

rangefindr.ca Sentencing Guide for Fentanyl Trafficking — Ontario

22 July 2020

This document and the selected judgments below provide an overview of sentencing for the trafficking of fentanyl in Ontario. The offences included are trafficking, possession for the purpose of trafficking (“P4P”), and related conspiracy or importing charges. All data are from rangefindr.ca — Canadian Sentencing Research.

The judgments are listed in ascending order by the amount (“weight”) of fentanyl involved. Where possible, judgments and paragraph references are linked to the source via CanLII.

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Sentencing principles

- Fentanyl is one of the most highly addictive and dangerous drugs.¹ It is sometimes described as “20 times more powerful than heroin”² and it has a high risk of unintentional overdose and death.³ The drug is “centre stage” in Canada’s opioid crisis.⁴
- Denunciation and deterrence are often given primacy in sentencing this offence.⁵ However, the principles of rehabilitation, totality, proportionality, and restraint, and the offender’s history, background, and rehabilitative prospects must be considered, particularly for first offenders.⁶
- Typical sentencing factors include the motive for trafficking (profit, addiction, or both); the existence of a guilty plea; the nature of any prior criminal record; the presence of weapons; and the amount of fentanyl seized.⁷ In assessing the amount (“weight”) of fentanyl, the purity of the drug should be considered.⁸
- The Ontario Court of Appeal has resisted setting a sentencing range for trafficking fentanyl,⁹ and in the lower courts, “No set ranges have been established[.]”¹⁰ However, the Court of Appeal has held that “generally, offenders – even first offenders – who traffic significant amounts of fentanyl should expect to receive significant penitentiary sentences.”¹¹

¹ [R v Lu](#), 2016 ONCA 479, at para [9](#).

² [R v Bedi](#), 2019 ONSC 1612, at para [39](#). Expert evidence on this point was cited in [R v Loor](#), 2017 ONCA 696, at para [36](#).

³ [R v Smith](#), 2017 BCCA 112, at para [48](#), [65](#), cited in Ontario on this point in [R v Hudson](#), 2019 ONSC 290, at para [45](#), and others.

⁴ [R v Olvedi](#), 2018 ONSC 6330, at paras [14-15](#); [R v El-Azrak](#), 2019 ONSC 5845, at para [22](#).

⁵ [R v Lu](#), 2016 ONCA 479, at para [9](#); [R v Smith](#), 2017 BCCA 112, at para [45](#); [R v Vezina](#), 2017 ONCJ 775, at para [58](#).

⁶ [R v Disher](#), 2020 ONCA 710, at paras [27](#), [61](#); [R v Woolcock](#), 2002 CarswellOnt 7683, [2002] OJ No 4927 (CA), at para 8; [R v Jenkins](#), 2018 ONSC 5078, at para [71](#); [R v Hudson](#), 2019 ONSC 290, at para [53](#); [R v Oskem](#), 2019 ONSC 6283, at para [12](#); [R v Young](#), 2020 ONSC 1394, at para [30](#); [R v Vezina](#), 2017 ONCJ 775, at para [59](#).
[R v Vezina](#), 2017 ONCJ 775, at para [29](#).

⁸ [R v Olvedi](#), 2018 ONSC 6330, at para [106](#), following [R v Vezina](#), 2017 ONCJ 775, at para [56](#).

⁹ [R v Disher](#), 2020 ONCA 710, at para [30](#); [R v Loor](#), 2017 ONCA 696, at para [50](#).

¹⁰ [R v Vezina](#), 2017 ONCJ 775, at para [56](#).

¹¹ [R v Loor](#), 2017 ONCA 696, at para [50](#).

Low-level trafficking – patch/gram

- The Ontario Court of Justice has held that for low-level traffickers of fentanyl “dispositions in the upper reformatory and in the penitentiary are the norm and these reflect the considerable weight the sentencing principles of deterrence and denunciation play.”¹² Suspended sentences are within the range in exceptional circumstances.¹³
- Some courts have imposed custodial sentences in the range of 12 months to 2 years less a day, with suspended sentences in “very exceptional” cases.¹⁴ Depending on the circumstances, “possessing even small amounts of fentanyl for the purpose of trafficking can attract very long sentences in the range of 5 to 7 years.”¹⁵

Her Majesty the Queen v Bemister, 2017 ONSC 5611

Conlan J, Owen Sound

Found guilty after trial:

- Trafficking 1 patch fentanyl
- Possessing firearm without licence
- Possessing marijuana

Sentence:

- 1y, 3m imprisonment

- Offender addicted to prescription narcotics and had significant health issues and a significant criminal record
- Court held the mix of drugs and firearms was concerning
- The “normal range” for this case “would start at penitentiary time, two years, and go as high as the 42 months suggested, perhaps a little higher[.]”
- Good rehabilitative prospects

¹² [R v Hillier](#), 2018 ONCJ 397, at para [137](#).

¹³ [Ibid.](#), at para [116](#).

¹⁴ [R v Oskem](#), 2019 ONSC 6283, at para [19](#), and the cases cited therein.

¹⁵ [Ibid.](#)

R v Chivers, 2017 ONCJ 904

Hornblower J, Sarnia

Guilty plea:

- Trafficking 1 patch

Sentence:

- Suspended sentence
- 3y probation

- Suffered significant pain from a workplace accident and developed a painkiller addiction
- Attempted to return fake patch to pharmacy to receive new prescription
- Remorseful, offence out-of-character

R v Knapp, 2018 ONSC 2923

Heeney J, Woodstock

Guilty plea:

- Trafficking 1 patch
- Causing death by criminal negligence

Sentence:

- 2y, 6m imprisonment, concurrent on each count

- Offence committed in 2016
- "It is really only in the last few years that dangers associated with fentanyl have become public knowledge [. . .]. If this offence were to have been committed now, in 2018, I would not have been satisfied [with] two and a half years [. . .]."

R v Rak, 2015 ONCJ 543

Beninger J, Peterborough

Guilty plea:

- Trafficking 1 patch

Sentence:

- 651d pre-sentence custody credit
- 1y probation

- Dangers of fentanyl emphasized
- Court held the case law is still evolving and future offenders will likely face higher sentences

R v Fisher, 2016 ONCA 938

Rouleau, Pardu, and Benotto JJA, aff'g Sosna J, Oshawa (unreported: 27 January 2016, Ont SCJ)

Found guilty:

- P4P 2.5 patches fentanyl
- P4P marijuana

Sentence:

- 5y imprisonment

- Offender was serving 3.5-year sentence at Warkworth when he arranged for delivery of drugs to the institution
- Prior, related record
- ONCA held the sentence was “well within the appropriate range”

R v Klammer, 2017 ONCA 416

Hoy ACJO, Feldman and Benotto JJA, var'g [2016 ONSC 4038](#), Healey J, Barrie

Found guilty after trial:

- Trafficking 6 patches (100 micrograms each)
- P4P
- Possessing proceeds of crime

Sentence:

- 20m imprisonment, concurrent on all counts

- First offender with a history of painkiller addiction, anxiety, and depression
- Caught selling oxycodone while on bail
- ONCA reduced sentence from 33 months' imprisonment to 20

R v Burkoski, 2018 ONSC 3312

Hebner J, Windsor

Found guilty after trial:

- P4P 9.5 patches (some were 100 micrograms)
- Possessing oxycodone, marijuana, methamphetamine, stolen property

Sentence:

- 4y imprisonment (33.25m imprisonment + 14.75m pre-sentence custody credit) for fentanyl
- 6m concurrent for all other charges

- Trafficked for profit
- “Seasoned drug dealer” with a significant related record
- Danger to the community emphasized

R v Walstra, 2019 ONCJ 518

De Filippis J, Niagara

Guilty plea:

- Trafficking 18 patches (25 micrograms each)

Sentence:

- 1y imprisonment
- 1y probation

- “Small amounts can attract penitentiary sentences”
- Serious mental and physical challenges were major mitigating factors

R v Lu, 2016 ONCA 479

Feldman, Benotto, and Miller JJA, aff’g McLeod J
(unreported: 10 December 2014, Ont CJ)

Found guilty after trial:

- P4P 20 patches (100 micrograms each)

Sentence:

- 2y, 6m imprisonment + 8d pre-sentence custody credit

- Offender sold his mother’s prescription fentanyl
- “Fentanyl is one of the most highly addictive and dangerous drugs. It is illegally obtained exactly in this way, through the misappropriation of legally dispensed prescriptions. General deterrence and denunciation are paramount factors.”

R v Janzen (unreported: 20 April 2020, Ont CJ)

Wilkie J, St Catharines

Guilty plea:

- P4P 21 patches

Sentence:

- 7m imprisonment
- 3y probation

- First offender addicted to fentanyl
- Offender in poor health
- Single parent

R v Clayton, 2018 ONSC 4125

Fuerst RSJ, Barrie

Guilty plea:

- Trafficking 30 patches (100 micrograms each)
- Trafficking 15 patches (100 micrograms each)
- Uttering forged document x2

Sentence:

- 2y, 2m imprisonment concurrent on all counts

- Offender was part of a scheme involving false prescriptions, but not the directing mind
- First offender with significant addiction and mental health issues

R v Loor, 2017 ONCA 696

Laskin, Simmons, and Pardu JJA, aff’g Dawson J
(unreported: 22 September 2015, Ont CJ)

Found guilty after trial:

- Trafficking x3 (45 patches total)
- Uttering forged document x3

Sentence:

- 6y imprisonment

- “Few fentanyl trafficking cases have reached this court. It is thus perhaps too early in our jurisprudence to establish a range. But I think it fair to say that generally, offenders – even first offenders – who traffic significant amounts of fentanyl should expect to receive significant penitentiary sentences.”

R v McLeod, 2019 ONCJ 519

Wakefield J, Oshawa

Guilty plea:

- Trafficking 0.5 grams
- Trafficking 0.1 grams

Sentence:

- 2y less 1d imprisonment
- 2y probation

- Believed he was trafficking heroin, not heroin mixed with fentanyl
- The court balanced the dangers of fentanyl against the health issues faced by offender

R v Walker, 2019 ONCJ 132

Harpur J, Barrie

Guilty plea:

- Trafficking heroin/fentanyl at the “gram level”
- Causing death by criminal negligence

Sentence:

- 3y for trafficking, concurrent
- 3.5y for criminal negligence

- “Low level” dealer who dealt in small amounts
- Was aware of the potency of the drugs he was selling
- Early plea, no criminal record

R v Ebel-Savage, 2019 ONSC 5688

George J, Sarnia

Guilty plea:

- Trafficking 1.5 grams
- Causing death by criminal negligence

Sentence:

- 1y concurrent for trafficking
- 3y imprisonment for criminal negligence

- Victim believed he was buying cocaine
- Offender was wilfully blind to the presence of fentanyl
- “[T]hose who cause death by dealing Fentanyl will surely be met with harsh consequences. I would suspect that dispositions in the range of mid to upper single digit penitentiary sentences [. . .] will be called for.”

R v Kozachenko (unreported: 10 September 2019, Ont CJ)¹⁶

Rondinelli J, Toronto

Guilty plea:

- Trafficking 2.42 grams (including some packaging)
- Possessing proceeds of crime

Sentence:

- Suspended sentence
- 3y probation
- 21d pre-sentence custody credit

- 55-year-old addicted offender made three sales to undercover officer
- Dated criminal record
- Offender took “tremendous rehabilitative strides” and expressed “genuine remorse”
- Court held that a custodial sentence would interfere with the offender’s rehabilitation

¹⁶ Some details taken from Agreed Statement of Facts (transcript: 6 September 2019, Ont CJ, docket 17-15007860, 60 Queen St W, Toronto, Ont).

R v Rose, 2019 ONCJ 407

Wakefield J, Oshawa

Guilty plea:

- Trafficking 0.5 grams fentanyl
- Trafficking 0.1 grams fentanyl
- P4P 2.4 grams heroin/fentanyl

Sentence:

- 9m imprisonment + 2y, 230d pre-sentence custody credit
- 2y probation

- Deterrence particularly important because of the dangers of fentanyl
- Offender was not addicted, trafficked for profit

R v Doxtator, 2019 ONCJ 26

Orsini J, London

Guilty plea:

- P4P 3 grams fentanyl
- P4P methamphetamine

Sentence:

- 3.5y imprisonment

- Attempted to smuggle narcotics into jail
- Extensive review of caselaw on narcotics possession in custodial setting
- Absent *Gladue* factors, court would have imposed 5y sentence

R v Blain, 2018 ONCJ 397

West J, Oshawa

Guilty plea:

- P4P 3.3 grams

Sentence:

- Suspended sentence
- 3y probation

- Difficult childhood, mental health issues, single parent
- No record, had lesser role than co-accused boyfriend Hillier (below)

***R v Hillier*, 2018 ONCJ 397**

West J, Oshawa

Guilty plea:

- P4P 3.3 grams

Sentence:

- Effective sentence of 2y less 1d imprisonment
- 3y probation

- No record (conditional discharge), addiction, difficult childhood
- Commercial component to trafficking
- “In sentencing cases involving fentanyl or heroin, dispositions in the upper reformatory and in the penitentiary are the norm and these reflect the considerable weight the sentencing principles of deterrence and denunciation play.”

***R v Dixon*, [2017] OJ No 3477 (CJ)**

Hearn J, Kitchener

Guilty plea:

- P4P 4.5 grams fentanyl
- P4P cocaine, marijuana, methamphetamine, heroin

Sentence:

- Suspended sentence
- 3y probation
- Credit for 10.5m pre-sentence custody

- Small amounts of a number of drugs
- Offender was addicted; made significant strides in addressing addiction
- Strong candidate for rehabilitation

***R v Figueroa*, [2019] OJ No 5693, 2019 CarswellOnt 18320 (CJ)**

McLeod J, Toronto

Guilty plea:

- Trafficking 1.35 grams heroin/fentanyl
- P4P 4.83 grams heroin/fentanyl
- P4P 12.19 grams cocaine

Sentence:

- Suspended sentence
- 2y probation
- 3m credit for house arrest bail + 9d pre-sentence custody credit

- Offender “was at the lowest level of the drug trafficking hierarchy, and is a small time dealer, selling small amounts in conjunction with his own habitual drug use[.]”
- No evidence that offender was aware that heroin contained fentanyl
- Court held it would “be a fundamental error of law to accept the rhetoric surrounding fentanyl as excluding a non-custodial disposition, as literally mandating a lengthy sentence of incarceration.”

R v Leslie, 2017 ONSC 6574

Fuerst RSJ, Barrie

Guilty plea:

- Seeking/obtaining an authorization x11 (“double doctoring”) over 900 patches
- Fraud under \$5,000

Sentence:

- 10m imprisonment + 1y pre-sentence custody credit
- 1y probation

- Offender obtained over 220 prescriptions by deceiving over 40 doctors
- Addiction was the result of a back injury, significant health issues; patches were for personal use
- Abused social programs
- Court noted the importance of regulating dangerous drugs

Mid-level trafficking – multi-gram to multi-ounce

- Offenders grouped in this category possess more than the subsistence amounts of fentanyl dealt with by low-level traffickers, and can be motivated by profit or by addiction.
- There are few judicial discussions of range in this category. The sentences in the judgments below are generally in the 3- to 8-year range, but a number of outliers exist.
- The Ontario Court of Appeal upheld a 9.5-year sentence for a “mid-level” trafficker (89 grams or roughly 3 ounces) in a case that the court said “teems with aggravating factors and has few mitigating factors apart from a plea of guilty and [the offender’s] strongly supportive family.”¹⁷ In another case, an addicted offender with significant mental health concerns and *Gladue* factors received a 4-year sentence for possessing less than 8 grams of a fentanyl/heroin mix.¹⁸

***R v Willis*, 2019 ONSC 7324**

André J, Brampton

<p>Guilty plea:</p> <ul style="list-style-type: none"> ▪ P4P 6.2 grams fentanyl/heroin <p>Sentence:</p> <ul style="list-style-type: none"> ▪ 2.5y imprisonment 	<ul style="list-style-type: none"> ▪ Lengthy, related record ▪ Mitigating factors were guilty plea, community support, and gainful employment
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¹⁷ [R v Sidhu](#), 2019 ONCA 880, at paras [2](#), [4](#).

¹⁸ [R v Young](#), 2020 ONSC 1394.

R v Young, 2020 ONSC 1394

Kelly J, Toronto

Guilty plea:

- P4P 7.57 grams fentanyl/heroin
- P4P 284 grams methamphetamine

Sentence:

- 4y for fentanyl/heroin, concurrent
- 5y for methamphetamine

- *Gladue* factors and very difficult childhood
- Addiction and mental health issues
- Significant record
- Court held that but for the mitigating factors, a higher sentence would have been appropriate

R v Oskem, 2019 ONSC 6283

Davies J, Toronto

Guilty plea:

- P4P 7.64 grams fentanyl
- P4P cocaine

Sentence:

- 1d imprisonment + 18m pre-sentence custody credit
- 2y probation

- Fentanyl causing “public health crisis”
- Pre-sentence custody credit exceeded the court’s intended sentence of 18m
- Youthful first offender
- Good rehabilitative prospects

R v Yzerman, 2020 ONCJ 224

De Filippis J, Niagara

Found guilty after trial:

- P4P 9.3 grams carfentanil
- Possessing 9 grams fentanyl
- P4P cocaine
- Possessing proceeds of crime
- Failing to comply

Sentence:

- 18m imprisonment + 18m pre-sentence custody credit (carfentanil)
- 6m consecutive (possessing fentanyl)

- Trafficked from a “drug house” and possessed fentanyl while in jail
- Offender suffered from HIV, Hepatitis C, and asthma
- Would have received higher sentence but for vulnerability to Covid-19

R v TG, 2019 ONSC 3057

Molloy J, Toronto

Found guilty after trial:

- P4P 9.5 grams heroin/fentanyl
- P4P cocaine
- Kidnapping

Sentence:

- 4y imprisonment

- Young person sentenced as adult
- Youth record for drug trafficking
- Fentanyl/heroin sentence reduced from 5y to 4y due to totality

R v McGinn, 2019 ONSC 4499

Fuerst RSJ, Barrie

Guilty plea:

- P4P 10 grams heroin/fentanyl
- P4P cocaine

Sentence:

- 2y imprisonment + 1y, 9m pre-sentence custody credit

- *Gladue* factors, very difficult childhood, addiction, mental health issues
- Lengthy record
- Offender requested penitentiary sentence to deal with addiction issues

R v Mesfin, 2020 ONCJ 93

Latimer J, Kitchener

Guilty plea:

- P4P 12 grams fentanyl
- P4P 38 grams cocaine

Sentence:

- 15m for cocaine
- 9m imprisonment consecutive for P4P fentanyl

- Offender did not know that some of the drugs he possessed were fentanyl
- Sentenced as a cocaine trafficker

R v Gagnon, 2017 ONSC 7470

Conlan J, Owen Sound

Found guilty after trial:

- P4P 12.34 grams fentanyl
- P4P methamphetamine

Sentence:

- 4y imprisonment

- Very negative (“miserable”) pre-sentence report
- Denunciation and deterrence emphasized
- “Something more harsh [than a reformatory sentence] is required. The scourge of fentanyl has become so intense that those who live in Grey and Bruce Counties must understand that possession of it for trafficking purposes will result in a stiff prison sentence.”

R v Prestula, 2018 ONSC 4214

Quigley J, Toronto

Guilty plea:

- P4P 13.7 grams fentanyl
- Trafficking 500 grams cocaine
- P4P cocaine

Sentence:

- 5y, 3m imprisonment

- Difficult childhood, mental health issues
- Most important factors were denunciation and deterrence

R v Moore, 2017 ONCJ 801

Rose J, Newmarket

Found guilty after trial:

- Trafficking 14.98 grams (1% pure)

Sentence:

- 5y, 6m imprisonment + 6m pre-sentence custody credit

- Lengthy related record
- Detailed review of the dangers of fentanyl powder
- “Because it presents as a ubiquitous powder as opposed to a pharmaceutical patch, and because the entire chain of delivery, from production to sale is illicit, fentanyl in its powder form is more dangerous than fentanyl patches [. . .] trafficking in fentanyl powder should attract slightly longer sentences than trafficking fentanyl in patch form.”

R v Brennan, 2020 ONCJ 128

Agro J, Hamilton

Found guilty after trial:

- P4P 15.91 grams fentanyl/heroin
- P4P 11.02 grams fentanyl
- P4P cocaine, heroin, methamphetamine, GHB, hydromorphone
- Weapons charges

Sentence:

- 7y imprisonment for fentanyl/heroin
- 7y concurrent for fentanyl

- *Gladue* factors, difficult childhood
- Denunciation and deterrence are primary sentencing objectives: “fentanyl abuse is regularly identified as underlying many of the offences in [Hamilton] and fentanyl users are the new norm in Drug Treatment Court.”

R v Boardman, [2016] OJ No 4379, 2016 CarswellOnt 21908 (CJ)

Lynch J, Kitchener

Guilty plea:

- P4P 19.78 grams fentanyl
- P4P methamphetamine, cocaine

Sentence:

- 6y imprisonment + 169d pre-sentence custody credit

- Early guilty plea
- Significant related record
- “Mid-level drug dealer”

R v Cinelli, 2018 ONSC 4983

Bawden J, Toronto

Guilty plea:

- P4P 20 grams fentanyl
- P4P heroin x2

Sentence:

- 7y imprisonment

- Believed all his narcotics were heroin
- Addicted trafficker

***R v Piri*, 2020 ONSC 920**

Kelly J, Toronto

Guilty plea:

- Trafficking 27.22 grams fentanyl
- Trafficking 0.96 grams fentanyl/heroin
- Trafficking 2.16 grams fentanyl
- P4P 6.97 grams fentanyl

Sentence:

- Effective sentence of 6y imprisonment: 4y, 359d imprisonment + 1y, 6d pre-sentence custody credit (trafficking 27.22 grams fentanyl)
- 3y concurrent (P4P 6.97 grams fentanyl)
- 2y concurrent (trafficking 2.16 grams fentanyl)
- 1y concurrent (trafficking 0.96 grams fentanyl/heroin)

- Fentanyl use has caused “crisis in our community” and is dangerous to users and first responders
- Offender addicted, made serious attempt at rehabilitation
- Criminal record but no prior incarceration

***R v Shevalier*, 2017 CarswellOnt 21908 (CJ)**

Epstein J, Kitchener

Found guilty after trial:

- P4P 28.13 grams fentanyl
- P4P methamphetamine
- Possessing heroin, cocaine, marijuana
- Weapons and breach charges

Sentence:

- 8y imprisonment

- Co-accused with Clark, below
- “Significant and unrelenting” criminal record; offender was a “career criminal”
- Schizophrenia, addiction issues

R v Clark, 2017 CarswellOnt 21908 (CJ)

Epstein J, Kitchener

Found guilty after trial:

- P4P 28.13 grams fentanyl
- P4P methamphetamine
- Possessing heroin
- Possessing cocaine, marijuana
- Weapons charges

Sentence:

- 2y imprisonment + 1y, 7m pre-sentence custody credit

- Co-accused with Shevalier, above
- No criminal record
- Made significant attempts at rehabilitation, positive pre-sentence report
- Depression, addiction issues

R v Persad, 2020 ONSC 188

Schreck J, Toronto

Guilty plea:

- P4P 32 grams fentanyl
- P4P 3.8 kilograms cocaine
- Possessing loaded firearm
- Possessing firearm while prohibited

Sentence:

- Effective 9y global sentence
- 4.5y imprisonment for fentanyl

- Joint submission
- Offender had a significant related record with prior penitentiary sentences
- Offender showed remorse by pleading guilty in the face of significant triable issues

R v Smyth, 2019 ONCJ 81

Orsini J, London

Guilty plea:

- P4P 41 grams fentanyl/heroin/carfentanil

Sentence:

- 7y imprisonment

- Offender believed he had heroin but knew fentanyl and carfentanil could be present
- Offender knew he was putting persons addicted to heroin at significant risk

R v Margerison (unreported: 23 June 2020, Ont CJ)

Gee J, Brantford

Guilty plea:

- P4P 44 grams
- Possessing prohibited weapon
- Possessing ammunition while prohibited

Sentence:

- 8y imprisonment

- Discusses the effect fentanyl has had on downtown Brantford
- Repeat offender
- Offender trafficked from home while living with small child

R v Palacio, 2019 ONCJ 429

Kenkel J, Newmarket

Guilty plea:

- P4P 44.71 grams fentanyl/heroin
- Significant amounts of numerous other narcotics
- Obstructing justice

Sentence:

- 7y imprisonment + 1y pre-sentence custody credit

- Related record
- “The joint submission falls at the lowest end of the range for the circumstances of the offences and the offender[.]”

R v Duregger, 2018 ONSC 1749

Conlan J, Owen Sound

Guilty plea:

- P4P 49.3 grams fentanyl
- P4P cocaine, methamphetamine

Sentence:

- 5y imprisonment

- Denunciation, deterrence, and protection of society were key factors on sentence
- “Nasty” criminal record including violent offences
- Followed *R v Loor*, 2017 ONCA 696, in holding that traffickers of significant amounts of fentanyl should generally expect significant penitentiary sentences

***R v Thorn*, [2017] OJ No 5021, 2017 CarswellOnt 21558 (CJ)**

Lynch J, Kitchener

Guilty plea:

- P4P “2 ounces” fentanyl (approx. 56 grams)
- P4P 16.6 grams fentanyl
- P4P heroin, methamphetamine
- Possessing prohibited weapons

Sentence:

- 4.5y imprisonment + 400d pre-sentence custody for 2 ounces fentanyl
- 3y imprisonment concurrent for 16.6 grams fentanyl

- 21 years old
- Court gave credit for unrelated record, guilty plea
- Offender motivated by profit
- Had no insight into the dangers of fentanyl trafficking

***R v Wickens*, 2020 ONCJ 106**

March J, Pembroke

Guilty plea:

- P4P 148 patches fentanyl
- P4P oxycodone
- Possessing proceeds of crime

Sentence:

- 5y imprisonment

- Motivated by profit; approx. \$30,000 cash seized
- Minor dated unrelated record
- Court provided a substantial review of the fentanyl sentencing caselaw

***R v Forget*, [2016] OJ No 3504, 2016 CarswellOnt 10417 (SCJ)**

MacDonald J, Timmins

Guilty plea:

- P4P 159 patches fentanyl
- P4P methamphetamine
- Possessing proceeds of crime

Sentence:

- 3y imprisonment

- Offender was a 60-year-old woman
- Criminal record, but no prior incarceration
- Not addicted, suffering from financial problems
- Street value of patches was \$105,000

R v Joumaa, 2018 ONSC 317

Ratushny J, Ottawa

Guilty plea:

- P4P 169 pills fentanyl
- P4P cocaine

Sentence:

- 2y less 1d imprisonment + 1y, 11m pre-sentence custody credit

- Pills made to resemble oxycodone; offender believed he was selling oxycodone
- Placed customers at great risk

R v Leigh, 2018 ONCJ 776

Greene J, Toronto

Guilty plea:

- Trafficking 375 patches
- Conspiring to traffic

Sentence:

- 5m imprisonment + 2y, 1m pre-sentence custody credit

- "Runner" or "mule" for narcotics traffickers
- *Gladue* factors, very difficult childhood

R v Sidhu, 2019 ONCA 880¹⁹

Watt, Huscroft, and Trotter JJA, aff'g Westman J (unreported: 16 June 2017, Ont CJ)

Guilty plea:

- Trafficking/P4P 89.5 grams fentanyl
- Trafficking/P4P 42.8 grams heroin
- Trafficking/P4P 214.3 grams, methamphetamine

Sentence:

- 8y, 2m imprisonment + 16m pre-sentence custody credit

- ONCA deferred to the sentencing judge's "selection of the appropriate range of sentence for mid-level trafficking in these substances."
- Court noted the significant problems with fentanyl in the community in which the offences occurred
- "This case teems with aggravating factors and has few mitigating factors apart from a plea of guilty and the appellant's strongly supportive family."

¹⁹ Some details from [R v Piri](#), 2020 ONSC 920, at para 17.

High-level trafficking – multi-ounce to kilogram

- As with the other categories in this guide, there is no judicially-set range for high-level trafficking in fentanyl in Ontario. The judgments below fall between approximately 6 and 15 years.
- Offences at this level are more likely to be motivated by profit and to occur within a commercial drug-trafficking organization. Compared to lower-level traffickers, high-level traffickers are far less likely to have significant criminal records or to be addicted to the substances they traffic.
- Because they are often not impaired or motivated by addiction, and because the dangers of fentanyl are now widely known, the moral blameworthiness of high-level traffickers can be “extremely high,”²⁰ and the amount of fentanyl they supply can make them particularly dangerous to a community.²¹

***R v Fabry*, 2018 CarswellOnt 23066 (CJ)**

Epstein J, Kitchener

Guilty plea:

- P4P 348 pills carfentanil
- P4P 859 pills fentanyl
- P4P oxycodone, methamphetamine, cocaine

Sentence:

- 8y imprisonment for carfentanil
- 7y imprisonment concurrent for fentanyl

- No record, good rehabilitative prospects, family support, good work record
- Pills were manufactured to look like oxycodone pills, making them extremely dangerous

²⁰ [R v Fuller](#), 2019 ONCJ 643, at para [51](#).

²¹ [R v Imeson and Murphy](#), 2019 ONCJ 245 at para [26](#).

R v Baldwin, 2018 CarswellOnt 7673 (CJ)

Katsch J, Kitchener

Guilty plea:

- P4P 115.09 grams fentanyl
- P4P cocaine, methamphetamine

Sentence:

- 8y imprisonment

- Joint submission
- Recent related criminal record
- Offender was financially motivated
- Denunciation and deterrence emphasized

R v Leite, 2019 ONCA 121

MacPherson, Sharpe, and Tulloch JJA,
var'g [2018 ONCJ 132](#), Cooper J, Milton

Found guilty after trial:

- P4P 147.9 grams fentanyl
- P4P fentanyl
- P4P methamphetamine, cocaine

Sentence:

- 6y imprisonment

- Offender was "mid- to high-level dealer" whose "sole motivation was greed"
- No record

R v Vezina, 2017 ONCJ 775

Sopinka J, Kitchener

Guilty plea:

- P4P 204.49 grams fentanyl/heroin
- P4P methamphetamine
- Firearms offences

Sentence:

- 9y, 9m imprisonment + 451d pre-sentence custody credit for fentanyl

- Discussion of fentanyl impact in Waterloo region
- Offender had a difficult childhood, addiction issues
- Significant criminal record
- "The danger that fentanyl poses in our community every day requires a sentence that emphasizes denunciation and deterrence but it cannot lose sight of other sentencing principles including rehabilitation, totality, proportionality and restraint."

[R v Solano-Santana, 2018 ONSC 3345](#)²²

Newton J, Thunder Bay

Found guilty after trial:

- P4P 4,995 pills

Sentence:

- 8y imprisonment

- Pills looked like percocets
- Aggravating factors: vulnerability of northern communities, significant number of pills, and previous related record

[R v Imerovik, 2019 ONSC 1969](#)

Fuerst RSJ, Barrie

Guilty plea:

- Trafficking 2,780 patches
- Trafficking 165 patches
- P4P 88 patches

Sentence:

- 6y imprisonment, concurrent on all counts

- Part of scheme with doctor and pharmacist (see *R v El Azrak* and *R v Otto*, below)
- Responsible for bringing patients to doctor to write prescriptions; was a “bit player”
- Became addicted to painkillers after car accident, youthful, good rehabilitative prospects

[R v Mastromatteo, 2018 ONCJ 421](#)

Bliss J, Barrie

Guilty plea:

- Conspiracy to import fentanyl
- P4P MDMA

Sentence:

- 7.5y imprisonment

- Ongoing enterprise to import and sell fentanyl purchased in China and shipped through the United States
- Significant amounts ordered and received; linked to multiple overdoses
- “A review of the caselaw dealing with trafficking in fentanyl and the sentences that are being handed down, leads me to the conclusion that those who import or conspire to import fentanyl, being higher up in the supply chain, should be dealt with harsher than those who traffic[.]”

²² New trial ordered: [R v Santana, 2020 ONCA 365](#).

R v Hudson, 2019 ONSC 290

Charney J, Oshawa

Found guilty after trial:

- Importing 323 grams
- P4P 323 grams

Sentence:

- 8y imprisonment, concurrent on each count

- Powdered fentanyl
- Offender had no record, difficult childhood, good rehabilitative prospects
- Offender was “a small cog in the importation/distribution wheel”

R v Imeson and Murphy, 2019 ONCJ 245

McKay J, Kitchener

Guilty plea:

- P4P approx 425 grams carfentanil
- P4P approx. 175 grams fentanyl
- P4P carfentanil (Murphy only)
- P4P methamphetamine

Sentence:

- 12y imprisonment for carfentanil
- 10y imprisonment concurrent for fentanyl
- 5y imprisonment concurrent for carfentanil (Murphy only)

- Each offender had a significant record with prior penitentiary sentences
- On bail during offences
- Trafficked for profit; \$94,000 seized
- Murphy attempted to bring carfentanil into jail

R v Olvedi, 2018 ONSC 6330

Petersen J, Brampton

Found guilty after trial:

- Importing
- P4P 499.5 grams

Sentence:

- 15y imprisonment for importing
- 12y imprisonment concurrent for P4P

- 100% pure fentanyl
- Courier, wilfully blind to package containing fentanyl
- Wilful blindness was not a mitigating factor
- Detailed review of expert testimony relating to fentanyl dangers, pricing, and distribution

***R v Shand*, 2020 ONCJ 151**

Rabley J, Kitchener

Guilty plea:

- Trafficking 0.8 grams fentanyl (sample)
- Trafficking 1 kilogram heroin
- P4P heroin
- Trafficking methamphetamine
- Possessing proceeds of crime

Sentence:

- 8y imprisonment + 1y pre-sentence custody concurrent for fentanyl and heroin

- Well-connected large-scale drug trafficker
- Although only a sample of fentanyl was delivered, the offender had the ability to produce a very significant quantity that, if delivered, could have attracted a “double digit penitentiary” sentence

***R v Broderick*, [2018] OJ No 6278 (CJ)**

Parry J, Kitchener

Guilty plea:

- Conspiring to traffic “multiple kilograms” of fentanyl

Sentence:

- 13y imprisonment

- Prior penitentiary sentence for trafficking
- Difficult childhood and involved a toxic relationship with co-accused
- Offender was aware fentanyl was “very dangerous stuff and potentially lethal”

***R v Fuller*, 2019 ONCJ 643**

Latimer J, Kitchener

Guilty plea:

- Conspiring to traffic 3 kilograms fentanyl
- Conspiring to traffic methamphetamine, cocaine

Sentence:

- 15y imprisonment

- “Enormous” amount of fentanyl
- Key player in trafficking enterprise
- Court gave a detailed review of the sentencing caselaw on fentanyl
- Discussion on the dangers of fentanyl and the impact of fentanyl on Waterloo Region

Trafficking by medical practitioners

- Because medical practitioners are particularly knowledgeable about the dangers of fentanyl²³ and are in positions of trust, they face particularly severe sentences for drug trafficking. The courts typically treat such conduct as a breach of trust²⁴ against the public and against the practitioner’s clients, patients, or employer.²⁵
- High-volume trafficking by doctors and pharmacists in Ontario has led to double-digit sentences in the judgments below. A pharmacist who was a single parent with an extremely serious health condition received a 13-year custodial sentence that would have been higher if not for her health.²⁶ Denunciation and general deterrence have repeatedly been emphasized.²⁷

[R v El-Azrak](#), 2019 ONSC 5845

de Sa J, Newmarket

Found guilty after trial:

- Trafficking 2,780 patches fentanyl
- P4P fentanyl

Sentence:

- 13y imprisonment global sentence
- 10y imprisonment concurrent for P4P

- Pharmacist, severe breach of trust
- Part of a trafficking scheme with a doctor (see *R v Otto*, below, and *R v Imerovik*, above)
- Denunciation and general deterrence were key considerations
- If not for offender’s medical circumstances, sentence would have been higher

²³ See eg *R v Shaheen*, 2018 ONCJ 150, at para 34.

²⁴ A statutory aggravating factor per the *Criminal Code*, RSC 1985, c C-46, as am., at s 718.2(a)(iii).

²⁵ See eg *R v Shaheen*, 2018 ONCJ 150, at para 18; *R v El-Azrak*, 2019 ONSC 5845, at para 24; *R v Patel*, [2017] OJ No 5375 (CJ), at para 70. Generally see *R v King*, 2013 ONCA 417, at paras 30ff.

²⁶ *R v El-Azrak*, 2019 ONSC 5845, at para 32.

²⁷ *R v El-Azrak*, 2019 ONSC 5845, at para 15, and *R v Otto*, 2019 ONSC 6446 at para 52.

***R v Patel*, [2017] OJ No 5375 (CJ)**

Graham J, Woodstock

Guilty plea:

- P4P 3,000 patches fentanyl
- Trafficking fentanyl
- P4P hydromorphone, morphine
- Fraud and theft over \$5,000
- Uttering forged document

Sentence:

- 10y, 3m imprisonment + 9m pre-sentence custody credit

- Pharmacist committed “egregious breach of trust” and placed public at great risk
- Court noted a recent dramatic increase in crime related to opioid addiction in the region
- Offender defrauded employer and Ontario drug plan

***R v Otto*, 2019 ONSC 6446**

Di Luca J, Newmarket

Found guilty after trial:

- Trafficking 4,000 patches

Sentence:

- 12y imprisonment

- Offender was a doctor who previously “led a virtually unblemished life”
- Part of a trafficking scheme with a pharmacist (see *R v El-Azrak* and *R v Imerovik*, above)
- Offender was not the main player in the scheme, but played a “key role”
- Sacrificed professional obligations for profit: “severe and manifest breach of trust”
- Sentence “sends a crystal-clear denunciatory message”

***R v Shaheen*, 2018 ONCJ 150**

Wadden J, Ottawa

Found guilty after trial:

- Trafficking 5,000 patches
- Public mischief
- Fraud over \$5,000

Sentence:

- 14y imprisonment

- Pharmacist
- “As a trained professional, he would have been aware of the debilitating and deadly effects of this drug in the hands of addicts.”

