



Pretrial Release and Misconduct in Federal District Courts, Fiscal Years 2011–2018

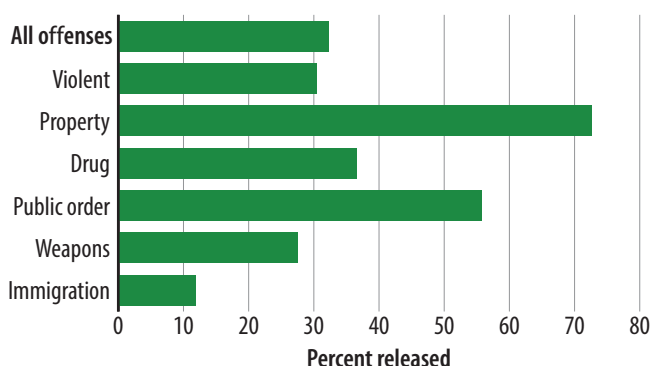
George E. Browne, Ph.D., *BJS Statistician*
Suzanne M. Strong, Ph.D., *former BJS Statistician*

The Probation and Pretrial Services Office of the Administrative Office of the U.S. Courts disposed 747,468 pretrial cases in federal district courts during the 8-year aggregated period of fiscal years (FYs) 2011–18. During that period, nearly 1 in 3 defendants (32%) were released pretrial. Defendants charged with a property offense were most likely to be released prior to the adjudication of their case (73%), while defendants charged with an immigration offense were least likely to be released (12%) (**figure 1**).

There were 750,688 pretrial cases disposed during FYs 2011–18. Of those, 3,220 were material witness cases, leaving 747,468 pretrial services cases disposed in federal district courts. Material witnesses held by the government were excluded from this analysis. Of the cases for which offense level information was available, 97% were felonies.

FIGURE 1

Percent of defendants released pretrial with cases disposed in federal district courts, by most serious offense, FYs 2011–18



Note: Most serious offense was missing on 2,926 records, and timing of release decision was missing on 635 records. Details may not sum to total due to missing cases. See table 1 for percentages.

Source: Bureau of Justice Statistics, based on data from the Administrative Office of the U.S. Courts, Office of Probation and Pretrial Services Automated Case Tracking System, fiscal years 2011–18.

HIGHLIGHTS

During the aggregated period of fiscal years 2011–18—

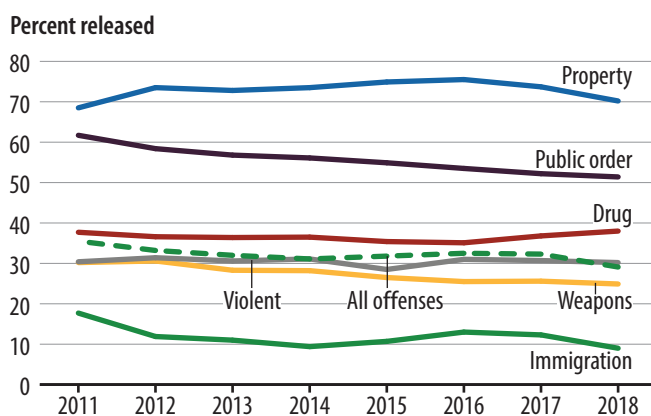
- Thirty-two percent of defendants whose cases were disposed in federal district courts were released before trial.
- Twenty-two percent of defendants were released at their initial court appearance, while 10% were released at a later hearing, such as a detention or bond hearing.
- Seventy-six percent of defendants released were released without financial conditions, including release on personal recognizance or on an unsecured bond.
- Seventy-nine percent of defendants released pretrial had conditions on their release, such as travel restrictions, substance abuse treatment requirements, weapons restrictions, and employment requirements.
- Forty percent of defendants detained before trial had consented to detention, while 48% had court-ordered detention.
- Nineteen percent of released defendants were charged with at least one violation of their pretrial release conditions.
- Of defendants released pretrial, 17% were charged with a technical violation, 2% were rearrested for a new offense, and 1% failed to appear for a subsequent court hearing.

Findings are based on Probation and Pretrial Services data provided to the Bureau of Justice Statistics' Federal Justice Statistics Program (FJSP). The Probation and Pretrial Services program collects information on the pretrial release of defendants charged in federal district courts, including the type of release or detention and whether defendants were returned to custody for misconduct during their release. Data provided to the FJSP included records for defendants whose cases were disposed by federal district courts from FYs 2011 to 2018. Offense information reflects the most serious offense charged in each case, as determined by a probation officer. (See *Methodology*.)

Roughly the same percentage of defendants were released before trial each year in FYs 2011 to 2018

The percentage of defendants released before trial remained relatively stable each year in FYs 2011 to 2018, overall and by type of offense (**figure 2**). During this period, most defendants charged with a property offense were released pretrial (68% to 76% of defendants), followed by persons charged with public order (51% to 62%) and drug (35% to 38%) offenses. Similar shares of defendants charged with violent

FIGURE 2
Percent of defendants released pretrial with cases disposed in federal district courts, by most serious offense, FYs 2011–2018



Note: See appendix table 1 for percentages.

Source: Bureau of Justice Statistics, based on data from the Administrative Office of the U.S. Courts, Office of Probation and Pretrial Services Automated Case Tracking System, fiscal years 2011–2018.

(29% to 31%) and weapons (25% to 31%) offenses were released before trial, while persons charged with immigration offenses were least likely to be released (9% to 18%).

Most defendants released pretrial were released at the initial hearing

During the 8-year aggregated period of FYs 2011–18, about 32% of defendants charged in federal district courts were released before trial (**table 1**). Twenty-two percent of these defendants were released at their initial appearance in court, while 10% were released at a subsequent hearing. Among defendants charged with a property, public order, or immigration offense, a higher percentage of defendants were released at the initial appearance than at subsequent hearings. Persons charged with a violent or drug-trafficking offense were more likely to be released at a subsequent hearing than at the initial appearance.

TABLE 1
Defendants released pretrial with cases disposed in federal district courts, by type of hearing and most serious offense, FYs 2011–18

Most serious offense	Number of defendants	Percent released	Percent released at—	
			Initial appearance	Subsequent hearing*
All offenses	747,468	32.3%	22.1%	10.1%
Violent	23,707	30.5%	14.4%	16.1%
Property	100,641	72.7%	62.8%	9.8%
Fraudulent	82,983	72.9	62.9	10.0
Other	17,658	71.7	62.3	9.3
Drug	205,772	36.6%	17.5%	19.0%
Trafficking	159,261	35.3	16.2	19.1
Possession/other	46,511	40.8	22.2	18.5
Public order	60,068	55.7%	43.3%	12.3%
Regulatory	9,418	67.8	51.7	16.0
Other	50,650	53.5	41.8	11.7
Weapons	56,464	27.5%	13.8%	13.6%
Immigration	297,890	11.9%	9.5%	2.4%

Note: Most serious offense was missing on 2,926 records, and timing of release decision was missing on 635 records. Details may not sum to total due to rounding and missing data.

*Includes detention hearings, bond hearings, and releases that occurred at any time after the initial appearance.

Source: Bureau of Justice Statistics, based on data from the Administrative Office of the U.S. Courts, Office of Probation and Pretrial Services Automated Case Tracking System, fiscal years 2011–18.

Pretrial releases also varied by the defendants' demographic characteristics. A larger portion of females (63%) charged in federal district courts were released before trial than males (28%) during FYs 2011–18 (**table 2**). Overall, a higher percentage of Native Hawaiian and Other Pacific Islander (70%) and Asian (68%) defendants were released pretrial

than American Indian or Alaska Native (48%), black (42%), and white (28%) defendants. About 18% of Hispanic defendants were released, compared to 53% of non-Hispanic defendants. Fifty-three percent of defendants who were U.S. citizens were released pretrial, while 8% of undocumented non-U.S. citizens were released before trial.

TABLE 2
Defendants released pretrial with cases disposed in federal district courts, by most serious offense and demographic characteristics, FYs 2011–18

Demographic characteristic	Number of defendants	Percent released						
		All offenses	Violent	Property	Drug	Public order	Weapons	Immigration
Total	747,468	32.3%	30.5%	72.7%	36.6%	55.8%	27.5%	11.9%
Sex								
Male	647,605	27.6%	25.9%	69.1%	31.8%	53.0%	25.9%	10.4%
Female	96,955	63.2	61.1	81.4	61.3	75.5	64.6	32.6
Race								
White	576,842	28.5%	28.2%	71.5%	35.0%	58.1%	32.3%	11.4%
Black	133,798	42.5	24.1	75.3	38.0	45.0	23.0	33.0
American Indian/Alaska Native	12,961	48.1	40.2	72.1	56.8	40.6	31.3	54.2
Asian	10,269	68.5	45.0	77.4	60.1	75.2	33.0	61.7
Native Hawaiian/Other Pacific Islander	1,230	69.6	53.6	84.3	67.4	74.5	30.9	71.1
Ethnicity								
Hispanic	445,635	18.3%	25.3%	54.8%	26.0%	44.2%	24.2%	10.9%
Non-Hispanic	286,180	53.0	30.8	79.4	47.4	58.1	28.3	46.6
Citizenship status								
U.S. citizen	368,085	53.1%	31.0%	81.9%	47.1%	57.4%	28.5%	67.9%
Documented non-U.S. citizen	31,457	42.3	33.5	68.4	27.3	53.8	32.2	58.9
Undocumented non-U.S. citizen	340,179	8.4	6.8	28.8	3.3	20.0	6.0	8.0

Note: Most serious offense was missing on 2,926 records, sex was missing on 2,908 records, race was missing on 12,368 records, ethnicity was missing on 15,653 records, and citizenship status was missing on 7,747 records. Details may not sum to total due to missing data.

Source: Bureau of Justice Statistics, based on data from the Administrative Office of the U.S. Courts, Office of Probation and Pretrial Services Automated Case Tracking System, fiscal years 2011–18.

Types of pretrial release, detention, and misconduct

Types of pretrial release

Defendants may be released without financial conditions by the following methods:

Personal recognizance—A pretrial release condition in which the defendant promises to appear at trial and no financial conditions are imposed.

Unsecured bond—A pretrial release condition in which the defendant agrees to pay the full bond amount in the event of nonappearance at trial but is not required to post security as a condition of release.

Conditional release—Any combination of restrictions that are deemed necessary to guarantee the defendant's appearance at trial or the safety of the community. These conditions commonly place restrictions on the defendant's movements, associations, or actions. They may also involve employment or treatment for medical, psychological, or substance abuse conditions. Pretrial conditions can be attached to defendants released with or without a financial bond.

Defendants may also be released on financial conditions. Financial conditions include the following methods:

Collateral bond—An agreement made as a condition of pretrial release that requires the defendant to post money or property valued at the full bond amount as an assurance of his or her intention to appear at trial.

Percentage bond—An agreement as a condition of pretrial release that requires the defendant to post a percentage of the total bond amount with the federal court before being released to the community.

Surety bond—An agreement as a condition of release that requires a third party, usually a bail bondsperson, to promise to pay the full bail amount in the event that the defendant fails to appear in court.

Nonfinancial conditions can be ordered with any type of bond and can include maintaining employment during the period of pretrial release, travel restrictions, maintaining abstinence from drugs or alcohol, weapons prohibitions, having no contact with any witnesses or victims in the case, or any other nonfinancial conditions imposed by the judicial officer.

Types of pretrial detention

The Bail Reform Act of 1984 (18 U.S.C. §§ 3141–3150) requires courts to detain persons charged with serious felonies if, after an adversarial detention hearing, the court finds that the defendants pose a danger to themselves or the community and if one of the following crimes is charged:

1. crime of violence
2. offense with a statutory maximum sentence of life imprisonment or death
3. drug offense with a statutory maximum prison sentence of 10 years or more.
4. any felony if such person has been convicted of two or more offenses described above or two or more state or local offenses that would have been offenses described above if a circumstance giving rise to federal jurisdiction had existed, or a combination of such offenses
5. any felony that is not otherwise a crime of violence that involves a minor victim; the possession or use of a firearm, a destructive device, or any other dangerous weapon; or a failure to register.

A defendant on preventive detention is typically detained during the entire period from initial appearance through case adjudication. Other forms of pretrial detention include detention because a defendant could not meet the financial bond set by the court, was unable to meet specified pretrial conditions, or was on consent detention.

Types of pretrial misconduct

The following types of events are included under pretrial misconduct:

Technical violation—Occurs when the defendant fails to comply with pretrial release conditions, including failing a drug test, failing to maintain or seek employment, refusing to maintain contact with a pretrial supervision officer, or violating weapons prohibitions.

Failure to appear—Occurs when the defendant misses a scheduled court appearance.

Rearrest for new offense—Occurs when the defendant is rearrested for a felony or misdemeanor offense committed while on pretrial release.

A smaller percentage of defendants with more serious criminal histories were released pretrial

Federal law requires that the judicial officer (i.e., federal district or magistrate judge) consider the defendant's criminal history, including prior arrests, convictions, and court appearances (18 U.S.C. § 3142(g)). The percentage of defendants released pretrial declined as the severity of their criminal histories increased. Forty percent of defendants with no prior arrests were released during FYs 2011–18, compared to 23% of defendants with 11 or more arrests (table 3). This difference was pronounced among defendants charged with a violent offense. Forty-four percent of defendants charged with a violent offense with no prior arrests were released pretrial, compared to 14% of those with 11 or more arrests.

Thirty-nine percent of defendants with no prior convictions were released pretrial, compared to 21% of defendants with 11 or more convictions. The nature of prior convictions affected the percentage of defendants released pretrial. Thirty-four percent of defendants with prior misdemeanor convictions only were released pretrial, while 24% of defendants with at least one felony conviction were released. Twenty percent of defendants convicted of violent felonies and 25% of defendants convicted of drug felonies were released pretrial. Additionally, a defendant's record of missed court appearances affected pretrial release. Thirty-three percent of defendants with no history of missed court appearances were released during FYs 2011–18, while 27% of defendants with two or more missed court appearances were released during the same period.

TABLE 3

Defendants released pretrial with cases disposed in federal district courts, by most serious offense and criminal history, FYs 2011–18

Criminal history	Number of defendants	Percent released						
		All offenses	Violent	Property	Drug	Public order	Weapons	Immigration
Total	747,468	32.3%	30.5%	72.7%	36.6%	55.8%	27.5%	11.9%
Number of prior arrests								
None	227,589	40.5%	44.4%	78.4%	36.7%	69.8%	40.6%	10.2%
1	90,749	34.5	43.3	78.5	46.2	64.4	51.6	8.6
2–4	158,469	30.4	34.1	75.2	45.0	54.3	39.5	10.9
5–10	142,178	27.6	23.6	65.9	36.7	37.1	28.4	14.2
11 or more	126,075	23.2	13.6	49.8	23.7	25.8	17.4	18.2
Number of prior convictions								
None	314,908	39.5%	42.9%	77.8%	39.7%	68.4%	41.5%	9.9%
1	114,337	29.9	36.4	75.5	44.0	55.9	40.0	9.5
2–4	168,674	27.5	26.4	69.7	38.1	42.8	29.7	12.8
5–10	104,629	25.0	16.0	55.2	27.5	28.8	20.9	18.0
11 or more	42,517	21.0	11.6	44.8	19.3	23.9	14.7	21.7
Nature of prior convictions*								
Felony	295,040	23.6%	13.5%	57.2%	27.1%	26.6%	20.9%	15.8%
Violent	117,914	20.4	10.5	49.4	22.4	18.8	17.2	16.7
Drug	104,772	24.7	18.4	56.9	28.7	32.3	26.5	15.7
Nonviolent	72,354	27.1	21.0	63.6	36.3	40.4	30.1	15.2
Misdemeanor only	135,117	34.2	41.6	78.3	50.7	68.6	48.5	8.0
Number of prior failures to appear								
None	634,553	32.8%	33.7%	75.1%	37.6%	59.3%	31.0%	11.8%
1	45,782	31.8	25.6	64.8	36.4	37.7	24.9	13.6
2 or more	64,721	27.2	17.9	54.9	29.3	34.0	18.4	12.6

Note: Most serious offense was missing on 2,926 records, prior arrests was missing on 2,408 records, prior convictions was missing on 2,403 records, and prior failures to appear was missing on 2,412 records. Details may not sum to total due to missing data.

*Defendants with more than one type of prior conviction (63,236) were each assigned to either the violent, drug, or nonviolent category, in that order.

Source: Bureau of Justice Statistics, based on data from the Administrative Office of the U.S. Courts, Office of Probation and Pretrial Services Automated Case Tracking System, fiscal years 2011–18.

More than three-quarters of released defendants received nonfinancial release conditions during FYs 2011–18

During FYs 2011–18, almost a quarter (24%) of defendants released pretrial were required to pay a financial bond to secure their release (table 4). All other releases were through nonfinancial means,

including unsecured bonds (42%) and personal recognizance (34%). The use of a financial bond varied by offense type and was most commonly used for immigration offenses (72%), followed by drug-trafficking offenses (22%). In comparison, less than 10% of released defendants charged with a violent offense (9%) or a property offense other than fraud (5%) were required to pay a financial bond.

TABLE 4

Defendants released pretrial with cases disposed in federal district courts, by type of release and most serious offense, FYs 2011–18

Most serious offense	Number of released defendants	Percent released on—			
		Personal recognizance	Unsecured bond	Financial bond	Other release*
All offenses	241,164	33.8%	41.9%	24.1%	0.1%
Violent	7,228	60.6%	29.9%	9.3%	0.2%
Property	73,197	35.1%	51.1%	13.6%	0.1%
Fraudulent	60,529	31.9	52.6	15.4	0.1
Other	12,668	50.5	43.9	5.1	0.4
Drug	75,249	35.4%	43.6%	20.9%	0.1%
Trafficking	56,281	31.9	45.9	22.2	0.1
Possession/other	18,968	46.0	36.7	17.2	0.1
Public order	33,485	45.9%	41.8%	12.2%	0.1%
Regulatory	6,384	35.6	43.1	21.2	0.1!
Other	27,101	48.4	41.4	10.1	0.1
Weapons	15,516	38.2%	48.4%	13.4%	0.1%
Immigration	35,454	8.7%	19.0%	72.1%	0.2%

Note: Most serious offense was missing on 1,035 records. Defendants given more than one type of pretrial release (7,450) were each assigned to either the personal recognizance, unsecured bond, financial bond, or other release category, in that order. Details may not sum to total due to rounding and missing data.

! Interpret with caution. Estimate is based on 10 or fewer cases.

*Includes 331 cases where the defendant was released but the type of release was missing.

Source: Bureau of Justice Statistics, based on data from the Administrative Office of the U.S. Courts, Office of Probation and Pretrial Services Automated Case Tracking System, fiscal years 2011–18.

Nearly eight in ten released defendants had release conditions during FYs 2011–18

Seventy-nine percent of defendants released pretrial during FYs 2011–18 had conditions on their release (table 5). The share of released defendants receiving special conditions varied by offense type. Almost all released defendants charged with a weapons (95%), drug (90%), or violent (90%) offense were released with conditions. About a third (34%) of released defendants charged with an immigration offense were released with conditions.

The most common conditions of release were travel restrictions (78%), substance abuse testing or treatment (63%), weapons restrictions (51%), and employment requirements (41%).¹ Thirty-four percent of defendants with a conditional release were required to

¹Employment requirements include maintaining employment or actively seeking employment during the pretrial period.

be on home detention or electronic monitoring, while 28% were ordered to have no contact with the victim.

Substance abuse treatment or testing was the most common release condition among defendants charged with a weapons (85%), drug (84%), or violent (74%) offense. Weapons restrictions were more common among released defendants charged with a weapons (82%), drug-trafficking (65%), or violent (63%) offense than other offenses. Home detention or electronic monitoring were most common for released defendants charged with a weapons (47%) or violent (46%) offense. No contact with the victim was most often required of released defendants charged with a violent offense (52%). Sex offender assessment or treatment was most commonly required of released defendants charged with other public order offenses (5%), such as mailing or transporting obscene material and nonviolent sex offenses.

TABLE 5

Defendants released pretrial with cases disposed in federal district courts, by condition of release and most serious offense, FYs 2011–18

Most serious offense	Number of released defendants ^a	Percent with release condition	Percent whose release condition included—						
			Travel restriction	Substance abuse testing/treatment	Weapons restriction	Employment restriction/requirement ^b	Home detention/electronic monitoring	No contact with victim	Sex offender assessment/treatment
All offenses	241,164	79.3%	78.2%	63.3%	51.2%	41.0%	34.3%	28.0%	0.6%
Violent	7,228	89.6%	87.8%	73.5%	62.6%	41.6%	46.3%	52.1%	1.3%
Property	73,197	84.8%	83.6%	56.5%	47.9%	41.0%	30.0%	27.4%	0.0%!
Fraudulent	60,529	85.8	84.6	56.0	48.6	42.5	31.2	28.7	0.0!
Other	12,668	80.3	78.9	58.8	44.1	33.7	24.0	21.3	0.0!
Drug	75,249	90.1%	89.3%	83.9%	62.2%	50.6%	42.1%	33.2%	0.0%
Trafficking	56,281	90.4	89.6	84.2	64.6	52.1	43.2	34.4	0.0
Possession/other	18,968	89.3	88.3	83.2	55.1	46.2	38.7	29.4	0.0!
Public order	33,485	81.7%	80.3%	56.8%	48.0%	34.1%	38.6%	28.0%	4.2%
Regulatory	6,384	80.9	78.3	55.3	44.4	32.9	31.9	22.4	0.1!
Other	27,101	81.9	80.8	57.2	48.8	34.3	40.1	29.3	5.2
Weapons	15,516	94.5%	93.4%	84.7%	82.1%	53.0%	47.4%	30.5%	0.1%!
Immigration	35,454	33.7%	32.9%	28.3%	21.6%	21.9%	14.2%	12.0%	0.0%!

Note: Most serious offense was missing on 1,035 records. Details may not sum to total due to missing data or because defendants could have more than one condition for release.

! Interpret with caution. Estimate is based on 10 or fewer cases.

^aIncludes defendants who were never detained or were detained for part of the pretrial period.

^bIncludes restrictions on employment and requirements to seek or maintain employment.

Source: Bureau of Justice Statistics, based on data from the Administrative Office of the U.S. Courts, Office of Probation and Pretrial Services Automated Case Tracking System, fiscal years 2011–18.

Nearly half of detained defendants were detained on a court order

Forty-eight percent of defendants who were not released during FYs 2011–18 were detained by court order (**table 6**). Less than 1% (0.4%) were detained because they could not meet the monetary bond set by the court. Forty percent of detained defendants consented to detention.

The type of detention varied by offense. Detained defendants charged with a drug (66%), regulatory public order (66%), weapons (60%), or violent (59%) offense had the highest rates of court-ordered detention. Consent to detention was highest among defendants facing an immigration charge (54%). The share of defendants detained for other reasons ranged from 11% to 16% across all offense types.

TABLE 6

Defendants detained pretrial with cases disposed in federal district courts, by type of detention and most serious offense, FYs 2011–18

Most serious offense	Number of detained defendants ^a	Percent detained on—			
		Court order	Financial bond ^b	Consent ^c	Other ^d
All offenses	488,821	47.6%	0.4%	39.9%	12.1%
Violent	16,061	59.4%	0.1%	27.7%	12.8%
Property	24,095	56.0%	0.8%	28.2%	15.0%
Fraudulent	20,555	55.9	0.9	28.3	14.9
Other	3,540	56.6	0.2 !	27.4	15.8
Drug	129,176	66.2%	0.2%	22.1%	11.5%
Trafficking	102,218	65.5	0.2	23.4	10.9
Possession/other	26,958	68.9	0.1	17.5	13.5
Public order	25,000	56.3%	0.2%	29.3%	14.2%
Regulatory	2,755	65.9	0.3 !	20.2	13.6
Other	22,245	55.1	0.2	30.4	14.3
Weapons	40,373	60.2%	0.1%	28.7%	11.0%
Immigration	252,478	33.6%	0.5%	53.9%	12.0%

Note: Most serious offense was missing on 1,638 records, and 17,483 cases did not indicate a release or detention hearing order.

! Interpret with caution. Estimate is based on 10 or fewer cases.

^aIncludes defendants who were detained for the entire pretrial period.

^bIncludes defendants for whom a financial bond was set but not posted.

^cIncludes defendants who agreed to remain detained for the duration of the case.

^dIncludes defendants on temporary pretrial detention and defendants detained because they were unable to meet certain nonfinancial conditions set by the court.

Source: Bureau of Justice Statistics, based on data from the Administrative Office of the U.S. Courts, Office of Probation and Pretrial Services Automated Case Tracking System, fiscal years 2011–18.

About a fifth of released defendants engaged in pretrial misconduct during FYs 2011–18

Nineteen percent of defendants released pretrial committed at least one violation of their pretrial release during FYs 2011–18 (**table 7**). Defendants charged with a weapons (35%), drug (28%), or violent (27%) offense were most likely to engage in such pretrial misconduct, compared to those charged with an immigration offense (7%).

The most common form of pretrial misconduct was a technical violation (17% of released defendants), such as a failed drug test, failure to maintain employment, or any other violation of conditional release. Technical violations were most common among defendants charged with a weapons offense (32%), followed by

those charged with a drug (26%) or violent (25%) offense. Failing to appear in court (1%) and being rearrested for a new offense (2%) were the least common release violations. Failure to appear was most common among defendants charged with a weapons (1%) or drug (2%) offense. Rearrest for a new felony or misdemeanor was highest among released defendants charged with a weapons (5%) or drug (3%) offense and lowest for those charged with a public order (1%) or immigration (1%) offense.

Of defendants released pretrial, 11% had their release revoked. Defendants charged with a weapons (22%), violent (17%), or drug-trafficking (16%) offense had the highest revocation rates, while defendants charged with an immigration offense (5%) had the lowest.

TABLE 7

Defendants released pretrial with cases disposed in federal district courts, by type of release violation and most serious offense, FYs 2011–18

Most serious offense	Number of released defendants	Percent who had—				
		At least one release violation	Failure to appear	Technical violation ^a	Rearrest for new offense ^b	Release revoked
All offenses	241,164	18.9%	1.0%	17.2%	2.1%	10.5%
Violent	7,228	26.9%	1.1%	25.0%	2.3%	17.1%
Property	73,197	13.8%	0.9%	12.1%	1.8%	6.9%
Fraudulent	60,529	13.3	0.8	11.7	1.9	6.6
Other	12,668	16.0	1.0	14.3	1.6	8.4
Drug	75,249	27.9%	1.5%	25.8%	3.0%	15.7%
Trafficking	56,281	28.6	1.5	26.3	3.2	16.4
Possession/other	18,968	25.9	1.5	24.0	2.4	13.8
Public order	33,485	12.7%	0.7%	11.6%	1.1%	6.3%
Regulatory	6,384	10.4	0.8	9.4	1.0	5.3
Other	27,101	13.3	0.7	12.2	1.1	6.5
Weapons	15,516	35.2%	1.2%	32.3%	4.7%	21.5%
Immigration	35,454	7.4%	0.6%	6.8%	0.6%	4.8%

Note: Most serious offense was missing on 1,035 records. Details may not sum to total due to missing data and because defendants could have more than one type of release violation. Not all violations resulted in revocation of pretrial release.

^aIncludes a failed drug test, failure to maintain employment, and any other violation of conditional release.

^bIncludes felony and misdemeanor offenses.

Source: Bureau of Justice Statistics, based on data from the Administrative Office of the U.S. Courts, Office of Probation and Pretrial Services Automated Case Tracking System, fiscal years 2011–18.

Criminal histories were associated with pretrial misconduct during FYs 2011–18

Thirty-two percent of defendants with 11 or more prior arrests engaged in technical violations of their pretrial release, compared to 12% of those with no prior arrests (table 8). A similar pattern held between defendants' prior convictions and technical violations of release.

About a quarter (24%) of released defendants with prior misdemeanor convictions only or with prior felony convictions engaged in pretrial misconduct. Misconduct was more frequent among defendants previously convicted of violent (27%) or drug (26%)

felonies than other nonviolent (18%) felonies.

Misconduct was also more common among defendants with a history of failing to appear in court. Sixteen percent of released defendants with no prior failures to appear committed at least one violation of their release, compared to 31% of those with one and 39% of those with two or more prior failures to appear.

Revocation of release was most common among released defendants who had extensive criminal histories. Twice the share of defendants with 11 or more prior convictions (22%) or two or more prior failures to appear (23%) had their release revoked as all released defendants did (11%).

TABLE 8

Defendants released pretrial with cases disposed in federal district courts, by type of release violation and criminal history, FYs 2011–18

Criminal history	Number of released defendants	Percent who had—				
		At least one release violation	Failure to appear	Technical violation ^a	Rearrest for new offense ^b	Release revoked
Total	241,164	18.9%	1.0%	17.2%	2.1%	10.5%
Number of prior arrests						
None	92,140	11.8%	0.8%	10.8%	1.0%	6.0%
1	31,280	16.5	1.0	15.1	1.7	8.5
2–4	48,172	20.9	1.1	19.1	2.4	11.5
5–10	39,196	25.3	1.1	23.1	3.3	14.6
11 or more	29,198	31.6	1.3	29.0	3.9	19.8
Number of prior convictions						
None	124,293	14.0%	0.9%	12.7%	1.3%	7.3%
1	34,187	19.6	1.1	18.0	2.2	10.5
2–4	46,430	23.8	1.2	21.7	3.0	13.5
5–10	26,158	27.7	1.1	25.2	3.6	16.8
11 or more	8,918	33.1	1.6	30.1	4.1	21.8
Nature of prior convictions^c						
Felony	69,549	24.1%	1.2%	21.9%	3.1%	14.3%
Violent	24,030	27.5	1.3	25.1	3.9	16.5
Drug	25,881	25.5	1.1	23.4	3.1	15.1
Nonviolent	19,638	17.9	1.0	16.1	2.2	10.5
Misdemeanor only	46,144	24.3	1.2	22.3	2.8	13.5
Number of prior failures to appear						
None	207,864	16.4%	0.9%	14.9%	1.8%	8.9%
1	14,537	30.6	1.6	27.9	3.7	17.6
2 or more	17,585	38.6	1.8	35.7	4.4	23.1

Note: Prior arrests was missing on 1,178 records, prior convictions was missing on 1,178 records, and prior failures to appear was missing on 1,178 records. Details may not sum to total due to missing data and because defendants could have more than one type of release violation. Not all violations resulted in revocation of pretrial release.

^aIncludes a failed drug test, failure to maintain employment, and any other violation of conditional release.

^bIncludes felony and misdemeanor offenses.

^cDefendants with more than one type of prior conviction (11,859) were each assigned to either the violent, drug, or nonviolent category, in that order.

Source: Bureau of Justice Statistics, based on data from the Administrative Office of the U.S. Courts, Office of Probation and Pretrial Services Automated Case Tracking System, fiscal years 2011–18.

More than 1 in 3 American Indian or Alaska Native defendants had a release violation during FYs 2011–18

Pretrial misconduct varied by the defendants' demographic characteristics. Released defendants who were American Indian or Alaska Native (35%) or black (25%) committed at least one violation of pretrial release more often than defendants who were

Native Hawaiian or Other Pacific Islander (21%), white (17%), or Asian (12%) (**table 9**). Larger shares of non-Hispanic defendants (22%) than Hispanic defendants (14%) engaged in pretrial misconduct. U.S. citizens (22%) engaged in pretrial misconduct more frequently than documented (15%) or undocumented non-U.S. citizens (2%). Roughly 1 in 5 males (19%) and females (18%) committed at least one violation of pretrial release during FYs 2011–18.

TABLE 9
Defendants released pretrial with cases disposed in federal district courts, by type of release violation and demographic characteristics, FYs 2011–18

Demographic characteristic	Number of released defendants	Percent who had—				
		At least one release violation	Failure to appear	Technical violation ^a	Rearrest for new offense ^b	Release revoked
Total	241,164	18.9%	1.0%	17.2%	2.1%	10.5%
Sex						
Male	178,471	19.2%	1.1%	17.4%	2.3%	10.7%
Female	61,285	18.1	0.9	16.8	1.6	10.1
Race						
White	164,189	16.5%	1.0%	15.2%	1.7%	9.6%
Black	56,805	25.4	1.1	22.7	3.5	12.8
American Indian/Alaska Native	6,230	35.2	1.4	32.9	3.2	23.9
Asian	7,030	12.3	0.8	11.2	1.2	5.0
Native Hawaiian/Other Pacific Islander	856	21.4	0.4 !	20.9	1.1 !	10.3
Ethnicity						
Hispanic	81,572	13.8%	1.3%	12.6%	1.3%	8.3%
Non-Hispanic	151,737	21.7	0.9	19.8	2.6	11.8
Citizenship status						
U.S. citizen	195,609	21.8%	0.9%	20.0%	2.5%	12.1%
Documented non-U.S. citizen	13,295	15.3	3.4	12.6	1.6	9.0
Undocumented non-U.S. citizen	28,472	2.0	0.5	1.6	0.2	1.1

Note: Sex was missing on 1,408 records, race was missing on 6,054 records, ethnicity was missing on 7,855 records, and citizenship status was missing on 3,788 records. Details may not sum to total due to missing data and because defendants could have more than one type of release violation. Not all violations resulted in revocation of pretrial release.

! Interpret with caution. Estimate is based on 10 or fewer cases.

^aIncludes a failed drug test, failure to maintain employment, and any other violation of conditional release.

^bIncludes felony and misdemeanor offenses.

Source: Bureau of Justice Statistics, based on data from the Administrative Office of the U.S. Courts, Office of Probation and Pretrial Services Automated Case Tracking System, fiscal years 2011–18.

23% of defendants released on personal recognizance violated their release

While 19% of all released defendants committed some form of pretrial misconduct during FYs 2011–18, defendants with a financial bond (10%) did so less often than defendants with an unsecured bond (20%)

or release on personal recognizance (23%) (**table 10**). Sixteen percent of defendants with a collateral bond committed at least one violation of pretrial release, compared to 11% of those released on a percentage bond and 5% of those released on a surety bond.

TABLE 10

Defendants released pretrial with cases disposed in federal district courts, by type of release violation and pretrial release, FYs 2011–18

Type of release	Number of released defendants	Percent who had—				
		At least one release violation	Failure to appear	Technical violation ^a	Rearrest for new offense ^b	Release revoked
Total	241,164	18.9%	1.0%	17.2%	2.1%	10.5%
Financial bond	58,209	9.9%	0.8%	8.7%	1.4%	5.6%
Collateral bond	9,463	16.5	1.4	14.4	3.2	7.4
Percentage bond	30,444	10.7	0.8	9.5	1.4	6.5
Security bond	18,302	5.2	0.5	4.5	0.6	3.1
Unsecured bond	101,003	20.2%	1.0%	18.4%	2.3%	10.7%
Personal recognizance	81,621	23.4%	1.1%	21.7%	2.3%	13.7%

Note: Type of release was missing on 331 records. Defendants given more than one type of pretrial release (7,450) were each assigned to either the personal recognizance, unsecured bond, or financial bond category, in that order. Details may not sum to total due to missing data and because defendants could have more than one type of release violation. Not all violations resulted in revocation of pretrial release.

^aIncludes a failed drug test, failure to maintain employment, and any other violation of conditional release.

^bIncludes felony and misdemeanor offenses.

Source: Bureau of Justice Statistics, based on data from the Administrative Office of the U.S. Courts, Office of Probation and Pretrial Services Automated Case Tracking System, fiscal years 2011–18.

Methodology

Federal Justice Statistics Program

Data used for this report are from the Federal Justice Statistics Program (FJSP), administered by the Bureau of Justice Statistics (BJS). The FJSP is constructed from source files provided by the U.S. Marshals Service, Executive Office for U.S. Attorneys, Administrative Office of the U.S. Courts (AOUSC), U.S. Sentencing Commission, and Federal Bureau of Prisons. The AOUSC provides data describing defendants processed by the federal judiciary, federal pretrial services agencies, and the federal probation and supervision service. For more information about the FJSP, visit <https://bjs.ojp.gov/data-collection/federal-justice-statistics-program-fjsp>.

Office of Probation and Pretrial Services Automated Case Tracking System

All tables in this report are based on data from the AOUSC's Office of Probation and Pretrial Services Automated Case Tracking System (PACTS) that were processed for the FJSP. These data contain information on defendants interviewed, investigated, or supervised by federal pretrial services. The information covers defendants' pretrial hearings, detentions, and releases from the time they are interviewed through the disposition of their case in federal district court. These data describe defendants processed by federal pretrial service agencies within 93 of the 94 federal judicial districts. Defendants who received pretrial services through a local, nonfederal agency were excluded from analysis. Because the District of Columbia operates a pretrial services agency independent of the AOUSC, defendants prosecuted in the U.S. District Court for the District of Columbia who were processed by the D.C. pretrial services agency were also excluded.

Data were examined for 747,468 defendants who were under the jurisdiction of federal pretrial services from October 1, 2010 through September 30, 2018 (i.e., fiscal years 2011–2018) and whose case was filed by complaint, indictment, or information. Information on offense level was available for 745,407 cases, of which 719,959 (97%) were felonies. Data from fiscal years 2011 to 2018 were pooled for most of the analyses. Analysis of each year individually demonstrated stability in pretrial release rates, both overall and by

offense category (see Figure 2). Pooling years of data permitted more detailed analysis of the impact of type of offense, demographic characteristics, and criminal history on pretrial release, type of release, conditions of release, and release violations.

Federal pretrial service agencies have jurisdiction over both released and detained defendants from the time of their arrest to the disposition of their case in federal district court through a guilty plea, trial conviction, dismissal, or acquittal.

Offenses in PACTS are based on the most serious offense charged in a case, as determined by the probation officer responsible for interviewing the defendant. The probation officer classifies the most serious offense charged into an AOUSC four-digit offense code. For defendants charged with more than one offense on an indictment, probation officers choose the offense carrying the most severe penalty or, in the case of two or more charges carrying the same penalty, the one with the highest offense severity. The offense severity level is determined by the AOUSC, which ranks offenses according to the maximum sentence, type of crime, and maximum fine amount. These four-digit codes are then aggregated into the primary offense charges used for this report.

Data limitations

In these tables, totals include defendants whose offense or other attributes were missing or unknown, while percentages exclude defendants with missing data. The number of records with missing data are reported in the table notes. Cases with missing data include cases in which interviews were refused or the defendants were not available for the interview.

Defining pretrial release in PACTS data

Defendants are identified as released pretrial if they were released at any time between their initial appearance in court and the adjudication of their case. Defendants can receive pretrial release at their initial appearance or be detained for additional hearings. Defendants can also be released during subsequent detention, bond, or other hearings or be held for the duration of their case. Percentages of defendants on pretrial release include those released at the initial appearance or after a period of detention.

Types of pretrial release and detention in the report are mutually exclusive. However, defendants can receive multiple types of pretrial release and detention. For example, a defendant can be released on their own recognizance at their initial appearance, return to court on a technical violation, be rereleased with a financial bond, then be detained for a felony offense while on release. PACTS data cover only the initial release. In addition, pretrial release conditions, such as drug monitoring or treatment, are counted separately from the release types because federal district courts typically attach such conditions regardless of how a defendant was released.

Key terms

Defendant (unit of analysis)—A combination of a person and case in the FJSP. For example, if the same person is involved in three different criminal cases during the period specified in this report, then these cases are counted as three defendants or three cases disposed. Similarly, a single criminal case involving four defendants is counted as four cases disposed.

Failure to appear—Willful absence from any court appointment.

Federal court disposition—The termination of a case proceeding through a guilty plea or trial conviction, dismissal, or acquittal. The defendant in a disposed case is no longer under federal pretrial supervision.

Felony—A serious crime that involves a potential punishment of 1 year or more in prison or a crime punishable by death. According to 18 U.S.C. § 3559, felonies are classified based on the maximum imprisonment term authorized by the law describing the offense. The five felony classes—A, B, C, D, and E—include life imprisonment or the maximum penalty of death (Class A felony), 25 years or more (Class B felony), less than 25 years but more than 10 years (Class C felony), less than 10 years but more than 5 years (Class D felony), and less than 5 years but more than 1 year (Class E felony).

Initial appearance—The first time a defendant charged with a federal offense appears before a federal judicial officer, typically a magistrate judge. At the initial appearance stage, the defendant can be released pretrial or detained for additional hearings. Defendants can also be released at subsequent detention, bond, or other hearings or be held for the duration of their case.

Misdemeanor—A criminal offense punishable by a jail term not to exceed 1 year and any offense specifically defined as a misdemeanor by the AOUSC for the purposes of data collection. According to 18 U.S.C. § 3559, misdemeanors are classified by three letter grades—A, B, and C—based on the maximum terms of imprisonment. Class A denotes an imprisonment term of 1 year or less but more than 6 months, Class B denotes an imprisonment term of 6 months or less but more than 30 days, and Class C denotes an imprisonment term of 30 days or less but more than 5 days. Misdemeanors include offenses previously called minor offenses that were reclassified under the Federal Magistrate Act of 1979.

Pretrial misconduct—Instances in which a released defendant violated their pretrial release conditions, typically due to a technical violation of release conditions or a new arrest.

Pretrial release—A defendant's release from custody to the community, for all or part of the time before trial or during prosecution, on their promise to appear in court when required. The defendant may be released on personal recognizance, unsecured bond, or financial conditions. Pretrial release includes defendants released within 2 days after arrest and defendants released after posting bail or having release conditions changed at a subsequent hearing.

Pretrial revocation—The decision to detain a defendant for violating conditions of pretrial release or for committing a new crime while in a pretrial release status.

Definitions of major offense categories

Violent—Includes murder, nonnegligent or negligent manslaughter, aggravated or simple assault, robbery, rape or sexual assault, kidnapping, and threats against the President.

Property—Includes fraudulent and other types of property offenses.

Fraudulent property—Includes embezzlement, fraud, forgery, and counterfeiting.

Other property—Includes burglary, larceny, motor vehicle theft, arson, transportation of stolen property, destruction of property, trespassing, and other property offenses.

Drug—Includes offenses prohibiting the manufacture, import, export, distribution, or dispensing of a controlled substance (or counterfeit substance), or the possession of a controlled substance (or counterfeit substance) with intent to manufacture, import, export, distribute, or dispense.

Drug trafficking—Includes manufacturing, distributing, dispensing, selling, or possessing with the intent to manufacture, distribute, or sell a controlled substance or a counterfeit substance.

Drug possession and other—Includes offenses involving the possession of a controlled substance, acquiring a controlled substance by misrepresentation or fraud, attempting or conspiring to possess, or simple possession of a controlled substance.

Public order—Includes regulatory and other types of offenses.

Regulatory public order—Includes violation of agricultural, antitrust, labor, food and drug, and motor carrier regulatory laws and regulations, as well as other regulatory offenses.

Other public order—Includes nonregulatory offenses concerning tax law violations (tax fraud), bribery, perjury, national defense, escape, racketeering and extortion, gambling, liquor, mailing or transporting obscene materials, traffic, migratory birds, conspiracy, aiding and abetting, and jurisdiction, as well as other public order offenses.

Weapons—Includes violations of any provision of 18 U.S.C. §§ 922–923 concerning the manufacturing, importing, possessing, receiving, and licensing of firearms and ammunition.

Immigration—Includes offenses involving illegally entering the United States, illegally reentering after being deported, willfully failing to deport when so ordered, or bringing in or harboring any non-U.S. citizens not duly admitted by an immigration officer.

APPENDIX TABLE 1

Percentages for figure 2: Percent of defendants released pretrial with cases disposed in federal district courts, by most serious offense, FYs 2011–2018

Most serious offense	2011	2012	2013	2014	2015	2016	2017	2018
All offenses	35.5%	33.2%	32.0%	31.1%	31.8%	32.5%	32.3%	29.1%
Violent	30.4	31.4	30.6	31.1	28.5	31.0	30.7	30.1
Property	68.5	73.5	72.8	73.5	74.9	75.5	73.7	70.2
Drug	37.7	36.6	36.4	36.5	35.4	35.1	36.8	38.0
Public order	61.7	58.4	56.7	56.1	54.9	53.5	52.2	51.4
Weapons	30.2	30.6	28.3	28.2	26.5	25.5	25.6	24.9
Immigration	17.7	11.9	11.0	9.4	10.7	13.0	12.3	9.0

Source: Bureau of Justice Statistics, based on data from the Administrative Office of the U.S. Courts, Office of Probation and Pretrial Services Automated Case Tracking System, fiscal years 2011–2018.



The Bureau of Justice Statistics of the U.S. Department of Justice is the principal federal agency responsible for measuring crime, criminal victimization, criminal offenders, victims of crime, correlates of crime, and the operation of criminal and civil justice systems at the federal, state, tribal, and local levels. BJS collects, analyzes, and disseminates reliable statistics on crime and justice systems in the United States, supports improvements to state and local criminal justice information systems, and participates with national and international organizations to develop and recommend national standards for justice statistics. Doris J. James is the acting director.

This report was written by George E. Browne and Suzanne M. Strong. Ashlyn Oglesby-Neal and William Adams of The Urban Institute provided support. Mark Motivans verified the report.

David Fialkoff edited the report. Carrie Epps-Carey produced the report.

March 2022, NCJ 252837



NCJ 252837

Office of Justice Programs
Building Solutions • Supporting Communities • Advancing Justice
www.ojp.gov