

# The Trial Penalty and its Variations in Canada

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# The Trial Penalty in Canada

- The trial penalty
- Current Study
- Data & methods
- Results
- Discussion

# The Trial Penalty in Canada

- **The trial penalty**

- The difference in sentence comparing those who plead guilty to their charges (avoiding trial) and those who plead not guilty (and proceed to trial)

- **Existing research**

- Sentencing research shows common correlates of sentence such as age, gender, offence characteristics, jurisdiction, pre-trial status and criminal history
- Research is near unanimous that pleading guilty results in more lenient sentences (shorter sentences or non-custodial sentences)
- Less is known about what impacts this relationship between a plea and the sentence outcome
- Very little is known in Canada on the subject

# The Trial Penalty in Canada

- **Data & methods**

- Integrated Criminal Court Survey (ICCS)
- Administrative data for all courts across Canada (with certain exceptions) from 2005-2017, including important case characteristics
- Analysis of adults found guilty in provincial courts and sentenced to period of incarceration

- **Series of OLS Regression models\***

- $\text{Ln}(\text{length of custody}) = \text{plea}$ 
  - $\text{Ln}(\text{length of custody}) = \text{plea} + \text{jurisdiction} + \text{plea} * \text{jurisdiction}$
- $\text{Ln}(\text{length of custody}) = \text{plea} + \text{casetime}$ 
  - $\text{Ln}(\text{length of custody}) = \text{plea} + \text{casetime} + \text{plea} * \text{casetime}$
- $\text{Ln}(\text{length of custody}) = \text{plea} + \text{case appearances}$ 
  - $\text{Ln}(\text{length of custody}) = \text{plea} + \text{case appearances} + \text{plea} * \text{case appearances}$

\* Only most pertinent variables are shown in these model statements

# The Trial Penalty in Canada

- OLS Regression Models

Principal Model	Model 1
Plea	-.254***
Sex	
Region	
Infraction Type	
Criminal History	
Pretrial Detention	
Guilty Charges	

Logged coefficients transformed as follows:

$$[(e^b)-1]*100$$

$$[(e^{-.254})-1]*100$$

$$= -22\%$$

Region Interaction	Model 2
Plea	-.3***
Nfld*Plea	.081 (ns)
PEI*Plea	-.191**
Ns*Plea	.251*
Nb*Plea	.31***
Qc*Plea	.038(ns)
SK*Plea	.551***
Ab*Plea	-.393***
BC*Plea	-.134***
Yk*Plea	-.119(ns)
NWT*Plea	.105(ns)
Nv*Plea	.201***

**N.B.** Each model builds off of Model 1, adding the interaction effects for region, case appearances and case time respectively

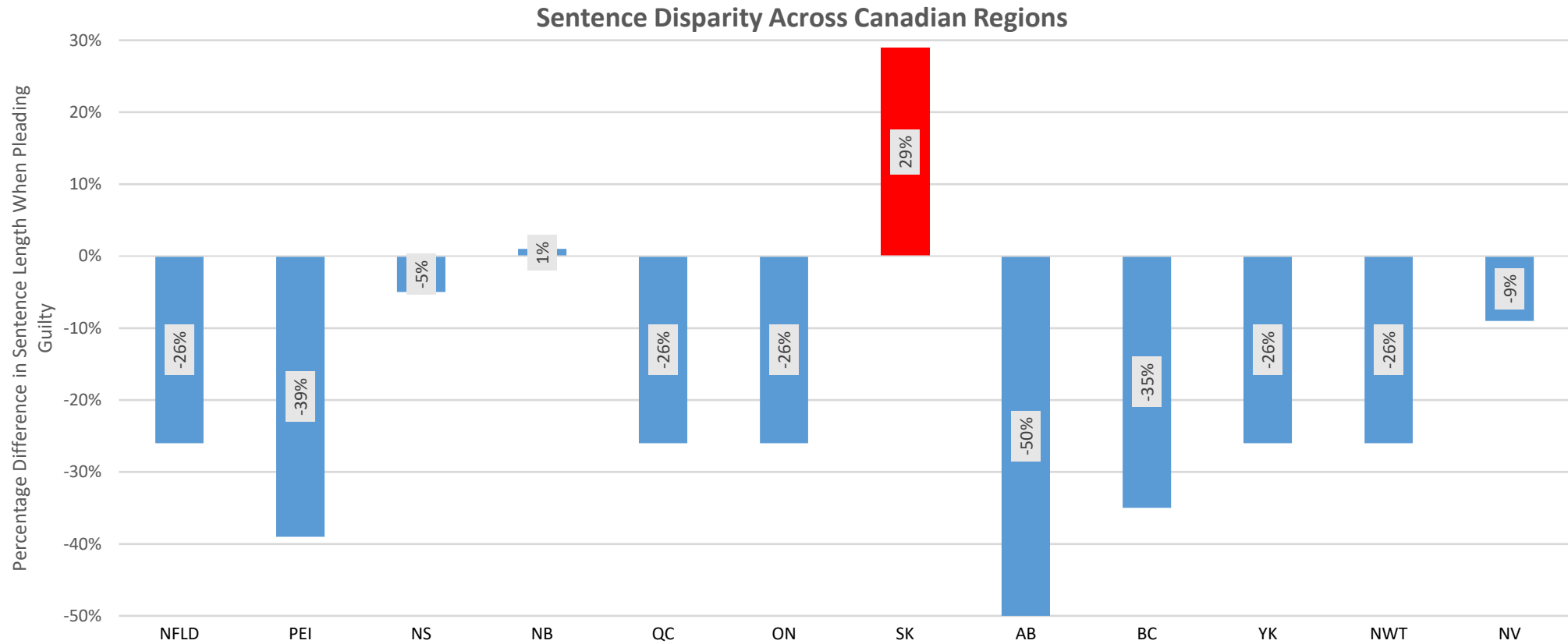
# The Trial Penalty in Canada

Case Appearance Interaction	Model 3
Plea	.164***
1-3 appearances*Plea	(ref)
4-6 appearances*Plea	-.22***
7-10 appearances*Plea	-.308***
11 or more appearances*Plea	-.451***

Case Time Interaction	Model 4
Plea	.106***
1-30 days	(ref)
4-6 appearances*Plea	-.266***
7-10 appearances*Plea	-.226***
11 or more appearances*Plea	-.329***

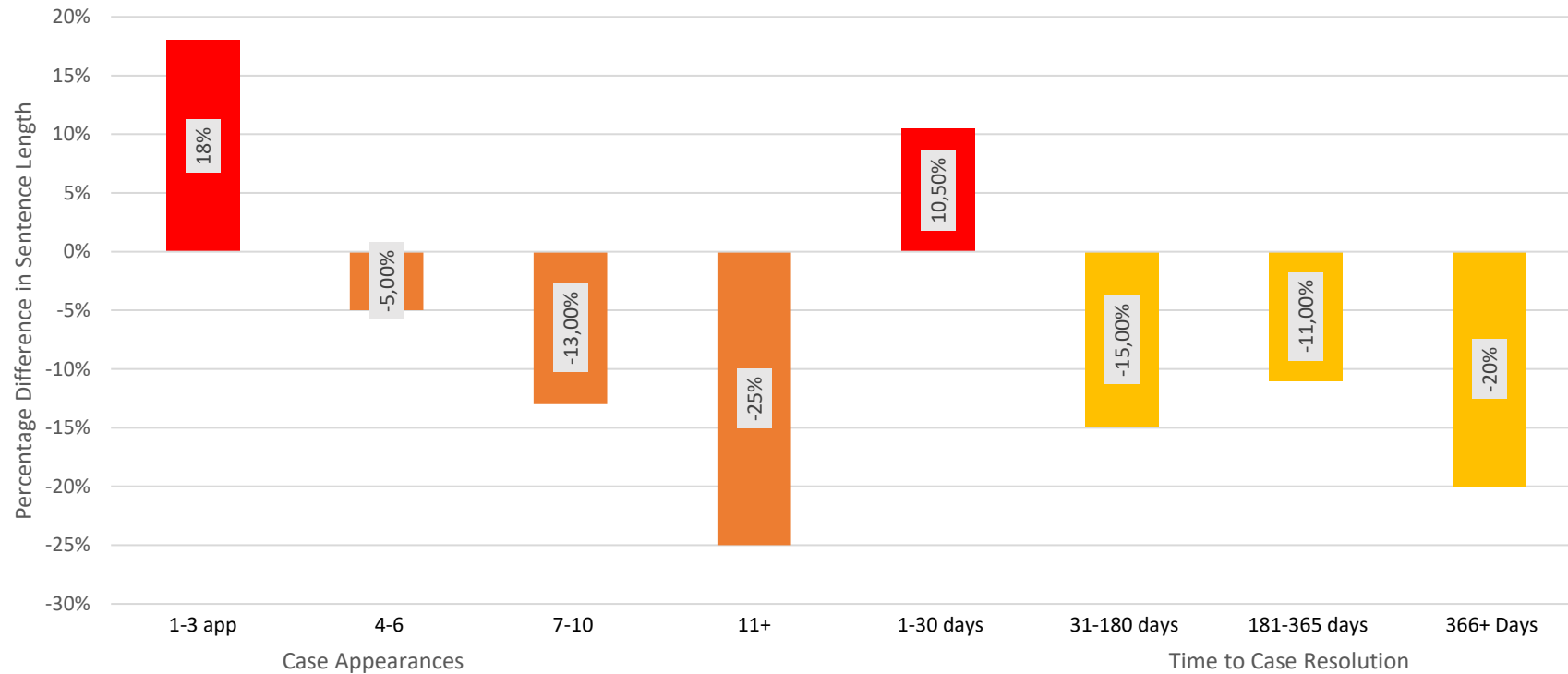
**N.B.** Each model builds off of Model 1, adding the interaction effects for region, case appearances and case time respectively

# Trial Penalty by Province



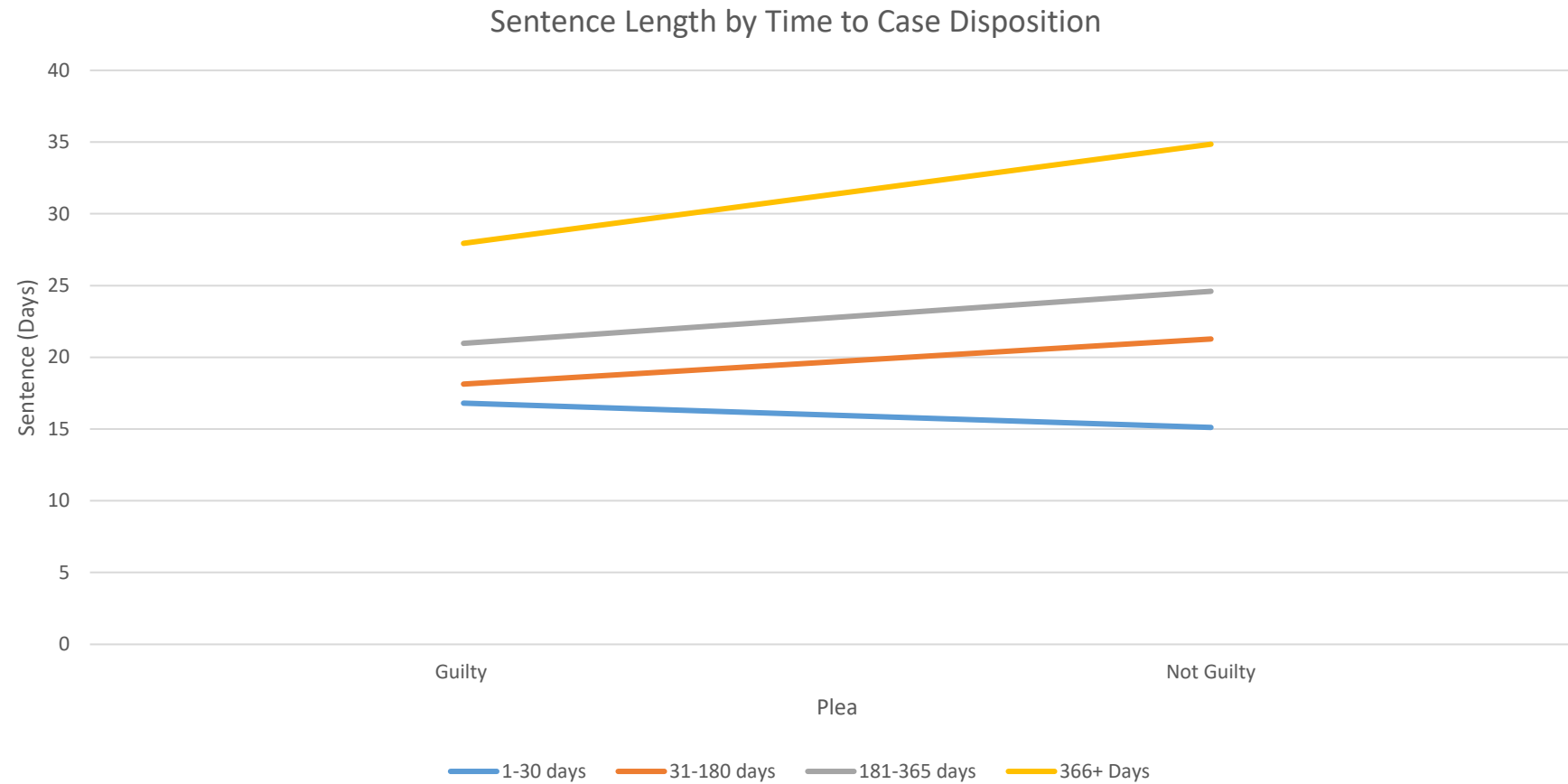
# Trial Penalty by Resource Usage

Sentence Length Difference for Pleading Guilty by Resource Usage

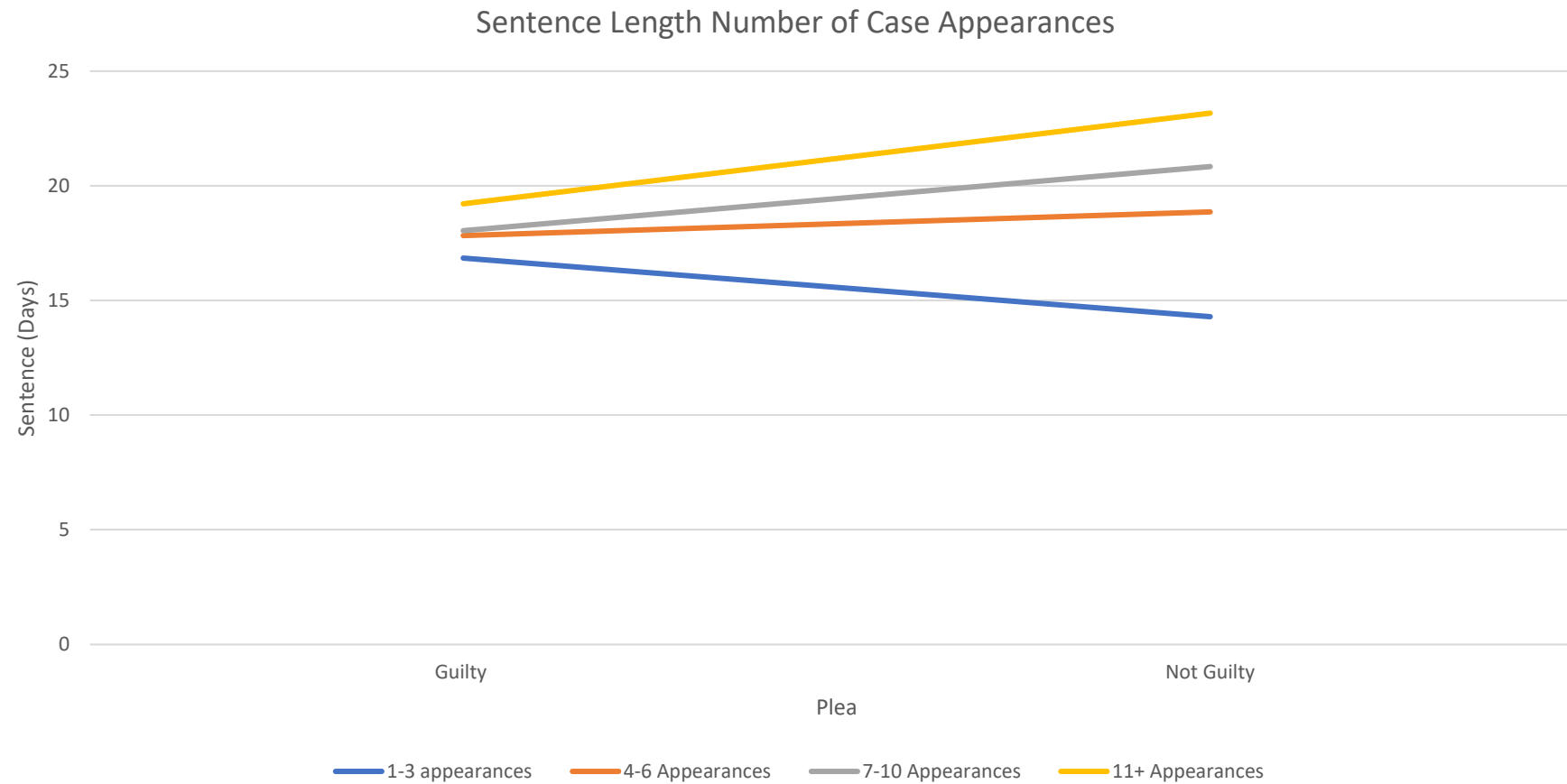




# Trial Penalty by Resource Usage



# Trial Penalty by Resource Usage



# The Trial Penalty in Canada

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- Results
  - 22% overall
  - The trial penalty and provincial variation
    - Varies largely between provinces
  - The trial penalty and resource variation
    - Increases with resource usage (with some caveats)
- Discussion
  - Local cultures and managerial norms
  - Trial penalty versus resource penalty