



Justice Delayed: Assessing Trial Delays, Stays and Withdrawals

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This study was commissioned by the Centre for Civic Engagement. The CCE is a non-partisan Canadian charity dedicated to conducting original research on public policy issues related to Canadian prosperity, productivity, and national flourishing. The CCE's research informs an active program of policy seminars, events, conferences, and lectures all aimed at providing the policy making community with actionable insights that encourage informed decision making on issues that matter to Canadians.

Introduction

In April, Alberta prosecutors announced that sexual assault charges against a prominent spiritual leader and his wife would be stayed due to a combination of trial delays and prosecutorial misconduct.¹ After years of waiting, one complainant told *The Globe and Mail* that those who had come forward felt “betrayed,” that there was “no accountability,” and that they had become “victims of the system.”

Cases such as these are far from unique, as trial delays and rising numbers of stayed and withdrawn charges have become a source of public concern. Many observers trace the problem to the Supreme Court of Canada’s landmark 2016 *Jordan* decision, which imposed strict ceilings on the length of criminal trials and which the Court reaffirmed in May.^{2,3,4,5}

This study completes a three-part examination of Canada’s criminal justice system by turning to the performance of the courts themselves. My previous analyses showed rising levels of violent crime and declining police clearance rates.^{6,7} But the criminal justice process does not end when police solve a case. Justice also requires that the courts resolve cases in a timely manner. Using nearly two decades of Statistics Canada data, this article examines how well Canada’s criminal courts are performing that task and what these trends mean for the Supreme Court’s approach to trial delay.

The results are sobering. Criminal trials are taking longer than ever, and more than half of all cases are stayed, withdrawn, dismissed, or otherwise terminated before guilt can be determined. While there is some provincial variation, the trendlines show that Canada’s criminal courts have become slower, less efficient, and increasingly incapable of delivering timely justice. Justice delayed has become justice denied.

¹ Jana G. Pruden, “Sexual-Assault Charges against Alberta Spiritual Leader John de Ruiter to Be Stayed, Crown Tells Complainants,” *The Globe and Mail*, April 16, 2026, <https://www.theglobeandmail.com/canada/alberta/article-sexual-assault-charges-against-alberta-spiritual-leader-john-de-ruiter/>.

² David Ebner, “Strict Criminal Trial Deadlines Imposed by Supreme Court Are Derailing about 10,000 Cases a Year,” *The Globe and Mail*, December 1, 2025, <https://www.theglobeandmail.com/canada/article-jordan-cases-ottawa-provinces-supreme-court-change/>.

³ Chris Selley, “Shocking Number of Criminal Trials Called Off Due to Delays,” *National Post*, accessed August 27, 2026, <https://nationalpost.com/opinion/selley-shocking-number-of-criminal-trials-called-off-due-to-delays>.

⁴ *R. v. Jordan*, 2016 SCC 27, <https://decisions.scc-csc.ca/scc-csc/scc-csc/en/item/16057/index.do>.

⁵ *R. v. Vrbancic*, 2026 SCC 19, <https://decisions.scc-csc.ca/scc-csc/scc-csc/en/item/21302/index.do>.

⁶ Dave Snow, “Why Violent Crime Is Surging in Canada: DeepDive,” *The Hub*, February 23, 2026, <https://thehub.ca/2026/02/23/violent-crime-is-surging-in-canada-deepdive/>.

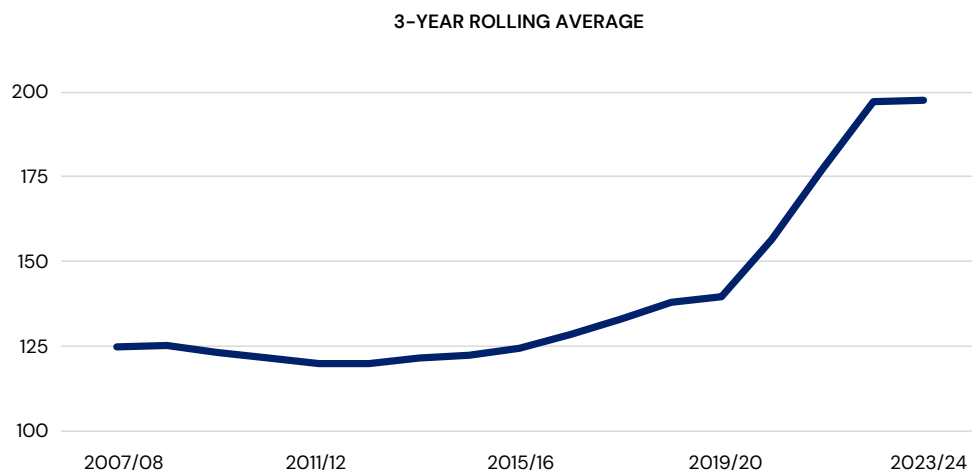
⁷ Dave Snow, “Nearly 50% of All Violent Offences Go Unpunished in Canada—Why Police Are Solving Fewer Crimes,” *The Hub*, April 7, 2026, <https://thehub.ca/2026/04/07/why-police-are-solving-fewer-crimes-in-canada-as-nearly-50-of-all-violent-offences-go-unpunished-deepdive/>.

Trial Delay: Criminal Cases Are Taking Longer

The analysis below draws from Statistics Canada’s annual Integrated Criminal Court Survey (ICCS), the most comprehensive source of criminal court data available in Canada.⁸ Although the dataset excludes data from some provincial superior courts and from Quebec municipal courts, these omissions likely result in a modest understatement of trial delay and sentence severity.⁹ To smooth annual fluctuations, I use three-year rolling averages (for example, the value for “2023/2024” is the average of the values for 2021/22, 2022/23, and 2023/24). All figures below begin in 2005/06, the first year for which data are available for every province and territory. The most recent available data are from 2023/24.

Readers should note that this data comes with a Quebec-shaped asterisk. Quebec has not reported any ICCS data since 2020/21, and even before then its data excluded municipal courts, which account for approximately 14 percent of its criminal cases.¹⁰ Quebec also consistently records higher rates of guilty findings, lower rates of stayed and withdrawn charges, and higher acquittal rates than other provinces. For that reason, many of the figures below present national trends both with and without Quebec.

Figure 1: Median Criminal Case Length, 2007/08 - 2023/24



Source: Statistics Canada Table 35-10-0076-01

⁸ Statistics Canada, “Integrated Criminal Court Survey (ICCS),” accessed August 27, 2026, <https://www23.statcan.gc.ca/imdb-bmdi/pub/3312-eng.htm>.

⁹ Statistics Canada, “Integrated Criminal Court Survey (ICCS),” accessed August 27, 2026, <https://www23.statcan.gc.ca/imdb-bmdi/pub/3312-eng.htm>.

¹⁰ Statistics Canada, “Table 35-10-0027-01: Adult Criminal Courts, Number of Cases and Charges by Type of Decision,” accessed August 27, 2026, <https://www150.statcan.gc.ca/t1/tbl1/en/tv.action?pid=3510002701&pickMembers%5B0%5D=1.6&pickMembers%5B1%5D=2.1&pickMembers%5B2%5D=3.1&pickMembers%5B3%5D=4.1&pickMembers%5B4%5D=5.2&cubeTimeFrame.startYear=1994+%2F+1995&cubeTimeFrame.endYear=2023+%2F+2024&referencePeriods=19940101%2C20230101>.

With those caveats in mind, the first trend to examine is trial delay. Statistics Canada measures the median number of days it takes to “complete a case, from first appearance to final decision.”¹¹ The first chart shows the national trend between 2007/08 and 2023/24, using three-year rolling averages. After remaining stable between 121 and 124 days between 2007/08 and 2015/16, median criminal case lengths have skyrocketed to 198 days, a 60 percent increase in just eight years. Most of this growth has occurred in the post-COVID years, with (rolling) median criminal case length rising by 41 percent in a three-year period.

Because Statistics Canada reports median case lengths, Quebec cannot simply be excluded from the national figures after its reporting ceased in 2020/21. However, because Quebec consistently exceeded the national median in the years prior, its absence is unlikely to meaningfully change the broader trend. Provincial and territorial data, displayed in the heat map below, confirm this.

Figure 2: Median Criminal Case Length, 2007/08 - 2023/24

3-YEAR ROLLING AVERAGES																
	2007/08			2011/12			2015/16			2019/20			2023/24			
PEI	32	32	32	31	29	31	35	41	42	43	42	43	41	44	48	57
SK	94	96	89	82	74	76	75	76	76	78	80	83	84	86	94	109
NU	83	75	74	76	73	67	62	64	69	74	79	84	83	92	110	123
NWT	36	45	51	53	55	56	61	63	69	80	89	101	107	122	129	153
AB	123	123	125	123	123	121	123	123	124	124	127	132	141	153	168	181
BC	110	107	104	105	113	120	120	113	107	105	107	113	120	143	159	174
YT	91	97	94	99	95	99	94	98	93	100	116	136	154	168	181	195
NB	77	81	80	79	77	82	92	102	106	106	110	120	129	147	161	180
ON	120	120	117	113	105	98	96	99	106	115	125	135	143	170	199	221
MB	131	142	145	146	148	154	161	159	155	150	147	146	148	167	198	222
NS	122	123	128	135	142	150	154	159	163	167	169	168	177	207	241	265
NL	118	119	117	120	120	120	127	136	155	169	182	190	197	227	250	272
QC	180	180	181	186	194	205	213	214	208	207	201	190	163	172		

Source: Statistics Canada Table 35-10-0076-01

Three patterns from the heat map stand out. First, trial delay has worsened in every jurisdiction except Quebec (where case lengths had declined slightly before the province’s reporting ceased after 2020/21). Even Prince Edward Island, which has by far the shortest trials in Canada, saw median case lengths increase by 78 percent during this period, from 32 to 57 days.

¹¹ Statistics Canada, “Table 35-10-0029-01: Adult Criminal Courts, Cases by Median Elapsed Time in Days,” accessed August 27, 2026, <https://www150.statcan.gc.ca/t1/tbl/en/tv.action?pid=3510002901>.

Second, some areas have experienced particularly dramatic increases. Median case length has doubled in Yukon, Nova Scotia, Newfoundland and Labrador, and New Brunswick, and quadrupled in the Northwest Territories. Much of this deterioration has occurred since the pandemic, with delays increasing by more than 20 percent in 10 of 12 jurisdictions during the four-year period since 2019/20.

Finally, unlike violent crime rates—which are much higher in the Prairies and Territories—trial delay does not exhibit a strong regional pattern.¹² Although the Atlantic Canadian provinces of Nova Scotia and Newfoundland and Labrador have the longest cases, PEI has by far the shortest. The increase in delay has been widespread.

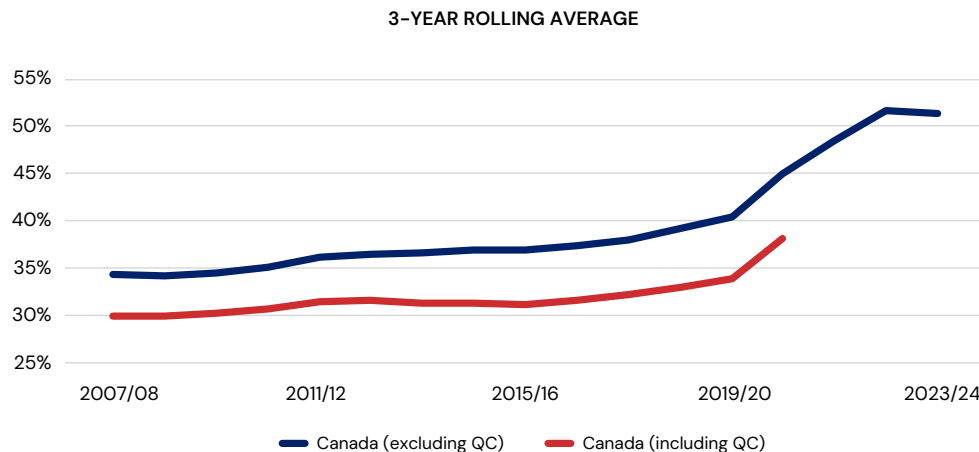
¹² Dave Snow, "Why Violent Crime Is Surging in Canada: DeepDive," *The Hub*, February 23, 2026, <https://thehub.ca/2026/02/23/violent-crime-is-surging-in-canada-deepdive/>.

More Cases Are Being Stayed or Withdrawn

The above data show that trial length is going up. But what about cases that never even reach a determination of guilt or innocence? To capture these cases, Statistics Canada groups together stays (where criminal proceedings are halted), withdrawals, dismissals, discharges at preliminary inquiry, and referrals to alternative or restorative justice programs.¹³ Following Statistics Canada, I refer to these outcomes collectively as “stayed or withdrawn.”

The chart below shows the proportion of criminal cases that are stayed or withdrawn, again using three-year rolling averages between 2007/08 and 2023/24. Because Quebec consistently recorded lower stay/withdrawal rates than the rest of Canada, and because the province stopped reporting after 2020/21, the chart includes separate lines for Canada with and without Quebec.

Figure 3: Cases Stayed or Withdrawn, 2007/08 - 2023/24

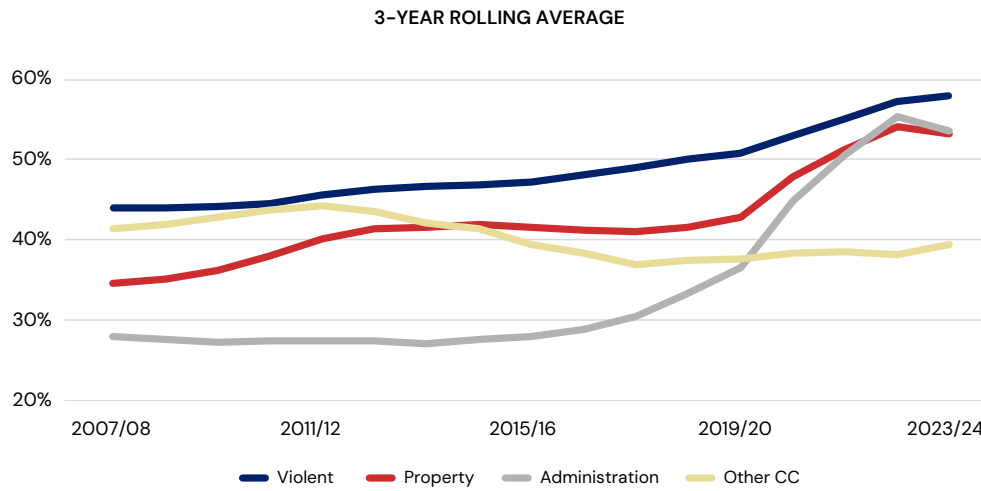


Source: Statistics Canada Table 35-10-0027-01

The trend is striking regardless of whether Quebec is included. Focusing on Canada outside Quebec, the proportion of criminal cases that were stayed or withdrawn increased from just under 35 percent in 2007/08 to 40 percent by 2019/20. The increase accelerated sharply after the pandemic, to the extent that more than 50 percent of criminal cases outside Quebec now end without a determination of guilt or innocence.

¹³ Statistics Canada, “Table 35-10-0027-01: Adult Criminal Courts, Number of Cases and Charges by Type of Decision,” accessed August 27, 2026, <https://www150.statcan.gc.ca/t1/tbl1/en/tv.action?pid=3510002701>.

Figure 4: Cases Stayed or Withdrawn by Offence, Canada excluding Quebec



Source: Statistics Canada Table 35-10-0027-01

The problem is particularly acute for violent crime. The chart above shows the trends for stays/withdrawals for four broad categories of non-traffic Criminal Code offences: violent crime (technically “crimes against the person”), property crime, administration of justice offences (such as breaching court orders or missing court dates), and “other” (non-violent weapon, prostitution, distributing the peace, and residual offences).¹⁴ As the chart shows, stay and withdrawal rates for violent offences have risen steadily to 58 percent, the highest rate of all four categories. We have now reached a point where nearly three in five cases involving violent crimes are stayed or withdrawn. The upward trend shows no sign of slowing down.

¹⁴ Statistics Canada, “Classification of Common Offence, Criminal Code (without Traffic),” accessed August 27, 2026, <https://www23.statcan.gc.ca/imdb/p3VD.pl?Function=getVDStruct&TVD=257740&CVD=257741&CPV=1&CST=01012015&CLV=1&MLV=3&wbdisable=true>.

Figure 5: Percentage of Cases Stayed/Withdrawn, 2007/08 - 2023/24

	3-YEAR ROLLING AVERAGES																			
	2007/08				2011/12				2015/16				2019/20				2023/24			
NB	16	16	16	17	18	19	20	20	20	19	19	19	19	21	22	24	25			
BC	27	27	27	27	28	28	29	27	27	27	27	27	28	30	32	34	33			
PEI	27	25	23	22	21	21	22	23	23	25	27	28	27	29	34	37	36			
SK	31	31	32	32	32	32	32	32	32	32	32	34	35	39	42	43	41			
NL	23	23	23	22	22	23	23	23	24	25	27	29	31	34	38	42	43			
NS	31	30	31	32	33	33	33	33	33	34	35	36	38	41	43	44	45			
MB	38	36	36	35	33	32	31	30	30	33	35	39	39	45	49	53	52			
YT	32	31	30	30	30	30	30	31	30	30	29	32	36	42	47	50	53			
NWT	23	25	26	27	28	29	31	32	33	32	30	32	36	42	47	51	54			
ON	38	39	39	41	42	43	43	44	44	44	44	45	46	50	54	57	57			
AB	34	34	34	34	35	35	35	36	36	38	39	41	44	50	55	59	57			
NU	25	24	23	24	27	27	27	26	25	26	27	27	27	31	42	55	63			
QC	10	9	9	9	9	9	9	8	7	7	8	9	9	9						

Source: Statistics Canada Table 35-10-0027-01

Looking at the heat map of provincial and territorial data, three patterns again stand out. First, outside Quebec, the rise in stayed and withdrawn cases is universal. Every other province and territory experienced substantial increases, to the extent that stayed and withdrawn cases now account for more than half of all criminal cases in three provinces and all three territories.

Second, as the Supreme Court itself recently noted, the COVID-19 pandemic clearly had an effect.¹⁵ There have been sharp increases after 2019/20 in provinces large and small, with Ontario's rate rising from 46 to 57 percent and Newfoundland and Labrador's from 31 to 43 percent in just four years. The largest proportional increases occurred in the territories, with nearly two-thirds of cases in Nunavut now stayed or withdrawn.

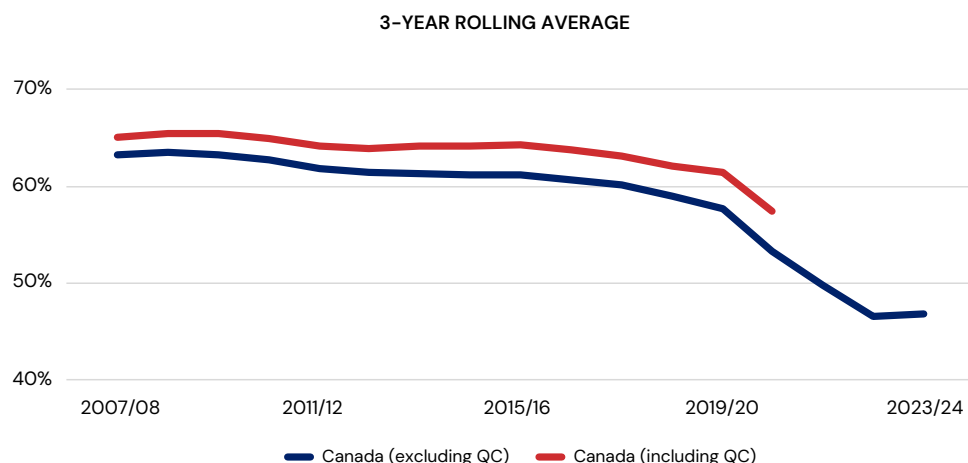
Third, Quebec stands apart. Throughout the period for which data were available, the province's stayed/withdrawn rate remained between 7 and 10 percent, roughly a quarter of that recorded in the rest of Canada. Given the exclusion of municipal court data and Quebec's unusually high acquittal rates, this confirms that comparisons of Quebec's case outcome data to other jurisdictions should be approached with considerable caution (as Statistics Canada itself recommends).^{16,17}

¹⁵ R. v. Vrbanic, 2026 SCC 19, <https://decisions.scc-csc.ca/scc-csc/scc-csc/en/item/21302/index.do>.

¹⁶ Statistics Canada, "Table 35-10-0027-01: Adult Criminal Courts, Number of Cases and Charges by Type of Decision," accessed August 27, 2026, <https://www150.statcan.gc.ca/t1/tbl/en/tv.action?pid=3510002701&pickMembers%5B0%5D=1.6&pickMembers%5B1%5D=2.1&pickMembers%5B2%5D=3.1&pickMembers%5B3%5D=4.1&pickMembers%5B4%5D=5.2&cubeTimeFrame.startYear=1994+%2F+1995&cubeTimeFrame.endYear=2023+%2F+2024&referencePeriods=19940101%2C20230101>.

¹⁷ Statistics Canada, "Table 35-10-0027-01: Adult Criminal Courts, Number of Cases and Charges by Type of Decision," accessed August 27, 2026, <https://www150.statcan.gc.ca/t1/tbl/en/tv.action?pid=3510002701&pickMembers%5B0%5D=1.6&pickMembers%5B1%5D=2.1&pickMembers%5B2%5D=3.1&pickMembers%5B3%5D=4.1&pickMembers%5B4%5D=5.2&cubeTimeFrame.startYear=1994+%2F+1995&cubeTimeFrame.endYear=2023+%2F+2024&referencePeriods=19940101%2C20230101>.

Figure 6: Cases with a Guilty Finding, 2007/08 - 2023/24



Source: Statistics Canada Table 35-10-0027-01

The increase in stayed or withdrawn cases has had a predictable knock-on effect: fewer of those accused of crimes are being found guilty. Statistics Canada uses a broad definition of cases with a “guilty” finding, which includes guilty pleas and cases in which the accused receives an absolute or conditional discharge.¹⁸ Even by this definition, the rolling proportion of criminal cases resulting in guilty findings outside Quebec fell from approximately 63 percent in 2007/08 to just 46 percent in 2023/24 (Quebec’s rate remained steady between 73 and 77 percent between 2007/08 and 2020/21). Although substantial regional variation persists—from 34 percent in Nunavut to 71 percent in New Brunswick—the overall trend was remarkably consistent. And, as with stays and withdrawals, the problem is especially pronounced for violent crime: the rolling average of violent crime cases without a guilty finding dropped to 39 percent in 2023/24, the first time it fell below 40 percent.¹⁹

In isolation, a decline in guilty findings is not inherently troubling. Yet the data suggest that this decline has been driven less by actual acquittals—which have consistently accounted for only one to three percent of completed cases outside Quebec—than by the growing number of cases that never reach a determination of guilt or innocence.²⁰ Above all, one fact stands out: criminal cases are now more likely to end in a stay, withdrawal, dismissal, or diversion than in a determination of guilt or innocence.

¹⁸ Statistics Canada, “Table 35-10-0027-01: Adult Criminal Courts, Number of Cases and Charges by Type of Decision,” accessed August 27, 2026, <https://www150.statcan.gc.ca/t1/tbl/en/tv.action?pid=3510002701&pickMembers%5B0%5D=1.6&pickMembers%5B1%5D=2.1&pickMembers%5B2%5D=3.1&pickMembers%5B3%5D=4.1&pickMembers%5B4%5D=5.2&cubeTimeFrame.startYear=1994+%2F+1995&cubeTimeFrame.endYear=2023+%2F+2024&referencePeriods=19940101%2C20230101>.

¹⁹ Statistics Canada, “Table 35-10-0027-01: Adult Criminal Courts, Number of Cases and Charges by Type of Decision,” accessed August 27, 2026, <https://www150.statcan.gc.ca/t1/tbl/en/tv.action?pid=3510002701&pickMembers%5B0%5D=1.1&pickMembers%5B1%5D=2.8&pickMembers%5B2%5D=3.1&pickMembers%5B3%5D=4.1&pickMembers%5B4%5D=5.2&cubeTimeFrame.startYear=2005+%2F+2006&cubeTimeFrame.endYear=2023+%2F+2024&referencePeriods=20050101%2C20230101>.

²⁰ Statistics Canada, “Table 35-10-0027-01: Adult Criminal Courts, Number of Cases and Charges by Type of Decision,” accessed August 27, 2026, <https://www150.statcan.gc.ca/t1/tbl/en/tv.action?pid=3510002701&pickMembers%5B0%5D=1.1&pickMembers%5B1%5D=2.1&pickMembers%5B2%5D=3.1&pickMembers%5B3%5D=4.1&pickMembers%5B4%5D=5.2&cubeTimeFrame.startYear=1994+%2F+1995&cubeTimeFrame.endYear=2023+%2F+2024&referencePeriods=19940101%2C20230101>.

Who Is Responsible?

The Supreme Court and Trial Delay

Who—or what—is responsible for these trends? For many critics, the Supreme Court’s 2016 *Jordan* decision regarding the *Charter* right “to be tried within a reasonable time” is the main culprit. After decades of attempting to draw the line between acceptable and unacceptable delay, in 2016 a majority of the Court established “presumptive ceilings” of 18 months for provincial court cases and 30 months for superior court cases.^{21,22,23,24} Once these ceilings have been reached, proceedings must generally be stayed unless there are exceptional circumstances. Lamenting a “culture of complacency towards delay that has pervaded the criminal justice system,” the majority hoped its decision would spur governments and other actors within the criminal justice system to undertake “broader structural and procedural changes.”²⁵

In the years since, *Jordan* has become the focal point of debates over trial delay, with particular criticism that the one-size-fits-all approach does not account for growing court congestion and regional variation.^{26,27,28,29} These concerns resurfaced in the Supreme Court’s May 2026 decision in *Vrbanic*.³⁰ Although all nine judges in *Vrbanic* agreed that the complex facts of the case justified an exception to the *Jordan* limits, eight of the Court’s nine justices reaffirmed the broader *Jordan* framework while one called for greater flexibility.

Interestingly, the judges in *Vrbanic* cited two Statistics Canada metrics that track indicators related to *Jordan*: the proportion of all adult criminal cases that exceed the *Jordan* ceilings and the proportion of those over-ceiling cases that end in stays or withdrawals.³¹ The charts below illustrate both trends dating back to 2005/06, a decade before *Jordan*. For consistency with the data cited by the Court in *Vrbanic*, these charts use annual figures rather than rolling averages (Quebec data are again unavailable for the three most recent years). The charts clearly show that the pandemic contributed both to an increase in cases exceeding the *Jordan* ceilings and to an increase in stays and withdrawals among those cases. Yet they also show that the latter trend was already well underway before the pandemic.

²¹ *R. v. Rahey*, [1987] 1 S.C.R. 588, <https://decisions.scc-csc.ca/scc-csc/scc-csc/en/item/215/index.do>.

²² *R. v. Askov*, [1990] 2 S.C.R. 1199, <https://decisions.scc-csc.ca/scc-csc/scc-csc/en/item/670/index.do>.

²³ *R. v. Morin*, [1992] 1 S.C.R. 771, <https://decisions.scc-csc.ca/scc-csc/scc-csc/en/item/857/index.do>.

²⁴ *R. v. Godin*, 2009 SCC 26, <https://decisions.scc-csc.ca/scc-csc/scc-csc/en/item/6981/index.do>.

²⁵ *R. v. Jordan*, 2016 SCC 27, <https://decisions.scc-csc.ca/scc-csc/scc-csc/en/item/16057/index.do>.

²⁶ Mark Harding, “How the Government’s Identity Politics Obsession and One Unfortunate Court Decision Are Fuelling Trial Delays and Keeping Criminals on Our Streets,” *The Hub*, December 11, 2024, <https://thehub.ca/2024/12/11/mark-harding-how-the-governments-identity-politics-obsession-and-one-unfortunate-court-decision-are-fuelling-trial-delays-and-keeping-criminals-on-our-streets/>.

²⁷ The Canadian Press, “More than 200 Cases Tossed over Delays since Supreme Court’s *Jordan* Decision,” *Toronto Star*, July 7, 2017, https://www.thestar.com/news/gta/more-than-200-cases-tossed-over-delays-since-supreme-court-s-jordan-decision/article_7414171b-6359-58b6-9d3f-25c7e34b6e27.html.

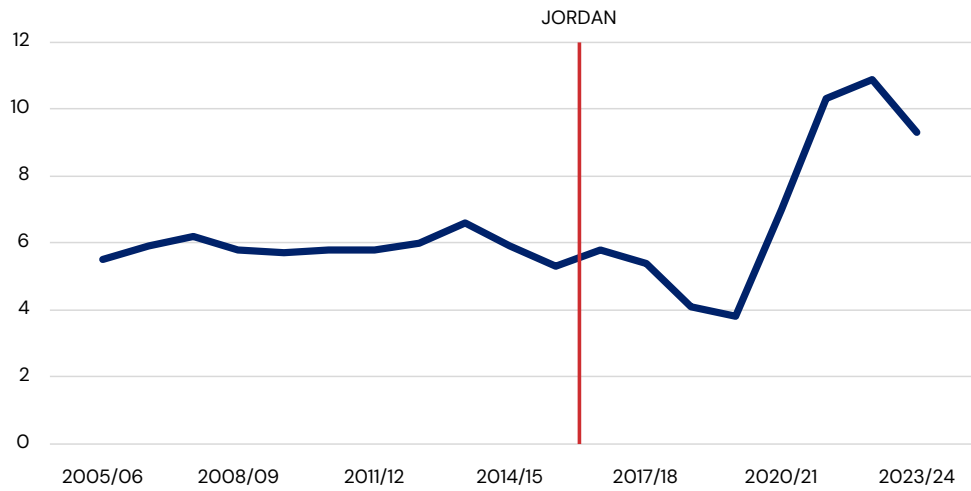
²⁸ “*R v Jordan*: A Ticking Time Bomb,” *CanLII*, 2018 CanLII Docs 188, accessed August 27, 2026, <https://www.canlii.org/en/commentary/doc/2018CanLII Docs188>.

²⁹ Dylan R. Clarke, “Timing Justice: Trial Delays, Court Congestion, and the Limits of *R. v. Jordan*,” *Macdonald-Laurier Institute*, February 11, 2026, <https://macdonaldlaurier.ca/timing-justice-trial-delays-court-congestion-and-the-limits-of>.

³⁰ Supreme Court of Canada, section 11(b) trial-delay decision [style of cause to be confirmed—likely *R. v. Jacques-Taylor*, 2026 SCC 20], <https://decisions.scc-csc.ca/scc-csc/scc-csc/en/item/21302/index.do>.

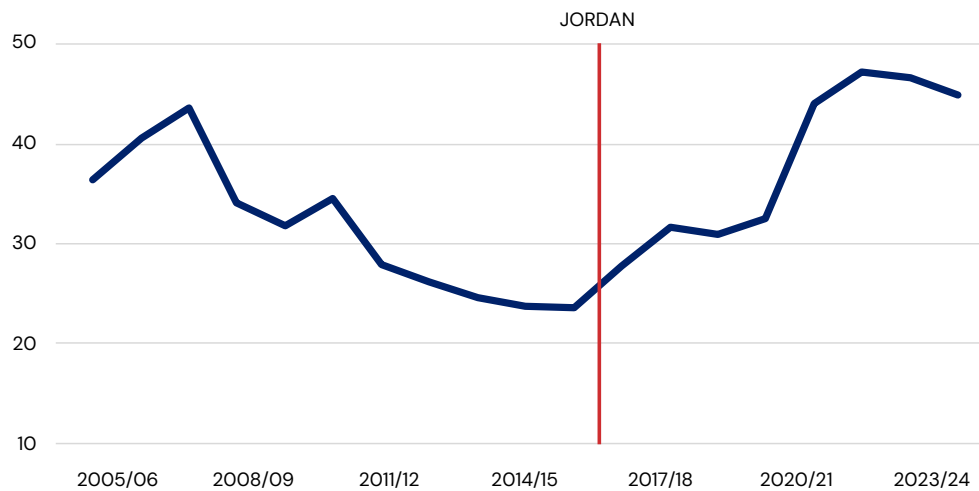
³¹ Statistics Canada, “Table 35-10-0173-01: Key Indicator Results and Absolute Change for Annual Data, Adult Criminal Court and Youth Court,” accessed August 27, 2026, <https://www150.statcan.gc.ca/t1/tbl1/en/cv.action?pid=3510017301>.

Figure 7: Cases Exceeding Jordan Limits 2005/06 - 2023/24



Source: Statistics Canada Table 35-10-0173-01

Figure 8: Over-Limit Cases Stayed or Withdrawn 2005/06 - 2023/24



Source: Statistics Canada Table 35-10-0173-01

In *Vrbanic*, the judges cited this data, albeit in different ways. Chief Justice Richard Wagner, writing for eight of the Court's nine judges, recognized that more cases now exceeded the *Jordan* ceilings (the first figure). However, he rejected the Crown's attempt to blame these trends on *Jordan* itself. The Chief Justice emphasized that the proportion of cases exceeding the ceilings "decreased in each full year of reporting after *Jordan* was released," then "spiked to previously unseen levels during the height of the COVID-19 pandemic," after which there was a (modest one-year) "decrease in the proportion of cases exceeding the ceilings."³² For eight of the Court's nine judges, the post-pandemic rise in delay reflected broader pressures on the justice system, not a failure of *Jordan* itself.

Justice Malcolm Rowe, in a separate opinion, agreed with the majority on the case outcome but little else. Arguing that "*Jordan* has not kept up with the contemporary realities of criminal prosecutions," he warned that "a significant proportion of serious charges are now being stayed." Citing Statistics Canada data from both figures above, Justice Rowe held that "the pandemic may explain the increase in the proportion of cases that exceed the presumptive ceiling [the first chart], but it does not fully explain the increase in the proportion of stays [the second chart]." He argued that the Court should modify its *Jordan* framework to permit judges "residual discretion" to avoid stays in serious cases where the circumstances justify doing so.

On balance, the data lend greater support to Justice Rowe's concerns than to the majority's reassurances. The pandemic undoubtedly placed enormous strain on criminal courts, but it cannot fully explain the growth of stays and withdrawals after *Jordan*, as the second chart shows.³³ In 2015/16, less than 24 percent of cases that exceeded what would become the *Jordan* ceilings ended in stays or withdrawals. That number had risen to 32 percent before the pandemic (including Quebec), and now stands at 45 percent (with Quebec data absent, likely resulting in a modest national overestimate). Criminal cases are taking much longer today than when *Jordan* was decided, and an increasing proportion end in stays, withdrawals, or dismissals. These are not the hallmarks of a system that has undergone the "broader structural and procedural changes" envisioned by the Court in 2016. *Jordan* was intended as a treatment for trial delay, but the evidence suggests it has allowed the disease to spread.

³² *R. v. Vrbanic*, 2026 SCC 19, <https://decisions.scc-csc.ca/scc-csc/scc-csc/en/item/21302/index.do>.

³³ Department of Justice Canada, *State of the Criminal Justice System: Impact of COVID-19 on the Criminal Justice System* (Ottawa: Department of Justice Canada, 2022), https://www.justice.gc.ca/eng/cj-jp/state-etat/2022rpt-rap2022/pdf/RSD-2022-SOCJS_Covid-19_Report-en.pdf.

The Price of Delay

This study has documented another dimension of strain within Canada's criminal justice system: criminal courts are struggling to perform their most basic function of delivering timely justice. Criminal cases now take much longer to resolve than they did five years ago, and the result is a growing number of cases that never reach a determination of guilt or innocence. We have arrived at the remarkable reality that criminal cases are now more likely to end in stays, withdrawals, dismissals, or diversions than in findings of guilt. The disparity is even more pronounced for violent crime, with 58 percent of cases resulting in a stay/withdrawal compared to 39 percent with a finding of guilt. That fact alone should give Canadians pause.

Numerous factors have contributed to this predicament. The COVID-19 pandemic, increasing case complexity, shifting prosecutorial practices, an underfunded justice system, and the Supreme Court's own jurisprudence have all likely played a role. Reasonable people can disagree about the relative importance of these factors. But no one can deny that they point in a troubling direction.

Viewed alongside rising violent crime and declining police clearance rates, the data presented here once again point to a criminal justice system in crisis.^{34,35} More violence is occurring. Fewer crimes are being solved. And, increasingly, criminal cases are ending without findings of guilt or innocence, increasing the risk that crime—especially violent crime—is going unpunished.

Canadians rightly hold their courts in high regard.³⁶ We expect judges to apply the law fairly, protect individual rights, and resolve disputes in a timely fashion. Yet even the most respected institutions cannot compensate for a broader justice system that is no longer operating as intended. Canadians have every right to expect a justice system that resolves criminal cases fairly, efficiently, and with finality. Increasingly, that is not the system they have.

³⁴ Dave Snow, "Why Violent Crime Is Surging in Canada: DeepDive," *The Hub*, February 23, 2026, <https://thehub.ca/2026/02/23/violent-crime-is-surging-in-canada-deepdive/>.

³⁵ Dave Snow, "Nearly 50% of All Violent Offences Go Unpunished in Canada—Why Police Are Solving Fewer Crimes," *The Hub*, April 7, 2026, <https://thehub.ca/2026/04/07/why-police-are-solving-fewer-crimes-in-canada-as-nearly-50-of-all-violent-offences-go-unpunished-deepdive/>.

³⁶ Andrea Lawlor and Erin Crandall, "Longstanding Canadian Confidence in the Judicial System May Be on Shaky Ground," *Policy Options*, August 24, 2023, <https://policyoptions.irpp.org/2023/08/judicial-system-confidence/>.

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