Volume 71 Number 2

Federal PROBATION
a journal of correctional philosophy and practice

The Impact of the Federal Pretrial Services Act of 1982 on the Release, Supervision, and Detention of Pretrial Defendants

James Byrne
Jacob Stowell
Department of Criminal Justice and Criminology
University of Massachusetts, Lowell

FOR MANY READERS of *Federal Probation*, it is common knowledge that the pretrial supervision of federal court defendants was authorized by President Ronald Reagan in 1982, with the signing of the federal Pretrial Services Act. However, most of us only know the date of the authorization; we are less familiar with the fact that pretrial supervision had its origins in an experimental program begun almost a decade earlier when Congress passed the Speedy Trial Act (1974). One part of this legislation allowed the Director of the Administrative Office of the U.S. Courts "to establish demonstration pretrial services agencies in 10 (of 94) judicial districts" (http://www.uscourts.gov/ fedprob/history/beginnings.html). The demonstration sites were not given a specific pretrial supervision model to develop, which allowed each judicial district to develop its own unique policies and procedures to determine what shape the demonstration program would take at each site. Because of its roots in diversity, it is not surprising that when the Pretrial Services Act of 1982 was passed, each federal judicial district was given the power to develop its own system of pretrial release and supervision: "Consequently, each court chose the form of pretrial services organization that best met its needs, considering such factors as criminal caseload and court locations" (http://www.uscourts.gov/fedprob/history/beginnings.html).

The Pretrial Services Act offers an excellent case study of the problems and advantages of moving from a multi-site demonstration program (10 sites) to fully operational, systemwide federal initiative (94 sites). One of the most interesting—and potentially controversial— features of this initiative is the degree of local autonomy given to federal district courts in the design and implementation of pretrial services. As a result of this decision, it is likely that the pretrial detention, release and supervision process varies considerably (both within and across the 11 circuits) from one federal court to the next, which may have consequences not only for the utilization of pretrial detention, but also for the nature and extent of pretrial supervision. When discretion in model development is allowed, there will inevitably be discussion of potential disparity (by gender, race, class, and/or other offense/offender characteristics) in pretrial release decision making (Taxman, Byrne, and Pattavina, 2005).

In this article, we will explore these issues while examining changes in the pretrial detention, release, and supervision of federal defendants for the period 1982 to 2007, utilizing data supplied by the Office of Probation and Pretrial Services of the Administrative Office of the U.S. Courts., as well as available data from the U.S. Courts Annual Reports, and the Bureau of Justice Statistics, including special reports on federal pretrial detention, release, and supervision practices. *[Note: Because the base years covered in these data sources vary, we tend to jump around somewhat in our analyses, but unfortunately, more complete data for the entire 25-year review period were not available at the time of our review.]* We begin our review with an examination of the changing patterns of federal pretrial release, detention, and supervision since the passage of the Federal Pretrial Services Act in 1982. We then provide an examination of changes in the profile of federal defendants and federal offenses prosecuted during our review period. We conclude our review with an examination of the emerging role of technology—and to a lesser extent, treatment—in the pretrial detention, release and supervision process.

back to top

1. The Changing Patterns of Federal Pretrial Release, Detention, and Supervision

The first observation we can offer about the pretrial supervision of federal offenders is that—by design—there are considerably more offenders under pretrial supervision today (more than 30,000) than in 1982 (less than 10,000). The growth in the pretrial supervision population is not surprising; in fact, it mirrors the growth rate of the entire federal pretrial system during this period (see Figure 1). For example, in 1982, there were approximately 40,000 defendants in criminal cases terminated in federal district court, but by year end 2001, the number of defendants in criminal cases increased to 80,000 (Bureau of Justice Statistics, 2005; see Figure 2, p. 11).

While it might be assumed that those federal offenders placed under pretrial supervision were *diverted* from federal pretrial detention facilities, it appears that the offender group targeted for pretrial supervision was much more likely to include offenders who would have been released anyway. As a result of the Federal Pretrial Services Act, we have essentially widened the net of social control, by authorizing the government to monitor and supervise individuals charged with federal offenses prior to trial/case disposition. Since the vast majority of released offenders—including both supervised and unsupervised offenders—appear in court on the scheduled date and do not commit new crimes during their release period, an argument can certainly be made that pretrial supervision of offenders already targeted for release is a waste of valuable federal corrections resources. However, it is also possible to argue that pretrial supervision strategies that focus on offender assessment and treatment prior to trial/disposition will pay dividends down the road, because the first step toward offender change is treatment provision—the sooner and longer the better.

Our second observation about the impact of the federal pretrial services act is that it has not reduced the rate of pretrial detention since its inception in 1982. In fact, beginning in the early 1990s, we have steadily increased the rate of federal pretrial detention in this country. Figure 2 highlights the recent changes in the federal pretrial detention rate for the period 1992-2004. In 1992, only 38 percent of all individuals charged with a crime were detained prior to trial; by 2004, 60 percent of all individuals charged with a federal crime were detained. Did alleged federal offenders change during this period in ways that increased their flight risk or dangerousness? We explore this issue in the next section, but it appears that what has changed during our 25-year review is not only the *offender* (there are more low-level drug users and more immigration violators than 25 years ago) but also the detention decisionmaking process itself.

This leads us to our third observation about pretrial release, supervision, and detention during our 25-year review period: Not only are offenders much more likely to be detained prior to trial today than they were 10, 15, and 25 years ago, but for those offenders who are released today, supervision is much more likely to be a condition of pretrial release. Figure 3 highlights changes in the use of supervised and unsupervised release during the period from 1992 to 2004. In 1992, a smaller proportion of offenders were released with supervision conditions (75 percent) than in

2004 (90 percent), despite the fact that offenders were much less likely to be detained in that year. This is somewhat surprising, because it would certainly appear that with a greater proportion of all pretrial defendants released, the need for supervision would be greater then than now. What appears to have happened is that pretrial supervision has become a standard feature of pretrial release. What was once the exception is now the rule.

To reinforce the control component of community supervision at the pretrial stage, a variety of other conditions of release are now "standard practice" in federal courts across the country, including drug/alcohol testing, mandatory substance abuse treatment, mandatory mental health treatment, the use of electronic monitoring to monitor compliance with home confinement/curfew conditions, and restrictions on computer use by sex offenders (U.S. Probation and Pretrial Services, 2005). Not surprisingly, more release conditions translate into more technical violations during the pretrial release process. According to a recent review by Motivans (2006: 14, table 9), the percentage of technical violations by defendants on supervised pretrial release increased significantly between 1994 and 2003. In 1994, 10.9 percent of the 27,607 defendants released prior to trial had a technical violation, but in 2003, 18.2 percent of the 31,613 defendants on pretrial release were identified as technical violators. Importantly, there were no changes in either the percentage of defendants charged with new crimes (3.2 percent vs. 3.4 percent) or the percentage of defendants who failed to appear in court (2.3 percent vs. 2.2 percent) during this review period. This certainly suggests that setting multiple release conditions and identifying technical violators of these release conditions does not improve community safety and the appearance of defendants at subsequent court dates.

We need to emphasize that detection of a technical violation of the conditions of supervised release does not automatically result in the pretrial detention of the defendant; how a district court will respond to technical violators is a policy decision that changes over time and varies from court to court (Bureau of Justice Statistics, 2005). For example, in 2002, 12 percent of all pretrial releasees were revoked and sent to pretrial detention due to a technical condition violation, while in 2004 the technical revocation rate dropped to 8 percent. This recent drop in revocations could be due to a variety of factors, including increased compliance, decreased detection of noncompliance, and/or changes in revocation policies and practices (for example, in 2004, twenty percent of all released defendants violated at least one condition of their release, but only 8 percent were terminated, which translates to revocation in 40 percent of all detection cases). However, since only 2 percent of all defendants who are released failed to appear for trial/case disposition in 2004 and only 4 percent of all released defendants were charged with committing new crimes while on pretrial release, it appears that the current system works quite well. The question is whether similar results could be obtained without 1) detaining 75 percent of all defendants (*Note: this figure includes those defendants initially detained plus those defendants released to community supervision but subsequently detained for a technical violation; see Motivans, 2006 table 8, p. 12*), and/or 2) using direct supervision and other release conditions for 80 percent of the pretrial release population.

One final observation about changes in the pretrial detention and release policies during the past 25 years is that there is considerable variation in the pretrial detention, release, and supervision process across the federal district court system. This variation is not unexpected, and it can be linked to the decision—by the architects of the Federal Pretrial Services Act—to allow local district courts the discretion to design a pretrial services system that best suited the unique needs of each jurisdiction, given such factors as defendant profile, case volume, workload/ staffing levels, and availability of resources for both offender control and treatment (in detention or in the community). As we noted at the outset of this review, there is considerable evidence that in the criminal justice decision-making arena, discretion leads to disparity (Taxman, Byrne, and Pattavina, 2005; Byrne and Rebovich, 2007).

Examination of the most recent data on federal pretrial detention decisions (Duff, 2006, Table H-14) reveals considerable variation in pretrial detention rates, both within and across each of the 11 federal court circuits in 2006, with pretrial detention rates ranging from a low of 43. 6 percent in the 6th circuit to a high of 73.8 percent in the 10th circuit. Focusing on individual federal district court variation, we found that overall 60.6 percent of all defendants were detained and

never released, but that individual court detention rates ranged from a low of 25.5 percent (VT), to a high of 88.8 percent (CA, N). Looking back a decade to 1996 (see Scalia, 1999, Table A-1, p. 12), we find a much lower overall detention rate (only 34 percent in 1996), but similar district court level disparity in the percentage of defendants ordered detained by the court prior to trial, with a low of 3.1 percent (Northern Alabama) and a high of 74.9 percent (Virgin Islands). A comparison of changes in the rate of detention across the comparison years for which data on pretrial detention rates in federal district courts are available (1996–2006) reveals that there were significant changes (mostly increases) in detention rates in several district courts over time (Table not shown). We suspect that these changes are likely the result of policy shifts at each of these courts, rather than simply a function of changes in the types of defendants entering these courts. We explore this issue further in the following section.

back to top

2. The Changing Profile of the Federal Offender

One explanation for changes in detention and pretrial supervision policies and practices is that today's pretrial defendants are "different" from their early eighties predecessors in terms of both their flight risk and their threat to the community (i.e., recidivism risk). Two groups of defendants come immediately to mind: immigration violators (who comprised 24 percent of all defendants in 2004), and drug law violators (who comprise 44 percent of all federal pretrial defendants). In 1982, a much smaller proportion of the federal pretrial defendant population came from these two groups of defendants. Even during the early 1990s only a fraction of all federal criminal defendants were facing immigration charges (less than 5 percent of the 44,667 cases filed in U.S. District Courts in 1994), while sharp increases in drug cases were recorded during this period (about 25 percent of all cases in 1994).

Tables 1 and 2 highlight changes in the offense profile of federal defendants for the period 1993-2001. Clearly, there have been a number of specific changes in the offense profiles of federal defendants during our review period, with major reductions in various categories of white collar crime and major increases in defendants charged with violations of immigration laws (235 percent) and sex crimes (122 percent), along with a moderate increase (11 percent) in the number of drug–related defendants. It is apparent that the priorities of federal law enforcement and federal prosecutors changed during this period.

It should come as no surprise that pretrial release decisions vary by the *nature of the alleged offense*. According to a recent report from the Administrative Office of the U.S. Courts (2005:1), "Defendants charged with property offenses or public order offenses were more likely to be released prior to trial (70 percent and 63 percent respectively) than were defendants charged with weapon (32 percent), drug (29 percent), or immigration (5 percent) offenses." There is no evidence that these offense-specific variations in detention decisions can be explained by such factors as prior offense history or even demonstrated flight risk. Since certain offense types are directly related to the age, race, and ethnicity of federal defendants, it can be argued that offensedriven pretrial detention policies (e.g. detaining almost every individual charged with an immigration violation) result in racial disparity in pretrial detention decision-making.

Table 3 highlights the impact of offense-driven detention policies on the defendants we detain prior to trial, by comparing characteristic specific detention decisions in 1992 versus 2004. A number of changes are worth noting, but the one that is most troubling is the pretrial detention rate for Hispanic origin defendants, which increased from 82 percent to 94 percent during our review period. This is likely due to our current presumption of detention for defendants charged with immigration violations. Even defendants charged with violent crimes, and defendants with extensive prior convictions, are more likely to be released than Hispanic defendants. The assumption is that defendants charged with immigration law violations pose a greater *flight risk* than other groups of defendants, which is true: the failure to appear rate (4.3 percent in 2003), although it is quite low, is higher for this group of defendants than for other defendant groups (3.1 percent for defendants in drug cases, 2.8 percent for defendants charged with violent crimes in 2003). However, it is not true that defendants in immigration cases pose a greater *danger to*

public safety than other groups of defendants; in fact, the opposite is true. In 2003, for example, 2.3 percent of all immigration defendants were charged with a new crime during pretrial release, as compared to 6.9 percent of all defendants charged with weapons offenses, and 4.9 percent of drug defendants released prior to trial (Motivans, 2006, table 9, p. 14).

Because the Federal Pretrial Services Act of 1982 allowed federal district courts broad discretion on how to establish and maintain the pretrial system in each jurisdiction, we suspect that rooting out possible disparity will be a more difficult task than if a single, centralized pretrial services system had been created at the outset. Nonetheless, it appears that the changing profile of the federal offender is at least partially responsible for the steady increase in the pretrial detention population we documented earlier in this review and for the increased use of supervision and other release conditions for those defendants who are released during the pretrial stage of the federal court process. In particular, one group that stands apart from other federal court defendants is the street level drug user who has ended up in federal court as the result of federal prosecutors' use of "drug sweep" initiatives as part of our nation's War on Drugs. These offenders are more likely to have prior convictions than other federal defendants, which is why they have such a high detention rate (71 percent); and why—when (or if) they are released pretrial—they will likely have mandatory supervision, drug testing, and drug treatment as conditions of pretrial release. Unfortunately, this group of offenders will likely violate these release conditions, resulting in much additional workload on the part of pretrial probation supervision officers in both detection and revocation. Given the strain placed on pretrial resources by drug defendants who are users and/or low-level drug dealers, it appears that diverting these offenders out of federal court and into state courts/drug courts would be a more judicious use of federal court resources.

back to top

3. The Emerging Role of Technology (and Treatment) in Federal Pretrial Release, Supervision, and Detention Decisions

The Pretrial Services Act of 1982 expanded the role of federal probation officers to include the *pretrial* community supervision of selected defendants who would either have been detained prior to trial or released prior to trial with no direct community supervision. While it would be logical to assume that creating an *alternative* to detention would decrease the federal pretrial detention rate [note, although we use the term "rate," we refer specifically to the percentage of all defendants initially detained in federal court], it is well documented that the pretrial detention rate has actually increased significantly over the past 25 years. As we noted earlier, the pretrial detention rate was only 38 percent in 1992; today, close to 70 percent of all federal defendants will be placed in pretrial detention facilities. One possible explanation for this increase can be linked to the changing profile of federal defendants—there are simply more defendants today who need to be detained, either because they are flight risks (e.g. immigration law violators) or because these defendants pose a substantial threat to the community if released (e.g. weapons violators and drug offenders). Adherents to this view would argue that pretrial detention and release decision-making has actually not changed significantly during this period; but that the offense/offender profile of federal defendants did change, because federal law enforcement set new priority areas for arrest and prosecution of certain categories of federal crimes. This argument is initially supported by the fact that offense/offender profiles have changed considerably during this period, due primarily to our preoccupation with drugs, weapons, and immigration law violations (the new "trifecta" of federal law enforcement). However, examination of Tables 1 through 3 revealed something else: there have been significant changes in detention decision-making vis-à-vis specific offense and offender characteristics during our review period, which certainly suggests that a more control-oriented pretrial detention system is in place today than in 1982.

To understand why and how this change has occurred, it is necessary to consider the emerging role of both hard and soft technology in pretrial release decision-making and in the pretrial supervision of offenders. According to a recent review by Byrne and Rebovich (2007:3), hard technology innovations include new materials, devices and equipment, while soft technology

innovations include new software programs, classification systems, and data sharing/system integration techniques. Examples of soft technology innovations can be found in probation and pretrial services offices across the country, including the implementation of PACTS^{ecm} (Probation and Pretrial Services Automated Case Tracking System-Electronic Case Management), access to integrated criminal record and warrant data from federal, state and local law enforcement record systems, and the use of computer software to monitor the computer activities of defendants charged with various forms of internet-related sex crimes. Hard technology innovations include the use of portable, laptop computers by almost 5000 officers in 94 districts (U.S. Courts Long Range Plan for Information Technology, 2007), expansion of pretrial drug testing for all federal defendants as a result of "Operation Drug Test" (See, e.g. Longshore, Taxman, Harrell, Fayne, Byrne, and Taylor, 2003), and the expanded use of electronic monitoring devices (to monitor compliance with curfew and/or home confinement release conditions) during supervised pretrial release.

In 2006, 4,726 federal defendants were released with a home confinement condition, while over 17,000 federal defendants were released with drug testing conditions, either alone (7,957) or in conjunction with a mandatory treatment condition (9,629) according to the most recent report from the U. S. Courts (2007, Table h-8, p. 328). With better access to complete criminal record and warrant data, along with improvements in case management systems, we suspect that defendants who would have fallen through the cracks and been released in previous years will now be detained. In addition, improved monitoring of release conditions (via drug testing and electronic monitoring) has increased the technical violation rate, resulting in pretrial detention for a significant proportion—about 40 percent—of these technical violators.

Although improvements in both hard and soft technology appear to increase the utilization of pretrial detention for federal defendants, it is certainly possible to describe a variety of ways that technological innovations can be used to reduce our reliance on costly pretrial detention strategies without significant increases in either the failure to appear rate (which is currently about 2 percent) or the percentage of offenders arrested during pretrial release for new criminal offenses (which is currently about 4 percent). Our point is simple: technology is an instrument of policy, a means to an end. It can certainly be used—in conjunction with policies and practices that result in *high* rates of pretrial detention—to effectively control offenders between arraignment and conviction/ case disposition. However, if you are concerned with either the cost or fairness of current pretrial detention policies and practices, then it probably makes sense to consider the role of technology in the development of alternatives to detention.

We suspect that similar pretrial outcomes could be obtained using technology-driven, but treatment—rather than control—oriented policies and practices that will result in low rates of pretrial detention, perhaps driven by a return to release policies in vogue prior to implementation of the Federal Pretrial Services Act of 1982. There is some evidence that the federal pretrial system is considering "throwing back the clock" in this manner, but only for one group of defendants—low-level defendants with substance abuse problems. In 2006, 19,017 pretrial defendants were supervised in the community with substance abuse conditions; of these offenders, 5,972 received judiciary-funded substance abuse treatment, which cost the federal government a little over 8 million dollars, approximately $1,362 dollars per defendant (U.S. Courts, 2007, Table S-14, p. 70). Not surprisingly, it is more likely that pretrial defendants receive a drug testing condition than a combination drug testing and mandatory drug treatment condition. In many jurisdictions, detection of ongoing substance abuse is viewed as a primary probation/pretrial function, while treatment provision is not viewed in the same light. This assessment is supported by an examination of inter-district variation in the use of mandatory treatment conditions and the average expenditures per defendant (U.S Courts, 2007, Table S-14, p. 70). Given the proportion of all pretrial defendants that could be classified as "low level offenders with substance abuse problems" (we estimate at least a third of all defendants), a policy change that resulted in a presumption of release for these defendants would result in a significant reduction in the current pretrial detention population. However, we would anticipate that many of these defendants will find their way back into the pretrial detention system unless we develop strategies of pretrial release designed to provide both treatment and control to these defendants.

back to top

Conclusion

The Federal Pretrial Services Act of 1982 has expanded the role of the federal probation system to include the pretrial release and supervision of federal defendants. However, the pretrial "system" that we now have in place in 94 U.S. District Courts does *not* appear to be based on the notion that federal pretrial probation officers can effectively supervise defendants in the community, and relies instead on a "presumption of detention" for most categories of federal defendants. Our review of the available evidence has identified considerable inter-district variation in 1) the use of pretrial detention, 2) the use of restrictive pretrial release conditions, and 3) the use (and funding) of pretrial treatment for defendants with substance abuse (and mental health) problems. We considered two possible explanations for the high pretrial detention rates for federal defendants— changing offender profiles (in particular, the greater proportion of immigration, drug, and weapons defendants) and changing detention policies—and our preliminary review suggests that both have an influence; but it is *policies that matter most*. We concluded our review by considering the role of hard and soft technology (and treatment) in support of policies designed to result in high versus low rates of pretrial detention. It is our contention that recent technological innovations provide an opportunity to monitor and control defendants in the community, without negative consequences for either court processing (i.e., failure to appear rates) or community safety (i.e., new crimes by defendants during pretrial release). For defendants on pretrial release, it seems reasonable to develop supervision strategies that attempt not only to monitor compliance with control-oriented release conditions, but also to begin (more likely continue) attempts to change the criminal behavior of these individuals, utilizing a variety of rehabilitation strategies.

back to top

References

Published by the Administrative Office of the United States Courts www.uscourts.gov
Publishing Information

Figure 1: Pretrial Supervision of Federal Offenders, 1984–2007.

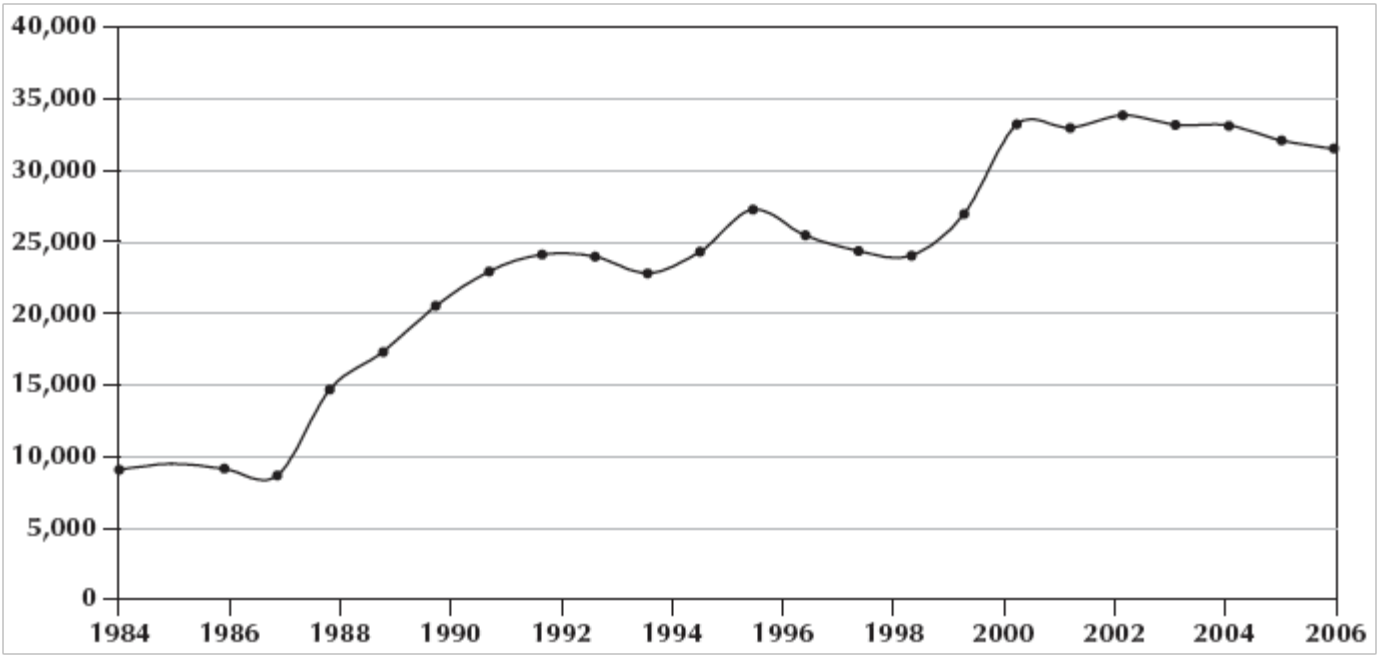

Figure 2: Percent of Federal Offenders Released or Detained Prior to Trial, 1992–2004.

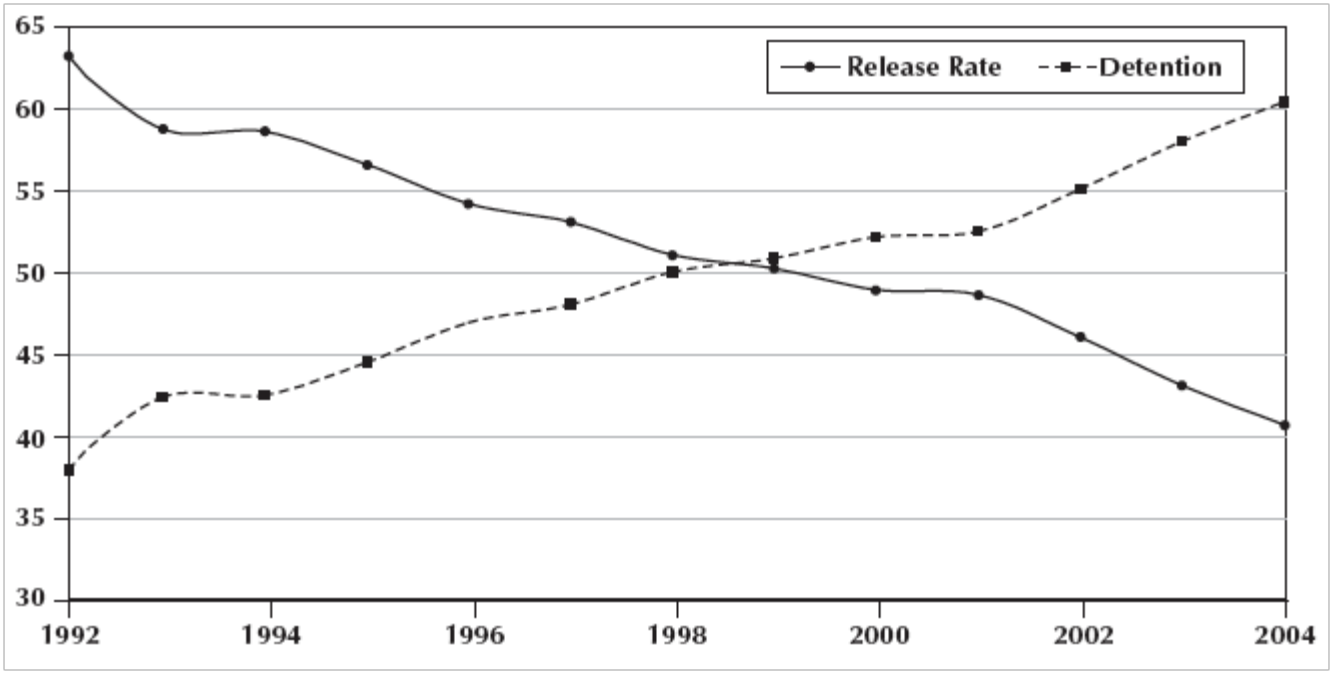

Figure 3: Percent of Federal Offenders Released or Detained Prior to Trial, 1992–2004.

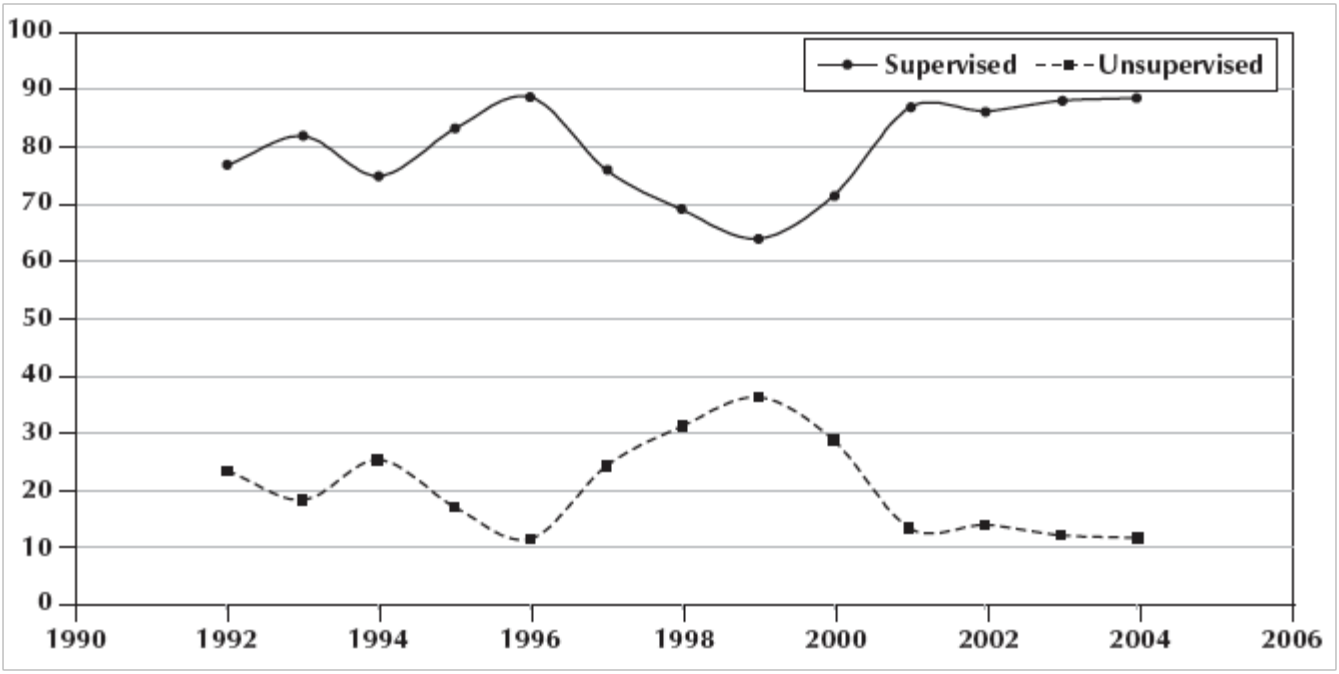

Table 1: Criminal Cases Filed in U.S. District Courts, By Offense Type, Fiscal Years 1993–2001.

Offense	1993	1994	1995	1996	1997	1998	1999	2000	2001
Total	45,902	44,678	45,053	47,146	49,655	57,023	59,251	62,152	62,134
Miscellaneous general offenses	11,838	12,414	11,114	10,462	10,386	10,856	11,747	12,544	13,190
Drunk driving and traffic	6,228	7,080	5,214	5,045	4,974	4,982	5,005	4,679	4,958
Weapons and firearms	3,637	3,112	3,621	3,162	3,184	3,641	4,367	5,387	5,845
Escape	725	739	697	723	587	564	639	635	582
Kidnapping	67	68	81	116	99	150	101	111	104
Bribery	205	283	190	152	168	174	158	145	131
Extortion, racketeering, and threats	491	509	713	557	572	617	534	557	466
Gambling and lottery	75	80	26	16	24	22	16	17	6
Perjury	11	93	85	99	87	126	91	113	137
Other	299	450	487	592	691	580	836	900	961
Fraud	7,575	7,098	7,414	7,633	7,874	8,342	7,654	7,788	7,585
Drug laws	12,238	11,369	11,520	12,092	13,656	16,281	17,483	17,505	18,425
Larceny and theft	3,322	3,337	3,432	3,674	3,299	3,590	3,514	3,414	3,242
Forgery and counterfeiting	1,059	1,093	1,001	987	1,156	1,346	1,292	1,203	1,212
Embezzlement	1,857	1,575	1,368	1,284	1,172	1,397	1,315	1,200	1,072
Immigration laws	2,487	2,595	3,960	5,526	6,677	9,339	10,641	12,150	11,277
Federal statutes	2,200	2,084	2,403	2,317	2,156	2,363	2,241	2,844	2,573
Agricultural/conservation acts	254	247	401	313	267	333	277	316	282
Migratory bird laws	27	39	27	48	22	42	18	52	56
Civil rights	62	70	73	73	59	77	81	80	76
Motor Carrier Act	20	11	12	7	8	6	16	5	3

Antitrust violations	71	43	38	31	34	25	39	43	28
Food and Drug Act	67	46	55	48	48	47	59	52	70
Contempt	56	74	69	81	77	80	78	109	158
National defense laws	144	95	85	62	73	55	68	533	462
Customs laws	69	88	97	110	97	125	96	97	79
Postal laws	212	182	202	152	165	152	119	112	135
Other	1,218	1,189	1,344	1,392	1,306	1,421	1,390	1,445	1,224
Robbery	1,789	1,520	1,240	1,365	1,453	1,448	1,295	1,258	1,355
Bank	1,714	1,468	1,168	1,291	1,384	1,392	1,250	1,219	1,325
Postal	51	35	43	36	29	32	29	25	16
Other	24	17	29	38	40	24	16	14	14
Assault	523	563	561	540	527	629	529	665	622
Motor vehicle theft	349	335	267	232	189	182	189	199	180
Burglary	141	139	63	65	70	89	72	59	52
Homicide	181	195	295	344	348	384	383	370	329
Sex offenses	337	359	412	623	690	777	893	944	1,017
Liquor, Internal Revenue	6	2	3	2	2	0	3	9	3
Source: Sourcebook of Criminal Justice Statistics; 2001 Table 5.10 (http://www.albany.edu/sourcebook)									

Table 2: Percent Change in the Cases Filed in U.S. District Courts, by Major Offense Type, 1993–2001.

	1993		2001		
	Total	%	Total	%	**Change**
Miscellaneous general offenses	11,838	25.8	1,3190	21.2	-17.7
Fraud	7,575	16.5	7,585	12.2	-26.0
Drug laws	12,238	26.7	18,425	29.7	11.2
Larceny and theft	3,322	7.2	3,242	5.2	-27.9
Forgery and counterfeiting	1,059	2.3	1,212	2.0	-15.5
Embezzlement	1,857	4.0	1,072	1.7	-57.4
Immigration laws	2,487	5.4	11,277	18.1	235.0
Federal statutes	2,200	4.8	2,573	4.1	-13.6
Robbery	1,789	3.9	1,355	2.2	-44.0
Assault	523	1.1	622	1.0	-12.1
Motor vehicle theft	349	0.8	180	0.3	-61.9
Burglary	141	0.3	52	0.1	-72.8
Homicide	181	0.4	329	0.5	34.3
Sex offenses	337	0.7	1,017	1.6	122.9
Liquor, Internal Revenue	6	0.0	3	0.0	-63.1

Source: Sourcebook of Criminal Justice Statistics; 2001 Table 5.10 (http://www.albany.edu/sourcebook)

Table 3: Federal Defendants Released or Detained Prior to Trial in U.S. District Courts

	Defendants		% Released			% Detained		
	1992	2004	1992	2004	Change	1992	2004	Change
All defendants	49,834	78,219	61.9	39.6	-36.0	57.2	77.1	34.8
Sex								
Male	41,855	66,654	58.0	34.6	-40.3	61.2	81.2	32.7
Female	7,957	11,481	82.3	68.4	-16.9	36.0	53.7	49.2
Race								
White	33,713	55,408	63.4	35.9	-43.4	55.5	79.3	42.9
Black	13,391	18,155	57.8	47.3	-18.2	61.1	71.8	17.5
Other	2,730	3,226	62.9	55.3	-12.1	58.0	73.6	26.9
Age								
16 to 18 years	906	1,267	60.8	43.8	-28.0	60.8	77.4	27.3
19 to 20 years	2,607	3,990	59.2	42.9	-27.5	62.9	77.6	23.4
21 to 30 years	18,451	30,522	56.1	34.7	-38.1	63.9	81.6	27.7
31 to 40 years	15,307	23,396	61.2	35.5	-42.0	58.5	80.4	37.4
Over 40 years	12,217	18,725	72.0	51.3	-28.8	43.8	65.7	50.0
Fraud								
Less than high school graduate	15,472	24,034	54.4	32.2	-40.8	68.2	86.2	26.4
High school graduate	14,838	18,717	69.6	55.5	-20.3	50.0	68.2	36.4
Some college	9,082	10,137	73.9	68.2	-7.7	44.9	55.9	24.5
College graduate	3,853	4,220	80.4	77.2	-4.0	34.7	44.2	27.4
Marital status								
Never married								

	15,411	23,060	58.4	44.8	-23.3	61.9	76.4	23.4
Divorced/separated	8,802	11,146	66.9	53.1	-20.6	53.6	69.5	29.7
Married	17,133	19,049	70.2	52.5	-25.2	47.6	67.2	41.2
Common law	3,254	5,668	51.2	39.1	-23.6	72.6	82.2	13.2
Other	5,234	19,296	43.1	13.0	-69.8	70.5	90.6	28.5
Employment status at arrest								
Unemployment	19,247	27,936	54.6	39.5	-27.7	65.2	80.4	23.3
Employed	25,198	30,264	72.5	58.1	-19.9	47.1	64.2	36.3
Criminal record								
No convictions	20,801	19,333	70.5	60.3	-14.5	46.5	58.2	25.2
Prior conviction								
Misdemeanor only	7,488	13,204	70.2	51.3	-26.9	53.1	71.1	33.9
Felony								
Nonviolent	8,476	18,836	50.1	25.1	-49.9	68.7	88.2	28.4
Violent	5,253	14,548	34.3	21.1	-38.5	82.6	91.8	11.1
Number of prior convictions								
1	7,772	12,815	63.4	39.9	-37.1	57.9	77.6	34.0
2 to 4	8,716	18,787	52.6	31.1	-40.9	67.9	85.0	25.2
5 or more	4,729	14,986	38.0	24.0	-36.8	78.5	89.7	14.3

Source: Sourcebook of Criminal Justice Statistics; 1994 Table 5.13, 2005 Table 5.15 (http://www.albany.edu/sourcebook)

Volume 71 Number 2

Federal PROBATION
a journal of correctional philosophy and practice

References

Endnotes

The Impact of the Federal Pretrial Services Act of 1982 on the Release, Supervision, and Detention of Pretrial Defendants

Adams, William, Roth, Jeffrey, and Scalia, John, 1998. *Federal Offenders under Community Supervision, 1987-1996: Bureau of Justice Statistics Special Report.* Washington, D.C.: Office of Justice Programs, U. S. Department of Justice.

Administrative Office of the United States Courts, 2006. *Annual Report, 2005.* Washington D. C.: Administrative Office of the U. S. Courts.

Bureau of Justice Statistics, 2005. *Federal Criminal Case Processing, 2002, with trends 1982-2002.* Washington, D.C.: U.S. Department of Justice, Office of Justice Statistics.

Byrne, James and Rebovich, Donald, Editors, 2007. *The New Technology of Crime, Law, and Social Control.* Monsey, NY: Criminal Justice Press.

Byrne, James and Taxman, Faye, 1994. "Crime Control Policy and Community Corrections Practice: Assessing the Impact of Gender, Race and Class," *Evaluation and Program Planning* 17(2): 1-7.

Duff, James, 2006. *Judicial Business of the United States Courts, 2006.* retrieved 7/07 at http://www.uscourts.gov/judbususc/judbus.html

Federal Corrections and Supervision Division, 2001. *Court and Community: An information series about U. S. probation and pretrial services—a brief history.* Washington, D.C.: Administrative Office of the U.S. Courts (February, 2001).

Hughes, John and Howard, Gary, 2005. *United States Probation and Pretrial Services System, 2005, Year-In-Review Report, Fiscal Year 2004.* Washington, D.C.: Administrative Office of the U.S. Courts, Office of Probation and Pretrial Services.

Hughes, John and Howard, Gary, 2003. *United States Probation and Pretrial Services System, 2005, Year-In-Review Report, Fiscal Year 2002.* Washington, D.C.: Administrative Office of the U.S. Courts, Office of Probation and Pretrial Services.

Longshore, Doug, Susan Turner, Faye Taxman, Adele Harrell, Terry Fayne, James Byrne, and Bruce Taylor, "Operation Drug Test: Findings and Implications for Pretrial Drug Testing," *Perspectives*, Vol. 27, No. 3, Summer, 2003:24-35.

Motivans, Mark, 2006. *Federal Criminal Justice Trends, 2003—Federal Justice Statistics Program.* Washington, D.C.: U. S. Department of Justice, Office of Justice Programs, Bureau of Justice Statistics.

Scalia, John, 1999. *Federal Pretrial Release and Detention, 1996: Bureau of Justice Statistics Special Report.* Washington, D.C.: Office of Justice Programs.

Sourcebook of Criminal Justice Statistics Online, 2005. *Sourcebook of Criminal Justice Statistics, 2004.* Retrieved at http://www.albany.edu/sourcebook

Taxman, Faye, Byrne, James and Pattavina, April, 2005. "Racial Disparity and the Legitimacy of the Criminal Justice System: Exploring Impacts on Deterrence." *Journal of Health Care for the Poor and Underserved* 16(4):57-77.

United States Courts, 2007. Beginnings of Probation and Pretrial Services. Retrieved 7/07 at http://www.uscourts.gov/fedprob/history/beginnings.html

United States Courts, 2007. Probation and Pretrial Services: The Judiciary's IT Objectives. Retrieved 4/12/07 at http://www.uscourts. gov/itplan/2007/probationpretrial.html

United States Department of Justice, 2006. *Compendium of Federal Justice Statistics, 2004.* Washington, D.C.: U.S. Department of Justice, Bureau of Justice Statistics.

back to top

Endnotes

Published by the Administrative Office of the United States Courts www.uscourts.gov
Publishing Information