

**OUR CRIMINAL JUSTICE SYSTEM:
TODAY'S CHALLENGE
TOMORROW'S OPPORTUNITY**

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Thank you for welcoming me back to familiar territory, the law school I graduated from just a few years ago.

I can tell you that my appearance here today, about 30 years after I graduated, delights me. I suspect it surprises more than a few of those who taught me.

Our system of justice is the foundation of our society. It is a foundation that supports all that we cherish, and one we too often take for granted. It is, after all, our system of justice that protects the rights and freedoms found in our Constitution, including the Charter. It keeps us safe by enforcing our statutes, such as the Criminal Code. The system breathes life and gives expression to those rights, freedoms and protections that make Canada, and Ontario, what they are.

We have every reason to be confident in, and passionate about, our system of justice – people from all over the world are. They make their statement of support by coming to Canada, and Ontario, to a place where their freedom to live peacefully will be respected and protected in a way it too often is not elsewhere.

But the passion we have for our system of justice does not - should not - diminish for a moment our determination to make it stronger. Like any foundation, it requires constant inspection and strengthening to fully provide the support that it must.

We in the legal profession, contrary to the perception of some, are the ultimate reformers – constantly challenging, constantly probing, always looking for the better way.

My role as Attorney General is to support and strengthen our system of justice, to ensure that it is able to effectively safeguard the rights and freedoms of Ontarians.

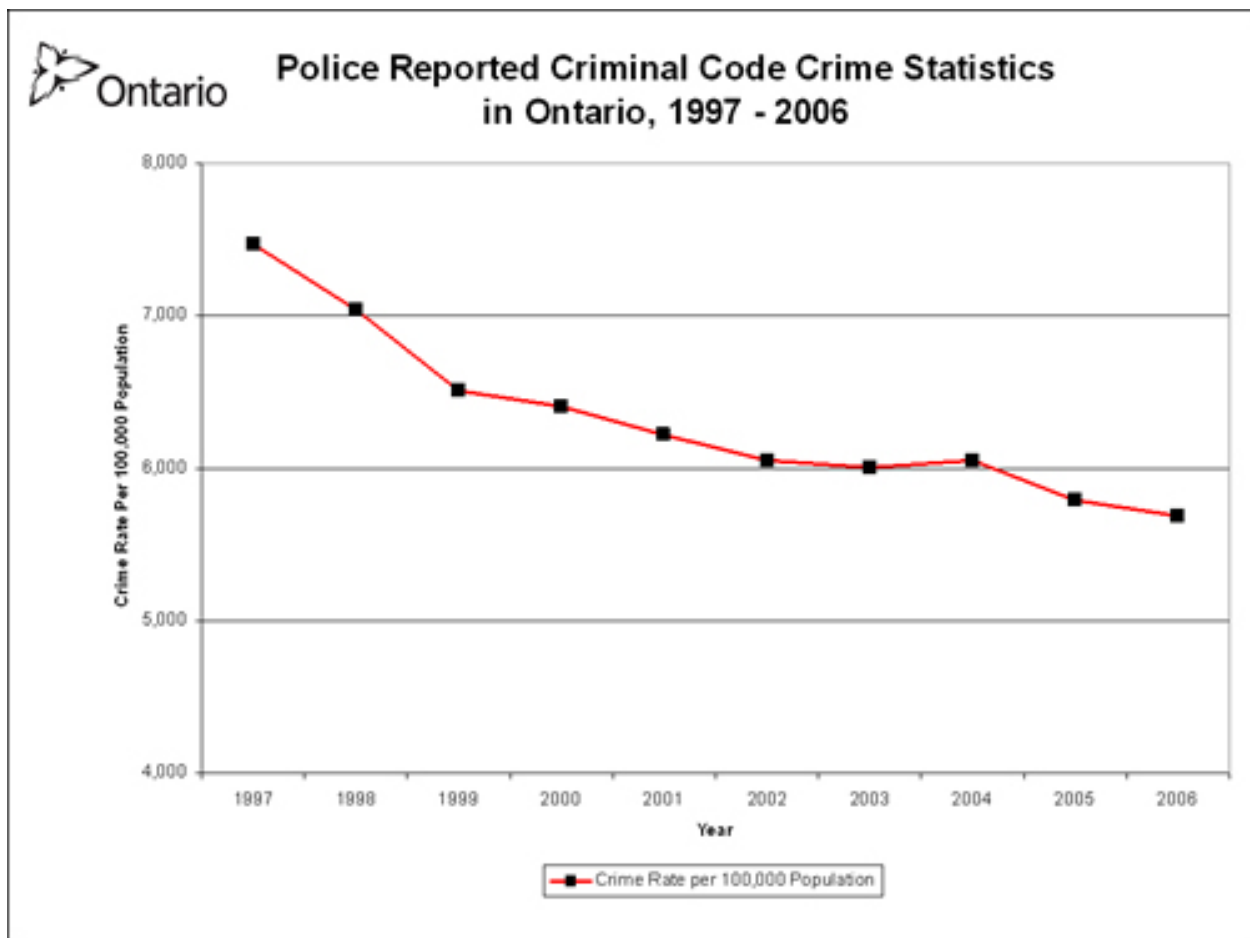
In the case of our criminal justice system, Ontarians expect that justice will be done: that those who commit crime will be arrested and charged, and that those who are charged will be presumed innocent unless proven guilty through a fair hearing, with the result based on the law and the facts.

We also want the process to be as expeditious as possible, and expect that the resources that are invested in justice will be used as effectively as they can be.

Today, I want to speak to you about a challenge facing our system, and about the opportunity we have to accept the challenge and strengthen the system.

Before I do, let me share with you some of the steps we have taken as a government to strengthen our system of justice: where we are, where we have come from, and where we are going.

We live in one of the safest countries in the world, and one of the safest provinces in Canada. This is probably not what you might assume from the daily diet of headlines. Now, I have never believed that criminal law is simply a matter of statistics, for every offence is a serious matter. However, a few statistics do help to put what might be a common, incorrect, belief, in the proper context.



Ontario continues to have the lowest crime rate of any province in Canada. We have benefited from a six per cent decrease in the crime rate in Ontario in the past five years alone, including significant decreases in property crime, drug-related crimes, and impaired driving offences.

The City of Toronto, in particular, has the 2nd lowest crime rate among large municipalities in Canada, next only to Quebec City.

To support our system of justice, we have been significantly investing in it. We have been investing in the system to allow our police, prosecutors, judges, justices of the peace, victim services staff, court security and court staff to do their jobs as effectively as possible. We have a two-fold goal: tough on the causes of crime, which will help build a future of opportunity for all Ontarians, and tough on crime for those who break the law.

We are determined to create an environment where families can grow and young people can build opportunity. Our investments are made to provide young people particularly with good choices and options. This includes working to prevent the circumstances that might lead some to make the wrong choice. That's why we've made substantial investments in education and in our youth – we are tough on the causes of crime.

Government record

- **Tough on the causes of crime**
 - Keeping kids in school to 18: 11,000 more graduates annually
 - Expanding Youth Justice Committees to hold young people accountable and prevent crime
 - Investing \$28.5M in Youth Opportunities Strategy in high-risk areas
- **Tough on crime**
 - 1,000 more police officers
 - More than 220 additional Crown attorneys
 - 24 additional Judges
 - 73 additional Justices of the Peace
 - \$68 million Guns and Gangs Task Force
 - Success of Toronto Police Violence Intervention Strategy: 10,000+ arrests, 450 seized firearms, 120,000+ community contacts

For example, we are keeping our young people in school until they are 18 by providing more programs that engage them, having invested an additional \$3.7 billion in public education over the past 4 years. Over this time, the high school graduation rate has climbed from 68 per cent to 75 per cent. That means 11,000 more students are graduating every year – a better future for every one of them.

We are investing \$28.5 million over three years in our Youth Opportunities Strategy, providing opportunity and support to youth in high-risk areas.

We have expanded our Youth Justice Committees, providing an alternative to the formal court process for low-risk young offenders - holding them directly accountable and preventing re-offending.

These investments are making a difference, and we are determined to continue the progress.

At the same time that we are tackling the causes of crime, we're tough on those who commit crime. Upholding our system of justice means

a commitment to the enforcement of our laws – which is why we've made new investments to strengthen the ability of police, prosecutors, judges, justices of the peace and the other justice partners to do their jobs.

For example, since 2005, we've invested \$68 million in new initiatives to fight gun crime.

We opened the first provincial guns and gangs operations centre in North America, bringing police and crowns together under the same roof to share information in the investigation phase, and provide the necessary support throughout the trial process.

The police in Toronto and around the province have taken a new approach in their anti-violence intervention strategies. Traditional police work added an emphasis on community connections, trust building, and providing real on the ground role models for young people in high-risk neighbourhoods.

These initiatives are working. As of January 2008, the Toronto Anti-Violence Intervention Strategy has produced over 10,000 arrests, seized 450 firearms and built positive relationships by making over 120,000 business and citizen contacts.

At the same time, we have invested in the people who do the hard work at the heart of our justice system. We added 1,000 more men and women to our police forces, over 220 more Crowns to advocate for justice from behind the counsel tables of our courthouses, and 24 more provincial court judges plus 73 additional justices of the peace to adjudicate cases from the bench. There are new and expanded court facilities to support the work that they do, with more being built.

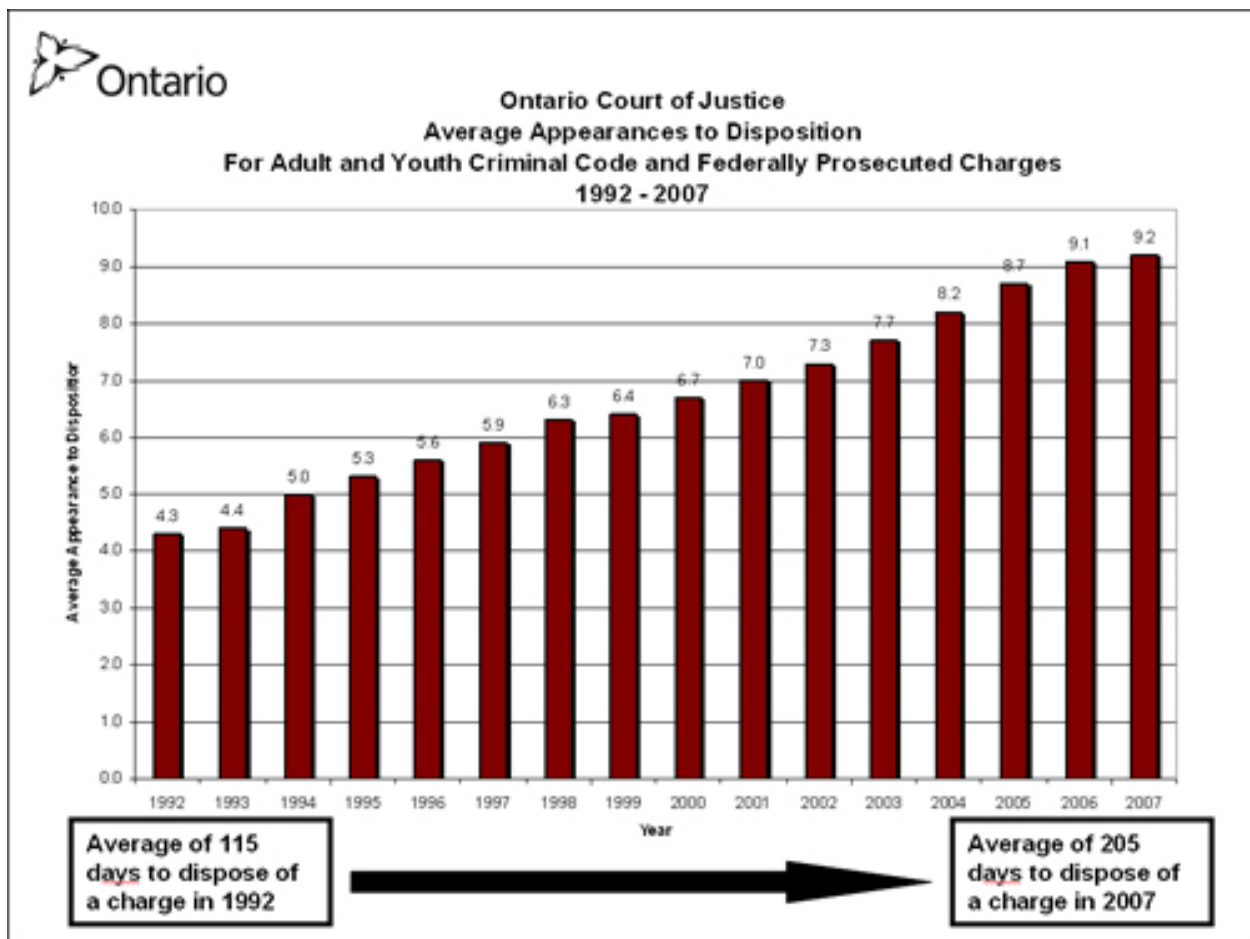
It is their hard work, day in and day out, that has made Ontario communities safer and stronger – and they deserve our thanks for upholding Ontario's standard of justice.

So how is this system in which we have been investing, and for which we are so passionate, doing. Is there scope for improvement? It is both appropriate, and important, to ensure that the investments that we are making are achieving as much as we need them to. It is

always important to ensure that our system of justice is as strong and effective as it can be.

Let me open the doors to our court system and share two snapshots with you. This is not a criticism – let me be clear. The people working within the system are dedicated, hardworking and continually striving to improve it. I was one of them, from the defence side, for almost 25 years. It is important, however, to step back from time to time, and assess where we are, how we got here, and where we want to go.

Look first at the average time it takes for a criminal case to be completed.



The time to trial or disposition has been on the rise, although thankfully not as much over the past several years. In 1992, each charge was in the system for an average of 115 days. By last year, the number had increased to 205 days.

It is important, for the many reasons that each of you could state, that cases be brought to conclusion as quickly, fairly and effectively as possible.

Let me give you one other fact. In 1992, for the average criminal charge in Ontario, an accused would have to make a courtroom appearance an average 4.3 times before his or her charge was disposed of.

By last year, that number had *more than doubled* to 9.2.

An “appearance” involves every event in the criminal court process that requires an accused to appear in court. This includes bail hearings, first appearances, setting court dates, pre-trial and preliminary hearings, and, of course, trials.

So over the past 15 years, the time to disposition has almost doubled, and the number of appearances has more than doubled. Twice the effort on the road to reach the same destination. Let me return to that in a moment.

You might quickly conclude that the starting point for this analysis roughly coincides with the seminal decisions of *R v Askov* and *R v Stinchcombe*. So are the increases the Charter’s fault? In a word, no.

20 years ago, on February 11 1988, my great predecessor Ian Scott stood in this very Faculty of Law as part of the annual Goodman Lecture and described the *Charter* as “without doubt the most important legal (and perhaps the most important social and economic) event of the past generation in Canada.” He was right.

The Charter has transformed our system of law. It has transformed our society. In many ways, it has transformed our politics. It sets the standard that we always aspired to but did not always express, and attached to this standard the ability to obtain a remedy when the standard is not achieved.

The issue is to ensure that both the letter and spirit of the Charter's guarantees are achieved.

My job as Attorney General is to ensure that the administration of justice is conducted in accordance with the law and our constitution. It is a goal that all those involved in the criminal justice system have a role in achieving, and work hard to achieve.

This includes making sure that our system of justice is in the best position possible to process all criminal cases – large and small, simple and complex – in a timely and effective manner.

Let us return to the two statistics I referred to earlier – time to disposition and the number of appearances.

The appearance numbers represent both a challenge and an opportunity. It represents much more than you might at first blush think.

At most of these appearances, the case is simply adjourned to another day.

You will find mention of the adjournment in the Criminal Code, but it is a mere footnote in most law school courses. Interesting, because you might reasonably expect that our courses should reflect, to some extent, those legal events that we do quite often.

The adjournment is simply a means of moving a criminal case from one day, to the next. Most adjournments do not significantly advance the case, or its resolution. Indeed, they shift the case from one day to another, but do not achieve much. They are a signal that the case is on hold, when the goal should be to advance it.

Too often, it is adjourned to another day, only to be adjourned once again.

Do most people enjoy doing adjournments? No. It is a little like watching paint dry on a wall, except that when the paint dries you do have a freshly painted wall. No such achievement with the adjournment.

So, if we don't like them, and they do not achieve much, you would think that we would do fewer – but no! We do more, and more, and more. Remember, in 1992, it took an average of 4.3 appearances of all types to see a charge through from beginning to end – including the bail hearing and the guilty plea or trial. In 2007, it took 9.2, of which over 6 were just adjournments!

What this means is that criminal charges today are requiring twice as many “touches” by the judicial system as they did just a decade-and-a-half ago.

Should you care? Yes. You should care a lot. Many of these adjournments are not only unproductive - they are a drain on the justice system's resources. Resources that could be better used in almost any other aspect of the system of justice.

At every adjournment, there is a Judge or Justice presiding, a Crown, Defence counsel, police, court security, court staff, corrections officials involved for those in custody, and, of course, members of the public. Imagine the cost of that. But it gets worse. Every charge must be entered back in the system when it is adjourned by the Court, Crown, police, defence and corrections, and then taken out again for the next court appearance. With 600,000 charges in the system at any one time, even one extra adjournment per year per charge represents a lot of resources that could do so much good elsewhere.

Look at it another way. We are putting twice as many people through our courts every year, compared to 1992, for the same number of charges. Now, no system will work as well if you double the number of people going through it to reach the same result.

It means that courtroom time and financial resources are being exhausted on cases that are showing up over and over and over again in the courtroom.

It means that our Judges and Justices of the Peace, our Crown Attorneys, our Defence lawyers, our police officers, and our court staff are spending too much of their days simply moving cases along to be dealt with another day.

Now, I practised for many years. There were many occasions, as I sat watching and waiting for my case to be called, I thought "...there must be a better way." And I admit, from time to time, I allowed myself the thought that "if I ever had the chance..." Well, the day after the Premier called to advise me of my appointment, I looked in the mirror and said, "it's time."

Just think of what the resources we invest in moving cases from one day to the next could accomplish if they were refocused somewhere else. How much stronger the justice and community investments we are making would be? How much more effective our system of justice could be?

What would you do with the refocused resources?

Would cases move faster through the system? How could they not? It is interesting to note that the average time from the beginning to the end of a case has almost doubled at the same time as the number of appearances has doubled. Interesting.

This is both the challenge and the opportunity. Refine the system so that we reduce the unproductive appearances, refocus the resources in more effective ways – the system, our foundation, will be stronger.

Can we do it? Of course we can.

Across this province every day, we have Crown Attorneys, defence counsel, judges, justices of the peace, police officers, court staff and other dedicated Ontarians working hard – working together - to uphold and protect the important principles upon which our system of justice is based. And every day, in communities across this province, they have ideas and suggestions on how the system can work better.

The system does not exist as it does because someone sat down, years ago, and thought to double the number of adjournments. It exists, in spite of our individual efforts, for many reasons, one of which is what my first year property Prof, the Honourable D. Mendes da Costa used to call the "momentum of inertia."

Over the past four years a number of significant investments have been made in all parts of our justice system. The result is more police, more crowns, more judges and justices of the peace, new courthouses, and better crime prevention programming.

It is now time to ensure that our justice system, with its additional resources, is working as effectively as we need it to.



Next Steps

- Implement initiatives using best advice to:
 - Use our increased resources better
 - Improve effectiveness of system
 - Refocus resources
- Set public, measurable targets

We will be implementing a number of initiatives as part of a co-ordinated effort to reduce unnecessary appearances, refocus resources, and improve the effectiveness of the system. And it will take a co-ordinated effort.

No one justice partner acts or can act in isolation – the Attorney General included. Each is dependent on the others, and the actions of one affect the others. We will be looking to all of the justice participants for their best ideas to ensure that, together, we are making the most effective improvements.

I am prepared to set an ambitious, measurable target that the public can measure our progress by.

This is our challenge, and our opportunity.

There is a lot of information out there on how to make the process more effective, including a number of studies that have already been done on different aspects of this issue, such as the Martin Report in the early 90s and the Criminal Justice Review Committee report in the late 90s. It is not just the reports or studies that are the source of the solutions. I know there are initiatives just waiting to happen in every courthouse in Ontario, based on the experience of those who work hard every day to achieve justice for Ontarians.

We have every reason to be confident in our system of justice, and passionate about it, but never complacent. Every one of us has a desire to make it stronger, and work every day to achieve that goal.

Today, I have presented an unusual challenge, one you might not have thought of before. It represents an enormous use of resources, however – resources that can and should be refocused elsewhere. In that challenge is the opportunity – the opportunity to strengthen our system of justice.

Soon, I hope to share with you what this new opportunity looks like. The opportunity to use resources in a slightly different way to advance the cause of justice, not place it on hold – to achieve justice, not simply to adjourn it to another day.

Together, we have built a justice system that is the envy of the world. Today there is an opportunity to strengthen it. I look forward to working with you to do that. Lets accept the challenge. The opportunity is simply too important to be adjourned to another day.

Thank you.