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Bureau of Justice Statistics Special Report

Federal Justice Statistics Program, 1990

Pretrial Release of Federal Felony Defendants

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During 1990, 44,113 defendants facing Federal felony charges were scheduled to be interviewed by Federal pretrial services agencies. U.S. district courts released 27,235 (62%) of these defendants before case disposition. Among the 16,878 defendants who were not released, over three-fourths were held without bail, while the remainder had bail set but did not post the amount required.

These findings are drawn from the pretrial segment of the Bureau of Justice Statistics (BJS) Federal Justice Statistics Program. Comparable in format to previous BJS publications from the National Pretrial Reporting Program (NPRP), a survey of State felony courts, this report examines the likelihood of pretrial release given specific offenses, criminal history, and past observance of pretrial release conditions. Other findings include the following:

- The percentage of Federal felony defendants released prior to case disposition varied by type of offense — from 22% for robbery defendants to 98% for defendants whose most serious arrest charge was embezzlement or a regulatory offense.

- Defendants whose most serious charge at arrest was robbery (38%) or racketeering (63%) were the most likely to be held without bail, followed by those charged with murder (48%), tax offenses (40%), or drug trafficking (37%).

Beginning in 1986, BJS launched a biennial statistical series on pretrial release decision-making in a sample of State courts — the National Pretrial Reporting Program (NPRP) — which tracks the processing of felony arrestees. With this report, BJS initiates a parallel effort to describe the processing of Federal felony defendants.

These comparable data collection programs evidence interesting similarities and differences between the two populations of felons. While State felony defendants are about 4 times as likely as Federal defendants to have been charged with a violent offense, rates of pretrial release were nearly identical; nearly two-thirds of both Federal and State arrestees were released prior to case disposition. Released State defendants, however, were about 6 times as likely as Federal defendants to be subsequently rearrested and 8 times as likely to fail to appear.

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- Defendants who had some type of active criminal justice status at the time of arrest (44%) were less likely to be placed on pretrial release than defendants who did not have any (68%). Among defendants

with an active status, those on parole (28%) were the least likely to be released.

- Defendants with a poor court appearance history were also less likely to be released. Nearly two-thirds (65%) of defendants who had failed to appear in court more than once during previous cases were detained until case disposition during the current case. Over half (56%) of such defendants were held without bail.

- Defendants with a lengthy conviction record also had a lower probability of release. Sixty-one percent of the defendants who had five or more prior convictions were not released during the current case. Among such defendants 52% were held without bail, compared to 24% of defendants with no prior convictions.

- Compared to detained defendants, those placed on pretrial release were less likely to have a previous conviction for a felony (19%), and just 4% of such defendants had a prior conviction for a violent felony. Among defendants detained until case disposition, 36% had at least one prior felony conviction, and 10% had been previously convicted of a violent felony.

- The most common type of pretrial release for Federal felony defendants was unsecured bond, used in half of all releases. Approximately a fourth of all released defendants were required to post a financial bond, while about a fifth were released on their own recognizance.

Table 1. Federal felony defendants released before or detained until case disposition, by type of release and the most serious arrest charge, 1990

| Most serious arrest charge | Number of defendants | Percent of Federal felony defendants | | | | | | | |
|----------------------------|----------------------|--------------------------------------|------------------------|----------------|--------------|-------------|---------------------------------|--------------|-------------|
| | | Released before case disposition | | | | | Detained until case disposition | | |
| | | Total | Financial ^a | Unsecured bond | Recognizance | Conditional | Total | Held on ball | Denied ball |
| All offenses | 44,113 | 62% | 16% | 31% | 13% | 2% | 38% | 9% | 29% |
| Violent offenses | 2,689 | 43% | 8% | 17% | 15% | 2% | 57% | 7% | 50% |
| Murder ^b | 229 | 45 | 11 | 20 | 10 | 4 | 55 | 6 | 48 |
| Robbery | 1,363 | 22 | 7 | 9 | 5 | 1 | 78 | 10 | 68 |
| Assault | 551 | 70 | 11 | 31 | 25 | 4 | 30 | 4 | 26 |
| Other violent | 547 | 66 | 7 | 22 | 33 | 3 | 34 | 3 | 31 |
| Property offenses | 11,568 | 82% | 10% | 47% | 23% | 2% | 18% | 5% | 13% |
| Fraud | 5,958 | 80 | 11 | 45 | 22 | 2 | 20 | 6 | 14 |
| Larceny/theft | 1,801 | 81 | 10 | 49 | 20 | 2 | 19 | 7 | 12 |
| Embezzlement | 1,600 | 98 | 4 | 59 | 34 | 1 | 2 | 2 | 1 |
| Forgery | 913 | 83 | 9 | 51 | 22 | 1 | 17 | 6 | 11 |
| Counterfeiting | 479 | 82 | 16 | 47 | 18 | 1 | 18 | 6 | 13 |
| Other property | 817 | 69 | 11 | 34 | 23 | 1 | 31 | 7 | 24 |
| Drug offenses | 20,091 | 54% | 23% | 23% | 7% | 1% | 46% | 10% | 37% |
| Sales/trafficking | 19,906 | 53 | 23 | 23 | 7 | 1 | 47 | 10 | 37 |
| Other drug | 185 | 81 | 19 | 44 | 18 | 0 | 19 | 10 | 9 |
| Public-order offenses | 9,765 | 60% | 12% | 30% | 13% | 4% | 40% | 11% | 29% |
| Tax-related | 3,504 | 37 | 7 | 12 | 8 | 10 | 63 | 23 | 40 |
| Immigration | 2,586 | 63 | 15 | 35 | 12 | 2 | 37 | 6 | 30 |
| Weapons | 1,216 | 80 | 20 | 43 | 15 | 2 | 20 | 5 | 16 |
| Racketeering | 434 | 30 | 7 | 12 | 7 | 3 | 70 | 7 | 63 |
| Regulatory | 179 | 98 | 6 | 46 | 44 | 2 | 2 | 1 | 1 |
| Other public-order | 1,846 | 88 | 15 | 51 | 21 | 1 | 12 | 2 | 10 |

Note: Data describe 44,113 felony defendants scheduled to be interviewed by a Federal pretrial services agency during 1990. Data on specific detention/release outcome were available for 100% of such cases.

Detail may not add to total because of rounding.

^aIncludes deposit bond, surety bond, and property bond.

^bIncludes nonnegligent manslaughter and attempted murder.

- Among released defendants, 68% were released within 1 day of their arrest, and 84% were released within 1 week. About 80% of the defendants released on unsecured bond or personal recognizance were released within 1 day of arrest compared to 33% of those released under financial conditions.

- Nearly two-thirds of the defendants released on financial bond were facing drug charges. Defendants released on personal recognizance (47%) or unsecured bond (41%) were most likely to have been charged with a property offense, while public-order defendants (46%) comprised the largest group among those placed on conditional release.

- Thirteen percent of released defendants committed some type of violation while on pretrial release. About 3% were rearrested for a new offense, another 3% failed to appear in court as scheduled, and 8% committed technical violations of the conditions of their pretrial release agreement with the court.

Federal Justice Statistics Program (FJSP)

The FJSP contains five components corresponding to stages in the Federal criminal justice system: prosecution, pretrial release, adjudication, sentencing, and corrections. Sponsored by BJS, the database permits a comprehensive and unified description of the processing of defendants by the Federal criminal justice system.* The Federal Pretrial Services Agency provided the data for 44,113 defendants who were charged with a felony violation of Federal law and were scheduled for a pretrial interview during 1990.

The categories for data presented in this report are comparable to those for State felony defendants in a previous BJS study from the National Pretrial Reporting Program (NPRP). (See *Pretrial Release of Felony Defendants, 1990*, BJS Bulletin, NCJ-139560, November 1992.) In this report and in the NPRP report, defendants

*See *Compendium of Federal Justice Statistics*, prepared by Abt Associates Inc. and published annually by BJS.

are classified into mutually exclusive categories of detained and released. Defendants classified as detained were incarcerated continuously from arrest until case disposition (or until the end of the study period for cases still pending), and released defendants were those released at any time prior to case disposition. (See *Methodological notes* on page 11.)

Rates of pretrial release

Of the 44,113 Federal felony defendants scheduled to be interviewed in 1990, 27,235 or 62% were released before the court disposed of their case (table 1). Among the four major offense categories, defendants charged with a violent offense (43%) were the least likely to be released. A release rate of 22% for robbery defendants was a major reason for the low overall rate among violent defendants. Excluding robbery defendants, the rate of pretrial release for defendants charged with violent offenses was 64%, ranging from 45% for murder defendants to 70% for those whose most serious arrest charge was assault.

Defendants whose most serious arrest charge was a property offense had the highest percentage of pretrial release (82%) among persons in one of the four major offense categories. The release rates for defendants charged with

larceny/theft (81%), fraud (80%), forgery (83%), or counterfeiting (82%) were similar to the overall average for property defendants; however, defendants charged with embezzlement (98%) had a considerably higher release rate than property defend-

ants as a whole. Sixty percent of the defendants whose most serious arrest charge was a public-order offense were released prior to case disposition. By specific offense category, the release rates of public-order defendants ranged from nearly all (98%) of those charged with a regulatory offense to about a third of those charged with a tax-related offense (37%) or racketeering (30%).

Nearly all (99%) of the 20,091 Federal felony drug defendants included in this report were charged with drug trafficking, and 53% of those facing trafficking charges were released prior to case disposition. Among the 185 drug defendants charged with drug offenses other than trafficking, the percentage receiving pretrial release was considerably higher (81%).

Thirty-eight percent of the defendants interviewed by a Federal pretrial services agency were detained from the time of arrest until a U.S. district court disposed of their case. Seventy-seven percent of these detained defendants were denied bail, while 23% of them had a bail amount set but did not post the amount required to secure release.

Among robbery defendants 68% were denied bail, the highest proportion for any offense. The only other offense for which more than half of the defendants were denied bail was racketeering (63%). The defendants with the next highest percentages of bail denial were those whose most serious arrest charge was murder (48%), a tax-related offense (40%), or drug trafficking (37%).

Types of pretrial release

About a fourth (26%) of the Federal felony defendants who were released prior to the disposition of their case were required to meet financial conditions by posting a specified bail amount with the court or a third party in order to secure their release. Most financial releases involved the use of deposit bond or surety bond, but in some cases property (collateral) bond was used.

Overall, 16% of Federal felony defendants secured some type of financial pretrial release. This was nearly twice the percentage of defendants who were held on bail because they were unable to post the bond required to secure release (9%). Released property defendants (12%) were the least likely to have been released on financial release, while released drug defendants (42%) were the most likely.

Types of pretrial release

Financial

Deposit bond — The defendant deposits a percentage (usually 10%) of the full bail amount with the court. If the defendant fails to appear in court, he or she is liable to the court for the full amount of the bail. The percentage bail is returned after the disposition of the case, but the court often retains a small portion for administrative costs.

Surety bond — A bail bondsman signs a promissory note to the court for the full bail amount and charges the defendant a fee for the service (usually 10% of the full bail amount). If the defendant fails to appear, the bondsman is liable to the court for the full bail amount. Frequently the bondsman requires the defendant to post collateral in addition to the fee.

Property bond — The defendant is required to post property valued at the full bail amount with the court. The defendant must forfeit this collateral if he or she does not appear in court.

Nonfinancial

Unsecured bond — The defendant pays no money to the court but is liable for the full bail amount should he or she fail to appear in court.

Release on recognizance — Generally, the only condition placed on the defendant under personal recognizance release is a written agreement to appear in court as scheduled.

Conditional release — This type of release involves placing nonfinancial conditions on the defendant such as restrictions on movements, personal associations, and/or actions. Conditional release restrictions may also involve conditions related to employment, education, or treatment for medical and/or psychological conditions. Such conditions may also apply under other types of release; however, the category of "conditional release" in this report refers to cases where these conditions are used exclusive of other types of release.

The Bail Reform Act of 1984

The act authorizes pretrial detention for specific categories of offenses and offenders. It states that withholding bail, rather than imposing financial conditions which cannot be met, shall be the means to detain defendants. The act authorizes the denial of bail for defendants charged with certain violent offenses, drug offenses for which the maximum sentence upon conviction is 10 years or more, offenses for which the sentence includes the possibility of life in prison or execution, or specified violent or drug trafficking offenses involving the use of a firearm.

Additionally, the act authorizes prosecutors to request a denial of bail if, during the previous 5 years, the defendant was convicted of a specified serious offense committed while on pretrial release or has been previously convicted of two or

more specified serious offenses. Other provisions of the act authorize detention of defendants who at the time of the offense were illegal aliens, on pretrial release, on release pending sentencing, on probation, or on parole at the time of their arrest for the current offense. Defendants considered a risk to flee or a danger to other persons may also be detained.

A previous BJS study (*Pretrial Release and Detention: The Bail Reform Act of 1984* NCJ-109929) presented the effects of the Bail Reform Act of 1984. Comparing data from 1983 and 1985, the study found that the law slightly increased the percentage of Federal defendants held until trial. The act also increased considerably the percentages of detained Federal defendants who were held without bail and of defendants given bail who were able to secure release.

Federal felony defendants were nearly 3 times as likely to be released under nonfinancial terms (unsecured bond, personal recognizance, or conditional release) as on financial conditions. Unsecured bond was the most likely type of release, accounting for two-thirds of nonfinancial releases and half of all pretrial releases. Thirty-one percent of all Federal felony defendants were released on unsecured bond. Personal recognizance, used for 1 in 5 releases, was the second most common type of nonfinancial release. Overall, 13% of Federal felony defendants were released on recognizance. Two percent of Federal felony defendants were granted conditional pretrial release.

Criminal justice factors and pretrial release

The Bail Reform Act of 1984 provides that in reaching decisions on bail and pretrial release, the Federal courts shall consider ensuring not only the defendant's appearance in court but also the safety of individuals and the community. (See the accompanying box on the act.) Consequently, criminal justice factors such as the serious-

ness of the charged offense, the weight of the evidence against the defendant, the sentence which may be imposed upon conviction, criminal justice status at the time of arrest, court appearance history, and prior convictions are likely to influence the release decisions of the court. The FJSP data clearly illustrate the effects of these last three factors on a defendant's probability of release.

Criminal justice status

About 1 in 4 Federal felony defendants had some type of active State or Federal criminal justice status at the time of arrest (table 2). This includes persons on pretrial release pending disposition of a previous case, and those on probation, parole, or community supervision. In general defendants with an active criminal justice status had a lower chance of being released before disposition than defendants without such status.

While about two-thirds of the defendants who had no active criminal justice status at the time of arrest were released prior to case disposition, less than half of those

with an active status received pretrial release. Among defendants with an active criminal justice status at arrest, those on parole were the least likely to be released (28%). Slightly more than half of defendants on probation (53%) or on pretrial release for an already pending case (57%) were released prior to disposition of the current case. Sixty-two percent of the defendants on parole at the time of arrest were held without bail. This was almost 3 times the percentage of defendants with no criminal justice status (23%) who were denied bail. Slightly more than a third of the defendants on probation (36%) or on pretrial release for a previous case (35%) were denied bail.

Court appearance history

Fifty-three percent of the Federal felony defendants included in the study had one or more prior arrests on State or Federal charges and their court appearance record during these previous cases affected their chances of being released prior to disposition of the current case (table 3).

Table 2. Federal felony defendants released before or detained until case disposition, by criminal justice status at time of arrest, 1990

| Criminal justice status at arrest | Number of defendants | Percent of Federal felony defendants | | | | | | |
|-----------------------------------|----------------------|--------------------------------------|-----------|----------------|--------------|-------------|---------------------------------|-------------|
| | | Released before case disposition | | | | | Detained until case disposition | |
| | | Total | Financial | Unsecured bond | Recognizance | Conditional | Total | Denied ball |
| Parole | 1,295 | 28% | 8% | 14% | 5% | 1% | 72% | 10% |
| Probation | 2,671 | 53 | 15 | 28 | 9 | 1 | 47 | 36 |
| Pretrial release | 2,735 | 57 | 20 | 27 | 9 | 1 | 43 | 35 |
| None | 32,241 | 68 | 17 | 34 | 15 | 2 | 32 | 23 |

Note: Data on both criminal justice status at time of arrest and detention/release outcome were available for all defendants. Table excludes defendants who had more than 1 type of criminal justice status or a type other than those listed above.

Detail may not add to total because of rounding.
*Includes deposit bond, surety bond, and property bond.

Table 3. Federal felony defendants released before or detained until case disposition, by court appearance history, 1990

| Court appearance history | Number of de-fendants | Percent of Federal felony defendants | | | | | | | |
|---|-----------------------|--------------------------------------|------------|----------------|--------------|--------------|---------------------------------|--------------|-------------|
| | | Released before case disposition | | | | | Detained until case disposition | | |
| | | Total released | Financial* | Unsecured bond | Recognizance | Con-ditional | Total detained | Held on bail | Denied ball |
| Number of times failed to appear in court | | | | | | | | | |
| More than one | 1,389 | 35% | 9% | 18% | 7% | 1% | 65% | 9% | 56% |
| One | 1,961 | 43 | 13 | 20 | 8 | 2 | 57 | 9 | 48 |
| None | 19,917 | 58 | 18 | 29 | 10 | 2 | 42 | 9 | 33 |
| No prior arrests | 20,823 | 69 | 16 | 34 | 17 | 3 | 31 | 9 | 23 |

Note: Data on both court appearance history and detention/release outcome were available for all defendants. Detail may not add to total because of rounding.

*Includes deposit bond, surety bond, and property bond.

Table 4. Federal felony defendants released before or detained until case disposition, by prior conviction record, 1990

| Prior conviction record | Number of defendants | Percent of Federal felony defendants | | | | | | | |
|-------------------------------|----------------------|--------------------------------------|------------|----------------|-------------|---------------|---------------------------------|--------------|-------------|
| | | Released before case disposition | | | | | Detained until case disposition | | |
| | | Total released | Financial* | Unsecured bond | Recognition | Con- ditional | Total detained | Held on bail | Denied ball |
| Number of prior convictions | | | | | | | | | |
| 5 or more | 3,768 | 39% | 11% | 20% | 7% | 2% | 61% | 9% | 52% |
| 2 to 4 | 7,664 | 53 | 16 | 25 | 9 | 2 | 47 | 9 | 39 |
| 1 | 6,988 | 63 | 19 | 32 | 11 | 2 | 37 | 9 | 28 |
| None | 25,693 | 67 | 16 | 33 | 15 | 2 | 33 | 9 | 24 |
| Most serious prior conviction | | | | | | | | | |
| Felony | 10,054 | 49% | 15% | 24% | 8% | 2% | 51% | 9% | 43% |
| Violent | 2,438 | 43 | 13 | 22 | 7 | 2 | 57 | 8 | 49 |
| Nonviolent | 7,616 | 51 | 15 | 25 | 9 | 2 | 49 | 9 | 41 |
| Misdemeanor | 6,408 | 68 | 20 | 34 | 12 | 2 | 32 | 9 | 23 |

Note: Data on number of prior convictions and detention/release outcome were available for all defendants; however, data on seriousness of prior offenses was not available for 11% of defendants with a prior conviction.

Detail may not add to total because of rounding.

*Includes deposit bond, surety bond, and property bond.

Among defendants with a record of failing to appear in court more than once during previous cases, 35% were granted pretrial release during the current case. Among those defendants with a single prior missed court appearance, 43% were released prior to disposition of the current case. Among defendants who had been arrested previously but had made all scheduled court appearances for those cases, 58% obtained pretrial release during the current case. Only defendants with no prior arrests at all had a higher release rate (69%).

A majority (56%) of the defendants who had failed to appear in court more than once during previous cases were held without ball during the current case. Just under half (48%) of those with a single prior missed court appearance were denied ball, as were 33% of those who had been previously arrested but had never missed a court appearance.

Prior convictions

The number and severity of a defendant's prior convictions in State or Federal courts also affected his or her chances of obtaining pretrial release during the current case. As a defendant's number of prior convictions increases so does the probability that the defendant has a conviction on a more serious offense. Thus, these two measures have similar relationships with the probability of pretrial release.

Fifty-eight percent of all Federal felony defendants had no prior convictions in State or Federal court, and 67% of such defendants were released prior to case disposition (table 4). Defendants with one prior conviction had a slightly lower release rate (63%), and the percentage of defendants released continued to decrease as the number of prior convictions increased. Of the defendants with two to four prior convictions, 53% were released, and 39% of those with five or more prior convictions were released.

Defendants with only misdemeanor convictions (68%) were released at about the same rate as those with no conviction record, while 49% of the defendants with at least one prior felony conviction were released. Defendants whose most serious prior conviction was a violent felony (43%) were released less often than those whose prior felony convictions were for only non-violent offenses (51%).

About half of the defendants with five or more prior convictions (52%) or a prior conviction for a violent felony (49%) were denied ball, compared to about a fourth of those with no prior convictions (24%) or only a misdemeanor conviction record (23%). Forty-one percent of the defendants whose most serious prior conviction was for a nonviolent felony were held without ball during the current case.

Defendant characteristics and pretrial release

Personal characteristics of the defendant may also influence the court's pretrial release decisions. Such considerations include the defendant's mental condition and personal reputation, employment status and financial resources, and family and community ties. Although not available for all such factors, the FJSP data do indicate some variation in release rate by characteristics such as history of drug use, employment status, marital status, and educational level.

Unemployed defendants (54%) were less likely to be released than those who were employed (72%); defendants with a history of drug use (59%) were less likely to be released than those with no such history (67%); and defendants who were single (58%) were less likely to be released than married defendants (70%) (table 5). The higher the defendant's educational level, the higher the possibility of release before trial. Defendants with a college degree (78%) had the highest release rate, followed by those who had attended college without earning a degree (73%), those with a high school diploma (68%), and those who had not graduated from high school (55%). Further analyses are needed to determine the extent to which these factors independently affected release rates or were highly associated with more influential factors like offense and criminal history.

The pretrial release rates of Federal defendants also varied according to the demographic characteristics of sex, race, and age. Fifty-eight percent of the male defendants were granted release before case disposition, compared to 80% of female defendants, and male defendants (32%) were more than twice as likely as female defendants (14%) to be denied bail (table 5).

Black defendants had a lower release rate (57%) than whites (63%) or members of other racial groups (69%), and defendants under age 35 (58%) were released less often than older defendants (70%).

These differences in release rates among demographic subgroups may be a result of those groups' association with legally relevant factors that the court often must consider in granting pretrial release — such

as severity of offense, criminal justice status, criminal history, community ties, financial resources, and employment status. For example, the male defendants, in addition to being released less often than their female counterparts, were also more likely to have an active criminal justice status at the time of arrest (17% versus 10%) and more likely to have a prior felony conviction (26% versus 12%). Similar differences existed between black and white defendants, with blacks (24%) more likely than whites (15%) to have an active criminal justice status at arrest and also more likely to have a prior felony conviction (29% versus 23%). Defendants under age 35 (19%) were more likely to have an active criminal justice status at the time of arrest than were older defendants (14%).

Table 5. Federal felony defendants released before or detained until case disposition, by selected personal characteristics, 1990

| Defendant characteristic | Number of defendants | Percent of Federal felony defendants | | | | | | | |
|----------------------------|----------------------|--------------------------------------|------------|----------------|-------------|-------------|---------------------------------|--------------|-------------|
| | | Released before case disposition | | | | | Detained until case disposition | | |
| | | Total released | Financial* | Unsecured bond | Recognition | Conditional | Total detained | Held on bail | Denied bail |
| Sex | | | | | | | | | |
| Male | 37,248 | 58% | 17% | 28% | 11% | 2% | 42% | 9% | 32% |
| Female | 6,849 | 80 | 14 | 43 | 21 | 2 | 20 | 6 | 14 |
| Race | | | | | | | | | |
| Black | 11,491 | 57% | 13% | 32% | 10% | 1% | 43% | 7% | 36% |
| White | 30,555 | 63 | 17 | 30 | 13 | 2 | 37 | 10 | 27 |
| Other | 1,910 | 69 | 15 | 26 | 25 | 2 | 31 | 3 | 28 |
| Age | | | | | | | | | |
| Under 21 | 3,574 | 58% | 13% | 28% | 13% | 4% | 43% | 12% | 32% |
| 21-34 | 22,686 | 58 | 16 | 28 | 11 | 2 | 43 | 10 | 33 |
| 35 or older | 16,404 | 70 | 17 | 36 | 15 | 1 | 31 | 7 | 24 |
| Marital status | | | | | | | | | |
| Married | 16,322 | 70% | 19% | 34% | 15% | 2% | 30% | 8% | 22% |
| Divorced/separated | 8,147 | 65 | 16 | 35 | 13 | 1 | 35 | 8 | 27 |
| Single | 13,278 | 58 | 15 | 30 | 12 | 2 | 42 | 9 | 33 |
| Educational level | | | | | | | | | |
| College graduate | 3,447 | 78% | 18% | 41% | 18% | 1% | 21% | 4% | 17% |
| Some college | 8,156 | 73 | 18 | 38 | 17 | 1 | 27 | 5 | 22 |
| High school graduate | 12,422 | 68 | 17 | 36 | 14 | 1 | 31 | 6 | 25 |
| Not high school graduate | 15,712 | 55 | 17 | 26 | 10 | 2 | 45 | 12 | 33 |
| Employment status | | | | | | | | | |
| Employed | 24,264 | 71% | 19% | 35% | 15% | 1% | 29% | 8% | 21% |
| Unemployed | 16,513 | 54 | 13 | 28 | 11 | 2 | 46 | 9 | 37 |
| History of drug use | | | | | | | | | |
| Yes | 8,609 | 59% | 16% | 31% | 11% | 1% | 42% | 8% | 34% |
| No | 29,385 | 67 | 17 | 34 | 14 | 1 | 33 | 8 | 25 |

Note: Data for each characteristic were available for the following percentages of defendants: Sex, 100%; race, 100%; age, 97%; marital status, 93%;

education, 90%; employment status, 93%; and drug use, 87%. Detail may not add to total because of rounding.

Time from arrest to pretrial release

Overall, about two-thirds (68%) of all pretrial releases occurred either on the day of arrest or on the following day, 84% occurred within 1 week of arrest, and 93% occurred within 1 month of arrest (table 6).

Property defendants, who had the highest release rate, were also released more

quickly on average. Of the approximately 6,700 defendants charged with a property offense and subsequently placed on pretrial release, 85% were released on the day of arrest or on the following day, compared to 70% of public-order defendants, 56% of defendants charged with a violent offense, and 52% of drug defendants. A week after arrest, about 9 in 10 releases of property defendants and public-order

defendants had occurred. About 3 in 4 releases of defendants charged with violent or drug-related offenses occurred within 1 week.

Defendants who were released on personal recognizance or on unsecured bond tended to be released sooner after their arrest than other defendants. About 80% of such defendants were discharged on the day of arrest or on the following day, and 90% were released within a week of arrest. In contrast, just 33% of those released under financial conditions and 46% of those placed on conditional release were released within a day of their arrest. A week after arrest, 65% of financial releases and 84% of conditional releases had occurred. Overall, 95% of nonfinancial releases occurred within a month of arrest, compared to 87% of releases on financial conditions.

Released versus detained Federal felony defendants

Defendants detained until case disposition (36%) were about twice as likely to have a previous conviction for a felony as those who were placed on pretrial release (19%) (table 7). Ten percent of detained defendants had been previously convicted of a violent felony, compared to 4% of released defendants.

Table 6. Time from arrest to pretrial release for Federal felony defendants released before case disposition, 1990

| | Number of defendants | Percent of Federal felony defendants released before case disposition who were released within: | | |
|-----------------------------------|----------------------|---|--------|---------|
| | | 1 day | 1 week | 1 month |
| All released defendants | 18,755 | 68% | 84% | 93% |
| Most serious arrest charge | | | | |
| Violent | 841 | 56% | 76% | 88% |
| Property | 6,676 | 85 | 92 | 96 |
| Drugs | 7,092 | 52 | 76 | 89 |
| Public-order | 4,145 | 70 | 87 | 95 |
| Type of release | | | | |
| Financial* | 4,522 | 33% | 65% | 87% |
| Unsecured bond | 9,370 | 80 | 90 | 95 |
| Recognizance | 3,993 | 82 | 91 | 95 |
| Conditional | 870 | 46 | 84 | 95 |

Note: Data on time from arrest to pretrial release were available for 89% of defendants who were released prior to case disposition.

*Includes deposit bond, surety bond, and property bond.

Table 7. Prior conviction record of Federal felony defendants, by whether released before or detained until case disposition and the most serious arrest charge, 1990

| Release status and most serious arrest charge | | Total | | Number of prior convictions | | | Most serious prior conviction | | | |
|---|------|------------------------------|---------------------------|-----------------------------|-----|-----|-------------------------------|---------|-----------------|------------------|
| | | No prior con- victions | Prior con- victions | 5 or more | 2-4 | 1 | Felony | | | Misde- meanor |
| | | | | | | | Total | Violent | Non- violent | |
| Released defendants | | | | | | | | | | |
| All offenses | 100% | 64% | 36% | 5% | 15% | 16% | 19% | 4% | 15% | 17% |
| Violent | 4% | 3% | 2% | -- | 1% | 1% | 1% | -- | -- | 1% |
| Property | 35 | 24 | 10 | 2 | 4 | 5 | 6 | 1 | 5 | 5 |
| Drugs | 39 | 23 | 16 | 2 | 7 | 8 | 8 | 2 | 7 | 8 |
| Public-order | 21 | 13 | 8 | 2 | 3 | 3 | 5 | 1 | 3 | 3 |
| Detained defendants | | | | | | | | | | |
| All offenses | 100% | 49% | 51% | 13% | 22% | 16% | 36% | 10% | 26% | 14% |
| Violent | 9% | 3% | 6% | 2% | 3% | 1% | 4% | 2% | 2% | 2% |
| Property | 12 | 6 | 7 | 2 | 3 | 2 | 5 | 1 | 4 | 1 |
| Drugs | 55 | 31 | 25 | 5 | 11 | 9 | 18 | 4 | 14 | 8 |
| Public-order | 23 | 10 | 13 | 4 | 5 | 3 | 9 | 3 | 7 | 3 |

Note: Table includes 27,235 defendants who were released before case disposition and 16,878 defendants who were detained until case disposition. Data on number of prior convictions were available for all defendants; however, data on the seriousness of prior convictions were not available

for 6% of the released defendants with a prior conviction record and 16% of the detained defendants with a prior conviction record. Detail may not add to total because of rounding.
--Less than 0.5%.

Overall, 36% of released defendants had at least one prior conviction, compared to 51% of those detained until case disposition. Equal percentages (16%) of the two groups had a single prior conviction, but detained defendants (35%) were more likely than released defendants (20%) to have multiple prior convictions. Thirteen percent of detained defendants had five or more prior convictions, compared to 5% of released defendants.

Defendant characteristics by type of release

Nearly two-thirds of the Federal felony defendants released on financial bond were awaiting trial on drug charges, compared to about a third of those released on unsecured bond, and about a fourth of those released on recognizance or on conditional release (table 8).

Defendants released on unsecured bond (41%) or on personal recognizance (47%) were most likely to be facing a property-related charge, while public-order defendants (46%) comprised the largest group among defendants placed on conditional release.

Larger percentages of the defendants placed on financial release (87%) or conditional release (85%) were male than defendants released on unsecured bond (78%) or recognizance (75%). A larger percentage of those released on unsecured bond (27%) were black than those granted other types of release (20%). Defendants placed on conditional release (15%) were more likely than other released defendants (7%) to be under age 21, and less likely to be age 35 or older (25% versus 44%).

Although defendants released on financial bond were the most likely to have a prior conviction record (51%), defendants placed on conditional release were the most likely to have a prior conviction for a felony (33%). Defendants released on their own recognizance were the least likely to have a prior conviction of any type (34%) or a prior felony conviction (18%).

The percentage of defendants who had missed at least one court appearance during a previous case varied only slightly by the type of pretrial release during the current case, ranging from 4% of those released on recognizance to 6% of those on conditional release.

Table 8. Characteristics of Federal felony defendants released before case disposition, by type of release, 1990

| Defendant characteristic | Percent of released Federal felony defendants | | | | |
|--------------------------------------|---|--------------|----------------|--------------|-------------|
| | All types of release | Financial* | Unsecured bond | Recognizance | Conditional |
| Most serious arrest charge | | | | | |
| Violent | 4% | 3% | 3% | 7% | 7% |
| Property | 35 | 16 | 41 | 47 | 20 |
| Drug | 40 | 64 | 34 | 23 | 27 |
| Public-order | 21 | 17 | 22 | 22 | 46 |
| Sex | | | | | |
| Male | 80% | 87% | 78% | 75% | 85% |
| Female | 20 | 13 | 22 | 25 | 15 |
| Race | | | | | |
| Black | 27% | 21% | 27% | 21% | 16% |
| White | 69 | 75 | 69 | 70 | 79 |
| Other | 4 | 4 | 4 | 9 | 5 |
| Age | | | | | |
| Under 21 | 8% | 7% | 7% | 8% | 15% |
| 21-34 | 49 | 53 | 48 | 45 | 60 |
| 35 or older | 43 | 41 | 44 | 46 | 25 |
| Most serious prior conviction | | | | | |
| Felony | 24% | 29% | 24% | 18% | 33% |
| Misdemeanor | 19 | 22 | 19 | 16 | 15 |
| None | 57 | 49 | 57 | 66 | 52 |
| Court appearance history | | | | | |
| Failed to appear at least once | 5% | 5% | 5% | 4% | 6% |
| Made all appearances | 43 | 49 | 43 | 34 | 37 |
| Had no prior arrests | 53 | 46 | 52 | 61 | 57 |
| Number of defendants | 27,235 | 7,133 | 13,486 | 5,658 | 958 |

Note: Data were available for all released defendants for each characteristic except for age (91% available) and most serious prior conviction (64%).

*Includes deposit bond, surety bond, and property bond.

Misconduct by Federal felony defendants on pretrial release

Of the 27,235 Federal defendants who were interviewed by a pretrial services agency and subsequently placed on pretrial release, about 20,000 had cases terminated during 1990. About 3% of these defendants had a bench warrant issued for their arrest because they failed to appear in court as scheduled (table 9).

Because of the small percentage of defendants failing to appear in court, only small variations were found among the various defendant characteristics in terms of failure-to-appear rates.

The largest differences were found by court appearance history and by type of release. Defendants who failed to appear during a previous case (5%) were more likely to fail to appear during the current case than

other defendants (2%), and defendants released on financial bond (5%) also had a higher failure-to-appear rate than other defendants.

About 3% of released defendants were rearrested for a new offense committed while on pretrial release. Approximately half of these new offenses were felonies. As with failure-to-appear rates, only small variations in rearrest rates were found among the various categories of defendants, with the largest variation being in terms of defendant criminal history. Eight percent of the defendants with 5 or more prior convictions were rearrested for a new offense committed while on pretrial release compared to 4% of those with fewer than 5 prior convictions, 2% of those with no prior convictions, and 1% of those with no prior arrests.

Eight percent of released defendants were cited for technical violations of their pretrial release agreement. Usually such violations involved violations of reporting requirements or drug use prohibitions. Defendants who had failed to appear in court during a previous case (18%) or had five or more prior convictions (15%) were the most likely to commit a technical violation of their pretrial release agreement. Other groups of defendants in which more than 10% were cited for a technical violation included black defendants (13%), defendants with two to four prior convictions (12%), defendants charged with a drug offense (11%), and defendants under the age of 21 (11%).

Overall, 13% of released defendants either were rearrested for a new offense, failed to appear in court, or committed a technical violation. Some defendants committed more than one of these types of misconduct. The highest overall rates of pretrial misconduct were among the following: Defendants who had failed to appear in court during a previous case (31%), defendants with five or more prior convictions (26%), black defendants (20%), defendants under age 21 (20%), defendants charged with a violent or drug offense (18%), and defendants released on financial bond (17%). Public-order defendants (8%), defendants with no prior arrests (8%), and defendants age 35 or older (9%) had the lowest rates of pretrial misconduct.

Table 9. Behavior of Federal felony defendants while on pretrial release, by selected characteristics, 1990

| Defendant characteristic | Number of defendants ^a | No known misconduct | Percent of Federal felony defendants committing misconduct | | | |
|---|-----------------------------------|---------------------|--|------------------|----------------------------|--|
| | | | Total | Failed to appear | Rearrested for new offense | Committed a technical violation ^b |
| All released defendants | 20,352 | 87% | 13% | 3% | 3% | 8% |
| Most serious arrest charge | | | | | | |
| Violent | 855 | 82% | 18% | 2% | 6% | 10% |
| Property | 7,178 | 90 | 10 | 2 | 2 | 6 |
| Drug | 8,086 | 82 | 18 | 4 | 4 | 11 |
| Public-order | 4,427 | 92 | 8 | 2 | 2 | 4 |
| Type of release | | | | | | |
| Financial | 5,637 | 83% | 17% | 5% | 4% | 9% |
| Unsecured bond | 10,249 | 88 | 12 | 2 | 3 | 7 |
| Recognizance | 4,466 | 90 | 10 | 2 | 3 | 6 |
| Sex | | | | | | |
| Male | 16,233 | 86% | 14% | 3% | 3% | 8% |
| Female | 4,109 | 89 | 11 | 2 | 2 | 7 |
| Race | | | | | | |
| Black | 4,909 | 80% | 20% | 3% | 5% | 13% |
| White | 14,462 | 90 | 10 | 2 | 2 | 6 |
| Other | 905 | 85 | 15 | 2 | 5 | 8 |
| Age | | | | | | |
| Under 21 | 1,252 | 80% | 20% | 3% | 6% | 11% |
| 21-34 | 9,587 | 84 | 16 | 3 | 3 | 10 |
| 35 or older | 8,843 | 91 | 9 | 2 | 2 | 5 |
| Court appearance history on previous arrests | | | | | | |
| Failed to appear | 976 | 69% | 31% | 5% | 8% | 18% |
| Made all appearances | 8,810 | 83 | 17 | 2 | 4 | 10 |
| Had no prior arrests | 10,556 | 92 | 8 | 2 | 1 | 5 |
| Number of prior convictions | | | | | | |
| 5 or more | 1,142 | 74% | 26% | 3% | 8% | 15% |
| 2-4 | 2,985 | 81 | 19 | 3 | 5 | 12 |
| 1 | 3,414 | 85 | 15 | 3 | 4 | 9 |
| None | 12,811 | 90 | 10 | 2 | 2 | 6 |

Note: The sum of the percentages under the individual types may not equal the total because a defendant may have committed more than one type of misconduct or because of rounding.

^aIncludes cases terminated by a pretrial services agency during 1990.

^bIncludes reporting violations and violation of conditions involving the use of illegal drugs.

**Federal and State felony defendants:
Types of offenses and rates of pretrial
release and bail denial**

Every 2 years BJS collects sample data describing the processing of felony cases by State courts in the 75 most populous counties. These data, collected through the National Pretrial Reporting Program (NPRP), provide extensive information on the pretrial release phase of the criminal justice process. Although the data elements included in NPRP do not correspond exactly with those in the pretrial segment of the BJS Federal Justice Statistics Program, existing overlap does allow for some comparisons between the two data collections. The comparisons here use data only for Federal defendants who were charged with a felony and subsequently interviewed by a Federal pretrial services agency, not for all cases brought by the U.S. attorneys.

In terms of the most serious arrest charge, important differences existed between State and Federal defendants as they entered the pretrial phase. The State court defendants in the NPRP study (26%) were much more likely than the Federal defendants included in this report (6%) to be facing a charge for a violent offense. Among the State court defendants charged with a violent offense, nearly half were charged with assault, and about a third were charged with robbery. (The detailed offenses are not presented in the table.) The Federal defendants facing a charge for a violent offense were most often charged with robbery (51%).

Although less likely to be facing a charge for a violent offense, the Federal defendants (22%) were nearly 3 times as likely as the State court defendants (8%) to be facing a charge for a public-order offense. A majority of these Federal public-order defendants were charged with tax offenses (36%) or immigration offenses (26%).

The Federal defendants (26%) were somewhat less likely to have been charged with a property offense than the State court defendants (34%). About three-fourths of the Federal property

| | Percent of felony defendants | |
|---|------------------------------|-------|
| | Federal | State |
| Most serious arrest charge | 100% | 100% |
| Violent | 6% | 26% |
| Property | 26 | 34 |
| Drug | 46 | 33 |
| Public-order | 22 | 8 |
| Released prior to case disposition | 62% | 65% |
| Violent offenses | 43% | 63% |
| Murder | 45 | 37 |
| Robbery | 22 | 51 |
| Assault | 70 | 75 |
| Property offenses | 82% | 67% |
| Larceny/theft | 81 | 67 |
| Drug offenses | 54% | 65% |
| Drug trafficking | 53 | 61 |
| Public-order offenses | 60% | 69% |
| Denied bail | 29% | 6% |
| Violent offenses | 50% | 8% |
| Murder | 43 | 38 |
| Robbery | 68 | 10 |
| Assault | 26 | 5 |
| Property offenses | 13% | 6% |
| Larceny/theft | 12 | 6 |
| Drug offenses | 37% | 5% |
| Drug trafficking | 37 | 5 |
| Public-order offenses | 29% | 6% |

defendants were charged with fraudulent offenses such as fraud (52%), embezzlement (14%), forgery (8%), or counterfeiting (4%). A similar proportion of the State court property defendants were charged with larceny/theft (42%) or burglary (30%).

Persons charged with drug offenses comprised the largest group among Federal defendants. Such defendants made up 46% of the Federal defendants, compared to 33% of the State court defendants. Nearly all (99%) of the Federal drug defendants faced drug trafficking charges, compared to just over half (54%) of the State court defendants.

Overall, a similar percentage of Federal defendants (62%) and State court defendants (65%) were released prior to case disposition. However, there were some significant differences between the two judicial systems in the types of

defendants released and the bail conditions placed on defendants.

Although Federal murder defendants (45%) were more likely to obtain pretrial release than State murder defendants (37%), the overall release rate for defendants charged with a violent offense was higher in the State courts (63%) than in the Federal courts (43%). Much of this difference can be attributed to the fact that just 22% of the Federal robbery defendants, versus 51% of State robbery defendants, received pretrial release.

Federal drug defendants (54%) were also less likely to be released prior to the disposition of their case than drug defendants in the State courts (65%). Among defendants charged specifically with drug trafficking, 53% of the Federal defendants were released compared to 61% of the State defendants.

Sixty percent of Federal public-order defendants were released, compared to 69% of public-order defendants in State courts. Among defendants in the four major offense categories, only those facing property charges were more likely to be released prior to case disposition in the Federal courts (82%) than in State courts (67%). These differences can be attributed in part to differences between State and Federal defendants in the types of specific offenses included in the property and public-order categories.

Twenty-nine percent of all Federal defendants were denied bail, compared to 6% of State court defendants. Among those who were detained until case disposition, Federal defendants (77%) were about 4 times as likely as State court defendants (19%) to have been denied bail.

A slightly smaller percentage of State court murder defendants (38%) were denied bail, compared to Federal murder defendants (48%); however, robbery defendants (68% versus 10%) and drug defendants (37% versus 5%) were about 7 times as likely to be ordered held without bail in the Federal courts as in the State courts.

Methodological notes

This report is based on a data file created in June 1991. Not all cases scheduled for interview by a pretrial services agency during 1990 had reached termination by that time. This is especially true of cases originating late in 1990. The category "detained until case disposition" that is used in this report includes all defendants who were not released before the end of

the study period regardless of whether or not their cases had been terminated by the time the data file was created. It is possible that some of these defendants with pending cases were later released.

Since the FJSP data show that 93% of all pretrial releases occurred within 1 month of arrest, and the data file used provides a coverage period that is several months longer than that for all cases, it can be

assumed that the number of pretrial releases unaccounted for in the report is quite small. Among cases scheduled for interview during the first 9 months of 1990 (those with the longest period of coverage) the release rate was 63%. Based on this finding, it is reasonable to assume that if all cases were followed until termination that the overall pretrial release rate might be closer to 63% than the 62% reported here.

Pretrial release of Federal and State felony defendants: Type and timing of release and misconduct while on release

The conditions imposed on defendants released by the Federal courts varied somewhat from those released by the State courts. For example, about 38% of released State court defendants were required to post financial bond compared to 26% of the Federal defendants who were released. The most common type of pretrial release for Federal defendants was unsecured bond, which accounted for 50% of all pretrial releases of Federal defendants. Unsecured bond accounted for just 8% of the State court releases.

Released State court defendants (40%) were about twice as likely to have been released on their own recognizance as released Federal defendants (21%), and conditional release was used 3 times as often for the release of State court defendants (12%) as for Federal defendants (4%).

About two-thirds (68%) of Federal pretrial releases occurred on the day of arrest or the following day compared to just over half (54%) of those in the State courts. Release on personal recognizance was much more likely to occur within 1 day of arrest in the Federal courts (82%) than in the State courts (52%) while conditional release occurred this quickly more often in the State court system (72% versus 46%).

A large majority of all releases in the Federal (84%) and State (80%) systems occurred within 1 week of the defendant's arrest. In both systems, financial releases took longer on average than other types of release. This difference was somewhat more pronounced in the Federal system where 65% of financial releases and 90% of nonfinancial releases occurred within 1 week of arrest. In State courts, 75% of financial

| | Percent of released felony defendants | |
|---|--|-------|
| | Federal | State |
| Type of release | | |
| Financial bond | 26% | 38% |
| Unsecured bond | 50 | 8 |
| Recognizance | 21 | 40 |
| Conditional release | 4 | 12 |
| Released within 1 day of arrest | 68% | 54% |
| Financial bond | 33% | 45% |
| Unsecured bond | 80 | 76 |
| Recognizance | 82 | 52 |
| Conditional release | 46 | 72 |
| Released within 1 week of arrest | 84% | 80% |
| Financial bond | 65% | 75% |
| Unsecured bond | 90 | 90 |
| Recognizance | 91 | 82 |
| Conditional release | 84 | 82 |
| Rearrested for new offense | 3% | 18% |
| Violent | 6% | 16% |
| Property | 2 | 21 |
| Drug | 4 | 20 |
| Public-order | 2 | 9 |
| Failed to appear in court | 3% | 24% |
| Violent | 2% | 19% |
| Property | 2 | 28 |
| Drug | 4 | 26 |
| Public-order | 2 | 13 |

releases occurred within a week of arrest, compared to 83% of nonfinancial releases.

The rearrest rates and failure-to-appear rates of Federal defendants on pretrial release were considerably lower than those of State court defendants. State court defendants (18%) were 6 times as likely as Federal defendants (3%) to be rearrested for a new offense committed while on pretrial release, and they were 8 times as likely as Federal defendants to have a bench warrant issued for their arrest because they failed to appear in court as scheduled (24% versus 3%).

Although tables describing the pretrial release phase of the Federal criminal justice system are included in the annual *BJS Compendium of Federal Justice Statistics*, these tables are generally not comparable with the NPRP tables because released and detained defendants are categorized differently in the two publication series.

In the *Compendium*, defendants are counted as detained if they were detained at any time after their initial court appearance. The *Compendium* includes in its released category any defendant who was released at any time after the initial hearing. As a result, the two categories are not mutually exclusive and the Federal *Compendium* counts some defendants under both the *released* and *detained* categories. Such defendants would include those who were initially detained but secured pretrial release at a later date and those who were initially released but later taken into custody as the result of a bench warrant, commission of a new offense, or other violation of the conditions of pretrial release.

Another important difference between the pretrial data published in the *Compendium* and those from NPRP is that the latter are limited to felony defendants, while 9% of the defendants included in the *Compendium* were facing misdemeanor charges. One BJS Special Report based on Federal defendant data, *Pretrial Release and Detention: The Bail Reform Act of 1984*, does define *released* and *detained* as they are defined by NPRP; however, it includes both felony and misdemeanor defendants.

This Bureau of Justice Statistics Special Report was written by Brian Reaves. Jacob Perez analyzed the data. Jan Chaiken and Frederick DeFriesse, Abt Associates, provided technical assistance. Tom Hester edited the report. Marilyn Marbrook, assisted by Jayne E. Robinson, produced the report.

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