available to offer his guidance with navigating the field work I was doing.

❖ One of the highlights of this experience was knowing that such an experience was offered at the undergraduate level. I am very appreciative of the opportunity the AIO's hard work permits an arts undergraduate such as myself to have access to. I would like to take this chance to thank all those who have had a hand in this process.

❖ I am not deterred by the difficulties encountered in amassing the necessary data for my projects for it brought about the awareness of a more pressing social phenomenon; the lack of transparency in Quebec's Criminal Justice System.

Related Academic Research and Statistical Findings Supporting the Necessity of Further Investigation

Chart 14
**Impaired driving, police-reported rates, Canada, 1986 to 2015**
rate per 100,000 population
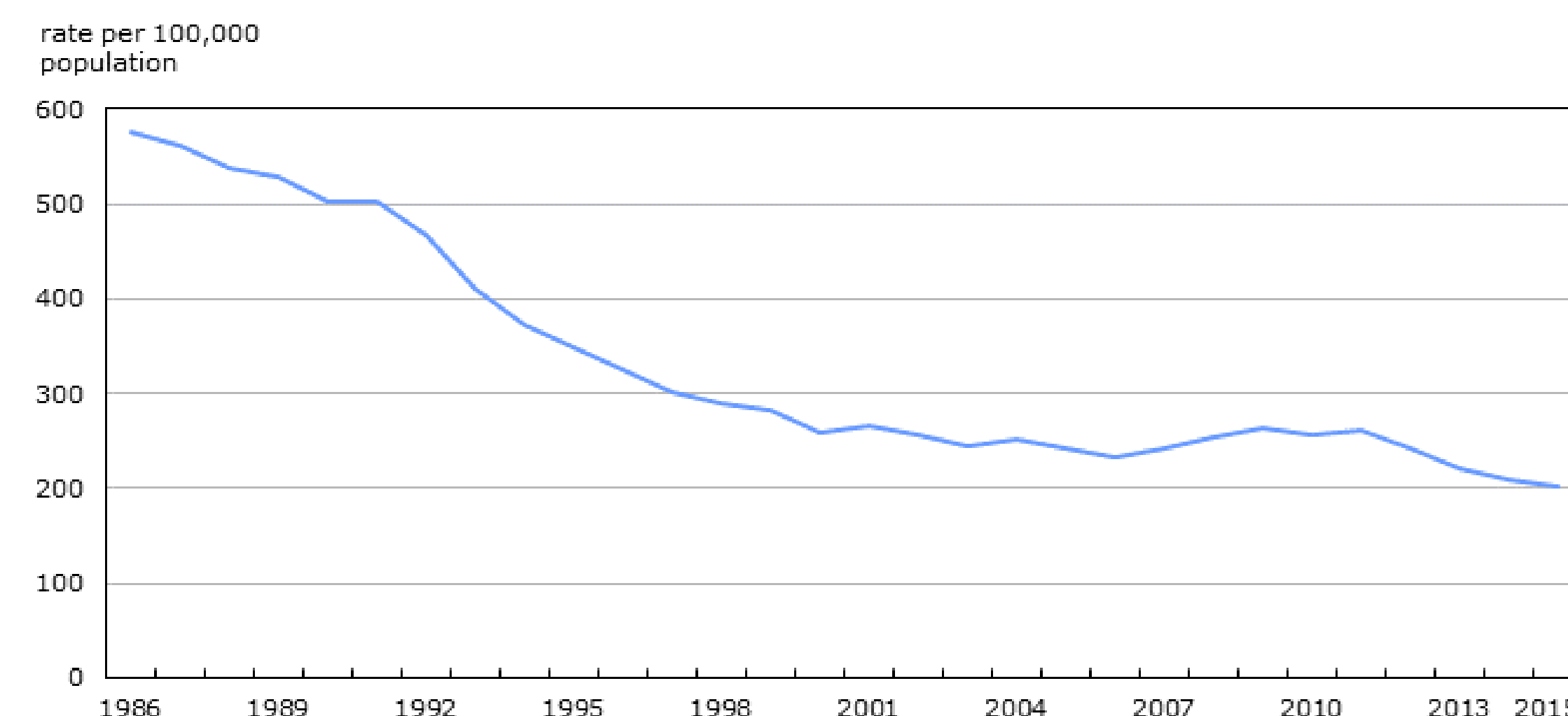
Note: Data not available prior to 1986. Includes impaired operation of a vehicle, alcohol and/or drug impaired operation of a vehicle causing death or bodily harm, failure or refusal to comply with testing for the presence of alcohol or drugs and failure or refusal to provide a breath or blood sample. In some jurisdictions, including British Columbia, impaired driving incidents that meet the elements of the *Criminal Code* may be handled using a provincial statute. Collection of these incidents is within the scope of the Uniform Crime Reporting Survey. Additional data are available on CANSIM (Table 252-0051). Populations are based upon July 1st estimates from Statistics Canada, Demography Division.
Source: Statistics Canada, Canadian Centre for Justice Statistics, Uniform Crime Reporting Survey.

"It is important to note that the number of impaired driving offences reported by police can be influenced by a number of factors, including changes in legislation, varying law enforcement practices across jurisdictions (e.g., roadside check programs such as Ontario's Reduce Impaired Driving Everywhere program (RIDE)), as well as changing societal attitudes toward drinking and driving"
Police-reported crime statistics in Canada, 2015

Median length of impaired driving cases in adult criminal courts, by province and territory, 2010/2011
number of days
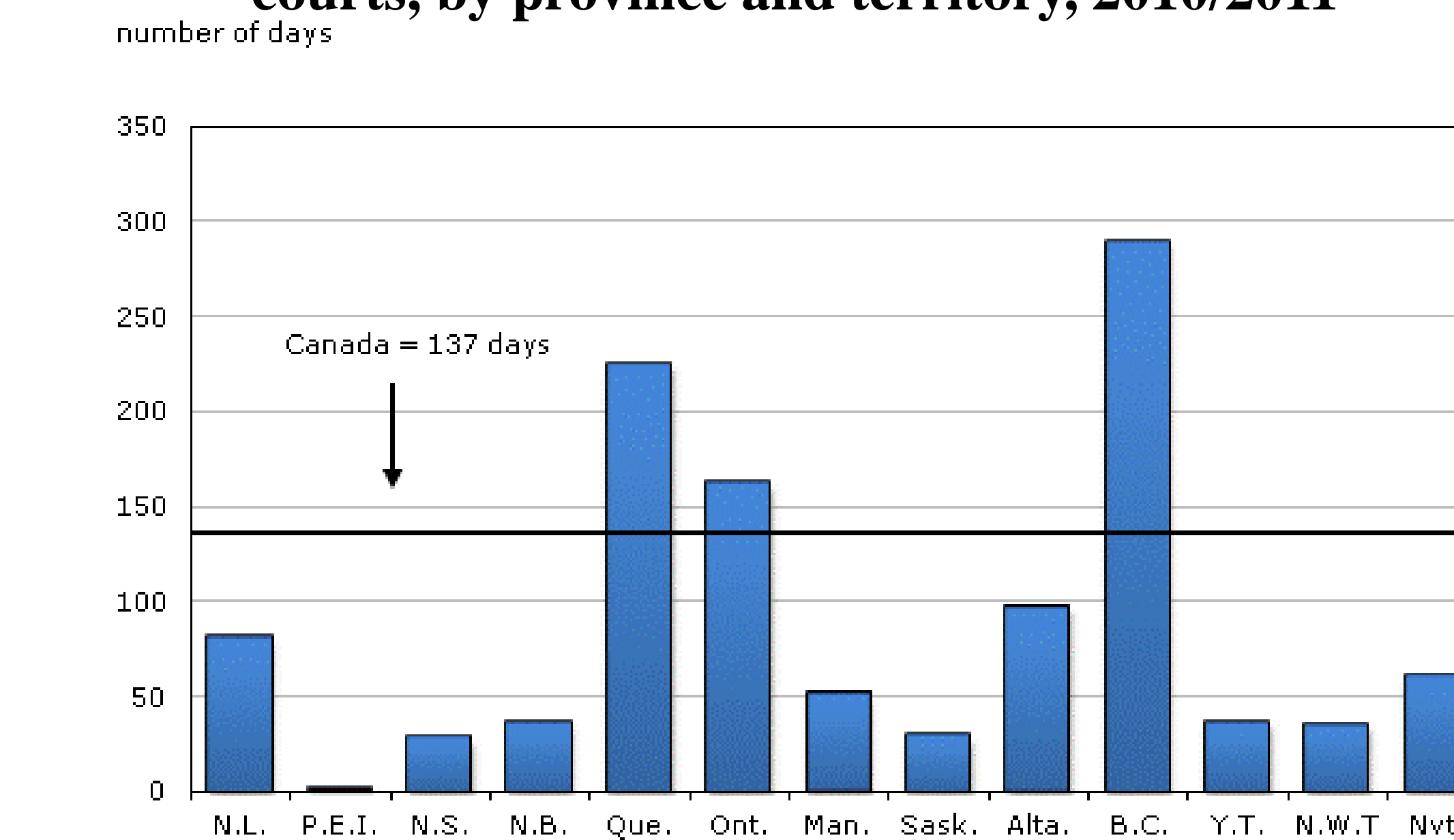
"The median represents the mid-point of the number of days taken to complete a case, from the first to last court appearance. A case is one or more charges against an accused person or company that were processed by the courts at the same time and received a final disposition. Counts are based on the most serious offence in a case. Excludes information from superior courts in Prince Edward Island, Quebec, Ontario, Manitoba and Saskatchewan as well as municipal courts in Quebec due to the unavailability of data"
Impaired driving in Canada, 2011

Why This Research is Essential for Academics as well as Law Enforcement and Legislators

Don't Just Take My Word For it, Here is a Summary of the Main Points of "Hidden Intersections: Research on Race, Crime, and Criminal Justice in Canada" by Scot Wortley, Published in Canadian Ethic Studies. 2003

Part 1) Intersections and Bias Within the Criminal Justice System: Police in Canada are not required to report on the race of the people they target in field investigations which makes it difficult for researchers to concretely establish the occurrence of the selective targeting of ethnics groups, referred to as racial profiling. Ethnographic studies have been able to uncover evidence that would support the claim that there is a presence of racial profiling in this country. Findings include that there is a higher likelihood of being stopped if you are male as opposed to female and if you are a black male you are the most vulnerable to police stop and search. Race, age and social class's intersection is the focus, and findings suggest that there is a negative relationship between the frequency at which older, higher income black men and white men are being stopped. The higher class and age protects white men while places a target on other ethnicities. These patterns of surveillance run parallel to who is getting caught, and the discrimination seeps from the streets into our criminal courts with processing and sentencing patterns.

Part 2) Intersections and Victimization: The author suggests that further research should be focused on the the the criminal victimization of racial minorities, more specifically through the intersections of race, gender and age. The current ban on race-crime in Canada has greatly hindered the identification of such trends which stalls any progress that could be made in reversing foreseeable tragedies.

Part 3) Intersections and Access to Justice: Experiencing problems in accessing justice deprives citizens from legal services that fall under their legal rights. There have been efforts made by the criminal justice institutions which include a mandated race relations and cultural sensitivity training for the police, courts, and corrections. However such initiatives have yet to be subjected to appropriate evaluative research and so their effectiveness is still up for debate. Limiting the access to legal paper trails inhibits the progress that can be made in these initiatives which defeats the purpose of their creation which is to make the legal system a more equitable playing-field.

Data Needs/Conclusion: There is a huge lack of access for researchers. The author stresses the importance of such access in order to better identify systematic problems and social disparities that would enable policy makers to make substantial changes that can reduce injustice related to unequal access and treatment in the Canadian Justice System.