



Pretrial Release of Felony Defendants in State Courts, 1990 - 2004

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Presentation summarizes BJS report on pretrial release of felony defendants in state courts

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State Court Processing Statistics, 1990-2004

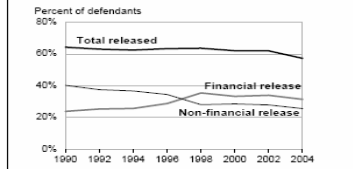
Pretrial Release of Felony Defendants in State Courts

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Between 1990 and 2004, 62% of felony defendants in State courts in the 75 largest counties were released prior to the disposition of their case. Beginning in 1996, financial pretrial releases, requiring the posting of bail, were more prevalent than non-financial releases. This increase in the use of financial releases was mostly the result of a decrease in the use of release on recognizance (ROR), coupled with an increase in the use of commercial surety bonds. These findings are from a multi-year analysis of felony cases from the biennial State Court Processing Statistics (SCPS) program, sponsored by the Bureau of Justice Statistics.

Among defendants detained until case disposition, 1 in 6 had been denied bail and 5 in 6 had bail set with financial conditions required for release that were not met. The higher the bail amount set, the lower the probability of release. About 7 in 10 defendants secured release when bail was set at less than \$5,000, but this proportion dropped to 1 in 10 when bail was set at \$100,000 or more.

Since 1998, most pretrial releases of State court felony defendants in the 75 largest counties have been under financial conditions requiring the posting of bail



Logistic regression analyses that controlled for factors such as offense and criminal history found that Hispanics were less likely than non-Hispanic defendants to be released, and males were less likely than females to be released.

Primary research questions driving BJS report on pretrial release

Primary Research Questions –

- What factors influence pretrial release decisions in state courts?
- What are the trends in the use of different methods of pretrial release?
- How well do the different methods of pretrial release perform in terms of preventing defendant misconduct?

Using data from the State Court Processing Statistics (SCPS) project to produce a report on pretrial release

- Purpose of SCPS is to track a set of defendants arrested on a felony charge from initial appearance to adjudication in a sample of the Nation's 75 most populous counties.
- SCPS data collected every two years using a sample of cases filed in May.
 - 40 of the Nation's 75 most populous counties are selected to participate in study.
 - Counties provide data for defendants brought into court on a felony charge on randomly selected business days in May.
 - Cases are tracked until final disposition, or until May 31st of the following year, whichever occurs first.

State Court Processing Statistics (SCPS) data elements

Data elements collected through SCPS include:

- Current arrest charges (number, type, level)
- Demographic characteristics (gender, race/ethnicity, age)
- Criminal history (prior arrests, prior convictions, prior FTAs)
- Pretrial release (type of release, bail amounts)
- Pretrial misconduct (failure to appear, re-arrest)
- Adjudication outcome (method of conviction, conviction offense)
- Sentencing outcome (type and length of sentence)

Key SCPS terms – pretrial release and misconduct

Understanding pretrial release/detention terms

- *Released defendant* – Defendant released from custody prior to case disposition.
- *Detained defendant* – Defendant remained in custody from time of arrest until case disposition.
- *Pretrial misconduct* – Includes failure to appear, re-arrest for new offense, or revocation of release.
- *Failure to appear (FTA)* – Occurs when bench warrant is issued pursuant to missed court appearances.

Types of non-financial pretrial release in SCPS

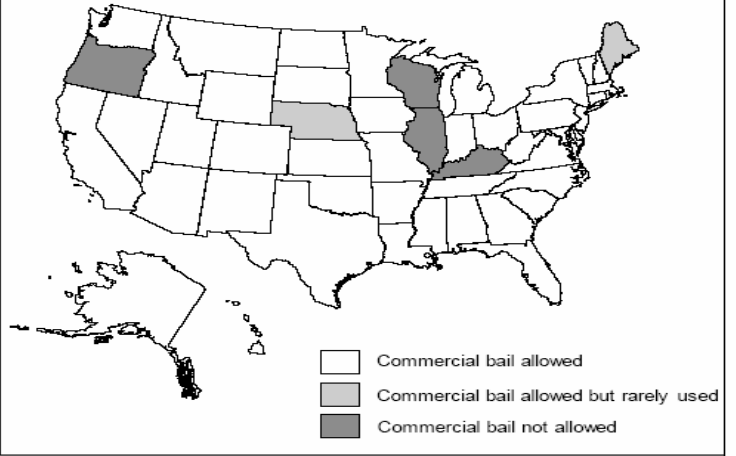
Types of non-financial release:	Defendant:	In case of FTA, forfeiture of:	Is required from:
Release on recognizance (ROR)	Signs written agreement to appear in court	No financial liability	Defendant
Unsecured bond	Has bail amount set, but posts no money with court	Full bail amount	Defendant
Conditional release (monitored by pretrial program)	Released after agreeing to specific conditions such as calling in or taking drug tests	No financial liability	Defendant

Types of financial pretrial release in SCPS

Types of financial release:	Defendant:	With:	In case of FTA, forfeiture of:	Required from:
Surety bond	Pays fee (usually 10%)	Commercial bail agent	Full bail amount	Bail agent
Deposit bond	Deposits percentage (usually 10%) of bail amount	Court	Full bail amount	Defendant
Full cash bond	Posts full bail amount	Court	Full bail amount	Defendant
Property bond	Posts property title	Court	Property interest	Defendant

Few states have outlawed the commercial bail industry

Commercial bail agents are active in almost every State



Pretrial release decisions

What factors influence pretrial release decisions in state courts?

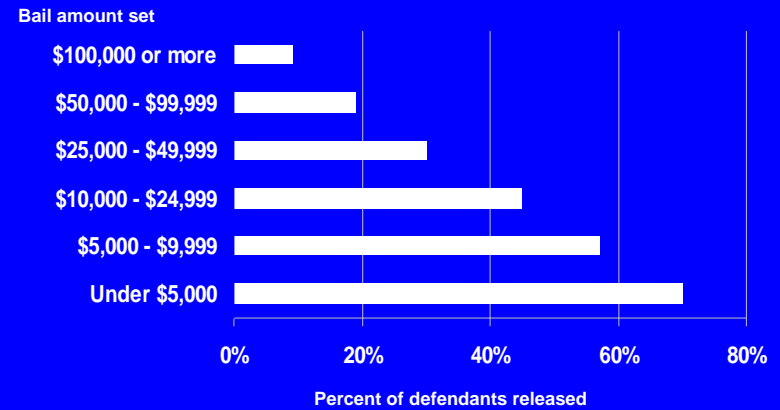
From 1990 – 2004, 62 percent of defendants arrested on a felony charge were released

Most serious arrest charge	Percent of defendants in the 75 largest counties	
	Released	Detained
All offenses	62 %	38 %
Violent offenses	56 %	44 %
Assault	64	36
Rape	53	47
Robbery	44	56
Murder	19	81
Property offenses	63 %	37 %
Fraud	82	18
Larceny/theft	68	32
Burglary	49	51
Motor vehicle theft	49	51
Drug offenses	65 %	35 %
Public-order offenses	67 %	33 %

(N = 424,252)

Higher bail amounts reduce the likelihood of pretrial release

Bail amounts and release rates for State court felony defendants in the 75 largest counties, 1990 - 2004



Defendants with more serious criminal histories are less likely to be released

Criminal history	Percent of felony defendants	
	Released	Detained
Criminal justice status at arrest		
No active status	70 %	30 %
Released on pending case	61	39
On probation	43	57
On parole	26	74
Prior arrest and court appearance		
No prior arrests	79 %	21 %
Prior arrest record without FTA	59	41
Prior arrest record with FTA	50	50
Most serious prior conviction		
No prior convictions	77 %	23 %
Misdemeanor	63	37
Felony	46	54

Males, Hispanics, and older felony defendants less likely to be released

Demographic characteristics	Percent of felony defendants	
	Released	Detained
Gender		
Female	74 %	26 %
Male	60	40
Race/Hispanic origin		
White non-Hispanic	68 %	32 %
Other non-Hispanic	65	35
Black non-Hispanic	62	38
Hispanic, any race	55	45
Age of arrest		
Under 21	68 %	32 %
21-29	62	38
30 or older	60	40

Logistic regression modeling of pretrial release decision

- Why use logistic regression?
 - Logistic regression measures the impact of an independent variable on the odds of an event occurring in a dichotomous dependent variable (e.g., pretrial release).
 - Logistic regression allows for the impact of each independent variable to be ascertained while holding other relevant factors constant.
 - Logistic regression produces odds ratios and coefficients that can be transformed into predicted probabilities.

Logistic regression - arrest charges, prior criminal history, and demographic characteristics related to pretrial release

Logistic regression - pretrial release decision

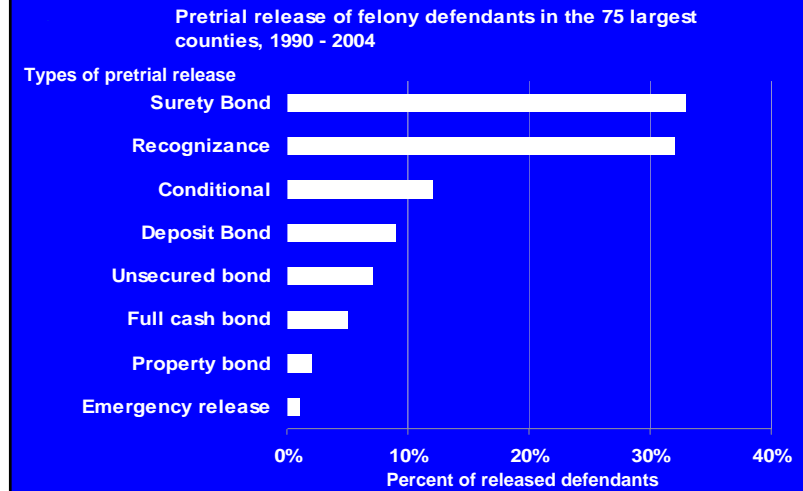
Factors in model (selected)	Predicted probability of release
Most serious arrest charge	
Murder	11 %**
Robbery	36 **
Rape	44 **
Assault	59 *
Burglary	49 **
Motor Vehicle theft	50 **
Drug Sales (reference)	63
Fraud	76 **
Gender	
Male (reference)	60 %
Female	69 **
Race/Hispanic origin	
White non-Hispanic (reference)	66 %
Black non-Hispanic	64
Hispanic, any race	51 **
Criminal justice status at arrest	
No active status (reference)	67 %
On probation	49 **
On parole	37 **
Prior arrest and court appearance	
No prior arrests (reference)	65 %
Prior arrest record with FTA	58 *

*<=.05, **<=.01

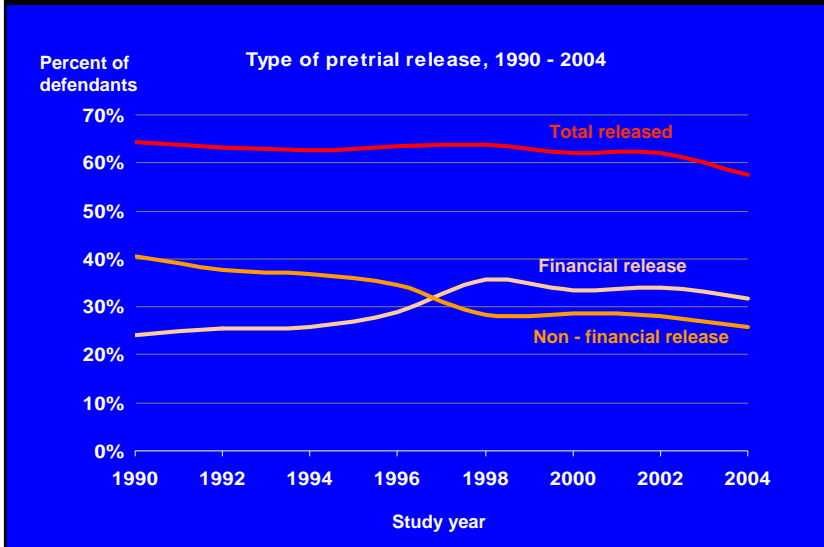
Pretrial release trends

What are the trends in the use of different pretrial release methods?

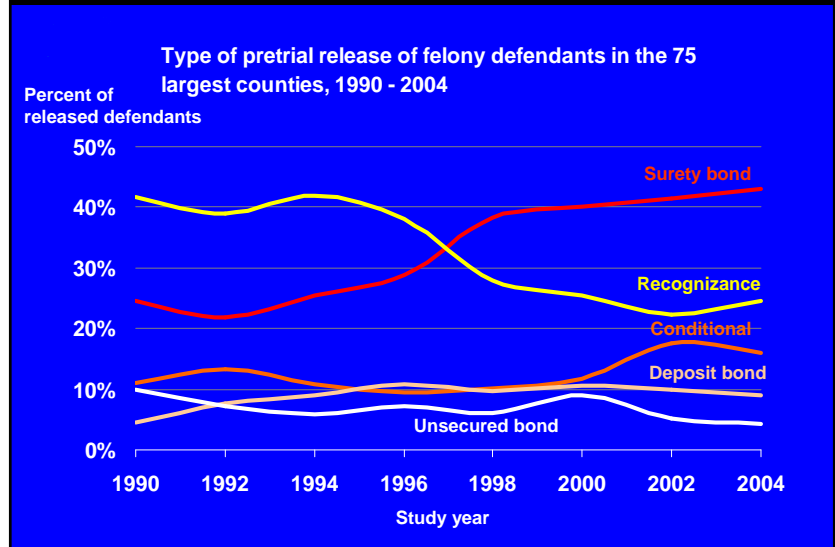
From 1990 – 2004, surety bond and release on recognizance were the most common ways for defendants to be released



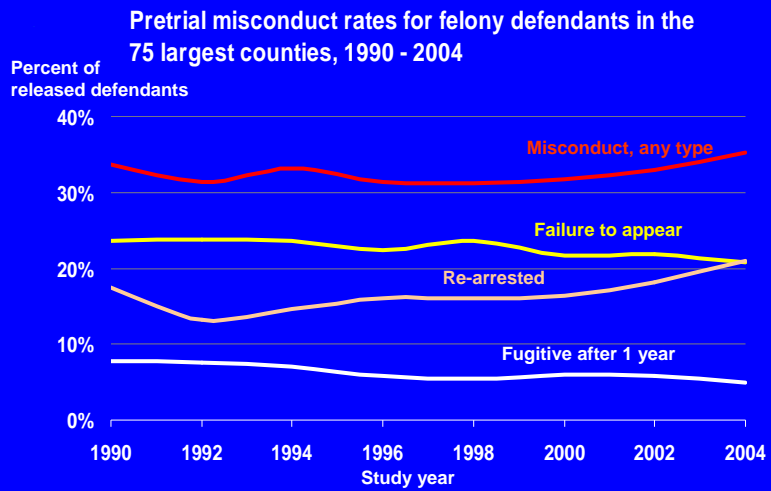
Pretrial release rates unchanged, but since 1998 financial release has been used more often than non-financial release



Beginning in 1998, surety bond surpassed ROR as the most common method of pretrial release



Rates of pretrial misconduct relatively unchanged from 1990 through 2004



Pretrial misconduct

How do the different methods of release compare in terms of defendant pretrial misconduct?

Pretrial misconduct highest for emergency releases; lowest for defendants released through surety or property bond

<u>Type of pretrial release</u>	<u>Released defendants committing misconduct</u>
Emergency release	52 %
Unsecured bond	36
Release on recognizance	34
Conditional release	32
Deposit bond	30
Full cash bond	30
Surety bond	29
Property bond	27

Logistic regression – Predicted failure to appear probability highest for emergency releases and lowest for defendants released on financial bond (e.g., surety, deposit, full cash)

Logistic regression - failure to appear

<u>Factors in model (selected)</u>	<u>Predicted probability of failure to appear</u>
<u>Type of pretrial release</u>	
Emergency release	39 %*
Unsecured bond	28 *
Recognizance (reference)	24
Conditional release	24
Surety bond	20 **
Deposit bond	20 *
Full cash bond	20 *
Property bond	17 **

*<=.05, **<=.01

Logistic regression – Defendants released on surety or property bond less likely to become fugitives compared to their counterparts released on ROR

Logistic regression - fugitive status

Factors in model (selected)	Predicted probability of fugitive status
Type of pretrial release	
Unsecured bond	8 %
Emergency release	8
Recognizance (reference)	6
Conditional release	6
Full cash bond	6
Deposit bond	5
Surety bond	4 **
Property bond	3 **

*<=.05, **<=.01

Logistic regression – Predicted probability of pretrial rearrest highest for emergency releases; no significant differences between surety/deposit bond and ROR

Logistic regression - rearrest

Factors in model (selected)	Predicted probability of pretrial rearrest
Type of pretrial release	
Emergency release	26 %**
Unsecured bond	21 *
Surety bond	19
Full cash bond	19
Conditional release	18
Deposit bond	18
Property bond	18
Recognizance (reference)	17

*<=.05, **<=.01

Additional report information and author contacts

BJS report on Pretrial Release of Felony Defendants,
1990 – 2004 available at:

<http://www.ojp.usdoj.gov/bjs/abstract/prfdsc.htm>

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