

# Florida Criminal Records

## ***Florida Criminal Record Disposition Explanations***

1. **Acquittal, Not Guilty** - The defendant has been found not guilty of the offense tried for.
2. **Adjudication Withheld** - Court decision at any point after filing of a criminal complaint, to continue court jurisdiction but stop short of pronouncing judgment. This is to avoid the undesirable effects of correction.
3. **Clemency, Pardon, Amnesty Commutation, Reduced Sentence and Reprieve** - Executive or legislative action where the severity of punishment is reduced or the punishment stopped or a person is exempted from prosecution for certain actions.
4. **Conditional Release** - early release by executive decision from prison and whose release is contingent upon obeying specified rules of behavior.
5. **Discharge** - release from confinement or suspension.
6. **Dismissal** - termination of court jurisdiction over a defendant in relation to charges before court or prosecutor.
  - o Dismissals with prejudice - no reopening of case
  - o Dismissals without prejudice - case could be reopened
7. **Diversions** - Official suspension of criminal proceedings against an offender after arrest, but before judgment and referral of person to a treatment or care program, or no referral.
8. **Incompetent to Stand Trial** - defendant will not stand trial until the defendant may be found competent.
9. **Not Guilty By Reason of Insanity** - not mentally competent at the time the crime was committed.
10. **Nolo Contendere** - will not contest charge, but neither admits guilt nor claims innocence.
11. **Guilty** - committed crime.
12. **Transfer To Adult Court or Treat as an Adult** - juvenile has been transferred to adult court for disposition of criminal activity.
13. **Acquittal (recommended statistical terminology)** - The judgment of a court, based on the verdict of a jury or a judicial officer, that the defendant is not guilty of the offense(s) for which he or she has been tried.

### *Annotation*

This is a type of **defendant disposition** (see entry) which, when the acquittal is on all charges in the case, terminates criminal justice jurisdiction over the defendant. In statistics describing judicial activity it is a final court disposition.

It should be noted that a not guilty verdict rendered by a jury is equivalent to a judgment of acquittal because a jury verdict of not guilty compels the court to acquit the defendant. This equivalence does not exist in the case of guilty verdicts. A judge can, when appropriate grounds exist, disregard a jury finding of guilty and pronounce a judgment of acquittal.

Statistical presentations of the results of adjudication should therefore use "guilty" or "not guilty" to indicate the verdict (the result of the **trial** phase of the judicial process), and "acquittal" or "conviction" to indicate the judgment. See **verdict** and **judgment**.

Since acquittals can be arrived at by routes significantly different with respect to impact on defendants and prosecutorial and court workload, statistical presentations generally distinguish between acquittals:

- **By Jury** Jury trial resulting in a not guilty verdict
- **By Court** Nonjury trial or acquittal pronounced by court notwithstanding jury verdict.

14. **Adjudication Withheld** (*recommended statistical terminology*) - In criminal justice usage, a court decision at any point after filing of a criminal complaint, to continue court jurisdiction but stop short of pronouncing judgment.

*Annotation*

The usual purpose in stopping criminal proceedings short of judgment is avoidance of the undesirable effects of conviction, which effects can include both unnecessary harm to the offender and unnecessary expense or harm to the public interest. "Withholding adjudication," as defined here, places the subject in a status where the court retains jurisdiction but will not re-open proceedings unless the person violates a condition of behavior.

"Adjudication withheld" is an important category of defendant dispositions. The term is here defined for statistical use to account for those cases which receive what is sometimes effectively a sentencing disposition but one occurring without conviction. In court caseload data, this category is recognized, but is often combined for presentation in a single category with convictions.

In defendant flow data and statistics concerning the general budgetary impact of court decisions, "adjudication withheld" dispositions should be subdivided by the accompanying status change or program placement: (1) referral to probation or other criminal justice agency, (2) referral to a non-criminal justice agency, and (3) no referral.

See **defendant dispositions**. See also **diversion**.

15. **Appeal** - Generally, the request that a court with appellate jurisdiction review the judgment, decision, or order of a lower court and set it aside (reverse it) or modify it; also, the judicial proceedings or steps in judicial proceedings resulting from such a request.

*Annotation*

In general usage the term "appeal" has no fixed meaning. It is variously defined in statutes respecting appellate procedure. "Appeal" can stand for a type of case, a type of proceeding, or all the post-trial proceedings relating to a given case. For recommended statistical terminology in this area of court activity see **appeal case**, **request to appeal case**, **sentence review**, and **appellate court case**.

The rules governing circumstances in which an appeal is permitted, and in which a hearing is guaranteed, are complex and differ somewhat from state to state. They vary according to the type of case (e.g., criminal vs. civil), whether the appeal is by the defendant or by the plaintiff or prosecution, and the specific grounds for appeal.

16. **Career Criminal** - In prosecutorial and law enforcement usage, a person having a past record of multiple arrests or convictions for serious crimes, or an unusually large number of arrests or convictions for crimes of varying degrees of seriousness.

*Annotation*

This term has a formal status in management systems for allocating prosecutorial resources

and setting priorities in case scheduling in order that defendants and cases warranting special attention be dealt with effectively and speedily. The exact definition varies among different agencies.

**Professional criminal** is a popular name for a person who has made crime his or her livelihood, that is, a person who depends upon criminal activities for at least a substantial portion of his or her income, and who has developed special, related skills.

Statutorily defined habitual offenders fit the definition of "career criminal."

**17. Civil Commitment:**

- I. In general usage, the action of a judicial officer or administrative body ordering a person to be placed in an institution or program for custody, treatment or protection, usually one administered by a health service.
- II. (*recommended criminal justice statistical terminology*) A non-penal commitment to a treatment facility resulting from findings made during criminal proceedings, either before or after a judgment.

*Annotation*

A civil commitment made in the course of disposing of a case initiated by a criminal charge is usually not considered a judgment for purposes of statistical description of criminal defendant or case outcomes. In a criminal case the judgment is **acquittal** or **conviction**. (See also **defendant dispositions**.)

In criminal proceedings (definition II), a civil commitment may follow a court determination that an alleged offender cannot be prosecuted because **incompetent to stand trial** or because **not guilty by reason of insanity**. It may also follow, for example, a successful criminal prosecution for a drug law violation, where the offender is committed to a special institution for the treatment of drug addiction, instead of a penal institution. The federal Narcotics Addicts Rehabilitation Act provides for non-penal commitments to treatment facilities as dispositions of alleged or convicted drug offenders.

Although a person may be deprived of liberty by a civil commitment, it is in principle not done for the purpose of punishment, but rather for the welfare of the subject or others. A civil commitment to a medical facility ordinarily follows civil proceedings that have determined that the subject is a danger to self or to others, or cannot care for himself or herself because of mental disability.

The term is also used to refer to court-ordered jailing of a person who refuses to obey a court order issued in the course of a civil suit.

- 18. Clemency** - In criminal justice usage the name for the type of executive or legislative action where the severity of punishment of a single person or a group of person is reduced or the punishment stopped, or a person is exempted from prosecution for certain actions.

*Annotation*

Grounds for clemency include mitigating circumstances, post-conviction evidence of innocence, dubious guilt, illness of prisoner, reformation, services to the state, turning state's evidence, reasons of state, the need to restore civil rights, and corrections of unduly

severe sentences or injustices stemming from imperfections in penal law or the application of it.

The chief forms of clemency are pardons (full and conditional), amnesties, commutations, reduced sentences, reprieves and remissions of fines and forfeitures. In actual use the meanings of these terms overlap. For example, in some jurisdictions a particular kind of pardon may be called "executive clemency," or a given kind of commutation a "pardon." Informational definitions emphasizing the basic distinctions that are usually, but not always, made are as follows:

**Full pardon** - An executive act completely and unconditionally absolving a person from all consequences of a crime and conviction. This act is sometimes called an "absolute pardon," and can imply that guilt itself is "blotted out." It is an "act of forgiveness" and is accompanied, generally, by restoration of civil rights. American law tends to use this executive remedy, instead of judicial proceedings, when serious doubt of guilt or evidence of innocence arises after conviction.

**Conditional Pardon** - An executive act releasing a person from punishment, contingent upon his or her performance or non-performance of specified acts.

**Amnesty** - A kind of pardon granted by a sovereign authority, often before any indictment, trial or conviction, to a group of persons who have committed offenses against the government, which not only frees them from punishment, but has the effect of removing all legal recognition that the offenses occurred. A "pardon" is distinct from an amnesty in that the former applies to only one person, and does not necessarily include the abolition of all legal recognition that the offense occurred. An amnesty is sometimes called a "general pardon" because it applies to all offenders of a given class, or all offenses against a given statute or during a certain time period. The sovereign authority may be executive or legislative.

**Commutation (of sentence)** - An executive act changing a punishment from a greater to a lesser penalty; in correctional usage, a reduction of the term of confinement resulting in immediate release or reduction of remaining time to be served; also, the change from a sentence of death to a term of imprisonment. Commutation does not, generally, connote "forgiveness." It is often used to shorten an excessively and unusually long sentence. Commutation can occur with respect to groups of prisoners, though with a different impact on the term of confinement of each single prisoner.

**Reduced sentence** - A sentence to confinement of which the time duration has been shortened by judicial action; also, a reduced fine or other material penalty. Reduction of sentence can occur at many process points, beginning with the sentencing disposition after conviction.

**Reprieve** - An executive act temporarily suspending the execution of a sentence, usually a death sentence. A reprieve differs from other suspensions of sentence not only in that it almost always applies to temporary withdrawing of death sentence, but also in that it is usually an act of clemency intended to provide the prisoner with time to secure amelioration of the sentence.

See "terminations" under **prison/parole population movement**, for data terminology for clemency actions.

19. **Conditional Release** (*recommended statistical terminology*) - The release by executive decision from a federal or state correctional facility, of a prisoner who had not served his or

her full sentence and whose freedom is contingent upon obeying specified rules of behavior.

*Annotation*

In this terminology the class "condition release" includes only those in states where return to a prison can occur at the discretion of an executive agency (usually, a **paroling authority**) if the subject violated the stated conditions of behavior. Releases by judicial authority, with return, if any, also decided by court action, are not members of this class. These latter are final exits from the state corrections perspective, since all corrections agency jurisdiction over the subject is terminated.

Conditional releases are defined here consist mainly of **releases to parole** and **mandatory supervised releases**. They are in contrast to the category **provisional exits** where return is expected. They are also in contrast to exits from prison to probation supervision by a state agency and releases to probation administered directly by a court. The latter is usually treated as a final prison/parole system exit in state data.

See **parole agency caseload entries and removals** and prison/parole population movement for the uses of these categories in data structures.

20. **Discharge** - In criminal justice usage, to release from confinement or supervision, or to release from a legal status imposing an obligation upon the subject person.

*Annotation*

This term is used with various meanings in criminal justice statistical publications, often without definition. Its use without qualifications is not recommended. Preferred terms are listed under **defendant dispositions, parole agency caseload entries and removals, probation supervisory population movement** and **prison/parole population movement**.

A "discharge" from prison or parole is most often, though not always, understood to mean a final separation from the jurisdiction of the correctional agency. "Discharge" from probation may mean a satisfactory termination or a revocation of the probation status (see preferred terms as above). In court disposition data some kinds of sentencing dispositions are sometimes called "conditional discharges," meaning that the persons are released from punishment contingent upon fulfilling obligations stated by the court. See also **suspended sentence**.

21. **Dismissal:**

- I. In judicial proceedings generally, the disposal of an action, suit, motion or the like without trial of the issues; the termination of the adjudication of a case before the case reaches judgment.
- II. (*recommended criminal justice statistical terminology*) - The decision by a court to terminate adjudication of all outstanding charges in a criminal case, or all outstanding charges against a given defendant in a criminal case, thus terminating court action in

the case and permanently or provisionally terminating court jurisdiction over the defendant in relation to those charges.

*Annotation*

"Dismissal" or "dismissed" is a major descriptive category in statistics concerning dispositions of cases and defendants in court proceedings. Although dismissals can be subcategorized by nature in various ways, they are usually presented as a single category of case or defendant dispositions in statistical reports. Dismissals and instances where the prosecutor declines to pursue the case are often combined under the label "dismissed/nolle prosequi" (see **nolle prosequi**).

A dismissal of a defendant case is a data item in the class **defendant dispositions** (see entry). See also **adjudication withheld** for another kind of provisional termination of adjudication.

Where general comparisons between dispositions of defendants and related court caseload activity are needed, it is recommended that defendants whose cases are dismissed prior to trial be counted separately from those where dismissal occurs after a trial has begun.

In criminal proceedings, a dismissal of a given charge or entire case can be initiated by motion of the defense or prosecution, or on the court's own motion. The common reasons for dismissals include insufficient evidence to support arrest or prosecution (see **probable cause**), evidence illegally obtained, errors in the conduct of the proceedings or failure to proceed as quickly as required, and failure of the jury to agree on a verdict. See **illegal search and seizure, dismissal for want of prosecution, mistrial, hung jury, and dismissal in the interest of justice** for examples.

With respect to the possibility of reopening the case, **dismissals with prejudice** (no subsequent prosecution possible) are distinguished from **dismissals without prejudice** (reopening possible).

## 22. Diversion:

- I. In the broadest usage, any procedure which (a) substitutes non-entry for official entry into the justice process, or (b) substitutes the suspension of criminal or juvenile proceedings for continuation, or (c) substitutes lesser supervision or referral to a non-justice agency or no supervision status for confinement.
- II. Standards and Goals definition: The official suspension of criminal or juvenile proceedings against an alleged offender at any point after a recorded justice system intake but before the entering of a judgment, and referral of that person to a treatment or care program administered by a non-justice or private agency, or no referral.

*Annotation*

Definition (I) represents the actual span of usage of the term though some of the included actions, such as probation instead of confinement, are conventional alternatives to incarceration that were employed before the term "diversion" was used in the justice vocabulary.

Definition (II) is that recommended by the Task Force on Corrections of the National Advisory Commission on Criminal Justice Standards and Goals, (pages 73-4 of the volume *Corrections*, issued January 23, 1973). It strategically narrows the meaning of the term. The Commission's definition requires:

- o That adequate grounds for alleging the commission of an offense exist.
- o That an official system entry be recorded (arrest, referral to juvenile intake agency or appearance in court).
- o That judicial proceedings be halted or at least suspended after entry and before judgment.
- o That the alternative to continuation of proceedings be referral to non-justice supervision of treatment, or no referral.

The definition thus excludes from the meaning of "diversion" actions that preclude formal system intake, all pre-conviction dispositions involving referral or assignment to criminal justice agency programs, and all post-conviction dispositions generally.

Statistical terminology covering the range of actions relevant to any definition of adult diversion is included in the model data reporting structures for **arrestee dispositions** and **defendant dispositions**. Three subtypes of **prosecution withheld** and **adjudication withheld** are provided: (1) With referral to probation or other criminal justice agency, (2) with referral to a non-criminal justice agency, and (3) no referral. These, together with the appropriate sentencing dispositions also listed under defendant dispositions, constitute the data items needed to produce summary statistics concerning "diversion" of arrested adults in the broadest usage. A selection of items from the total set can be used to describe more narrowly defined "diversion" procedures.

In national level data presentations using this (or any other) statistical terminology the type of criminal or juvenile proceedings at which diversion occurs, and the type of agency or program to which the subject is diverted (if a referral is made) should be identified.

For bibliographical purposes The National Institute of Law Enforcement and Criminal Justice (now the National Institute of Justice) defines diversion as "a process which limits penetration of youth into the juvenile justice system. This is achieved by termination of contacts with the system and referral to nonsystem agencies or through informal processing by system personnel. The diversion process occurs at any point between apprehension and adjudication." (*Juvenile Diversion*, 2<sup>nd</sup> Edition, A select bibliography. April, 1977). This definition coincides with the task force definition, except for the feature "informal processing by system personnel."

Some agencies call an interview determining whether or not a defendant is eligible for a diversion program a "pretrial release" interview. This term is not recommended as the name of a diversion eligibility screening process, because the common meaning of **pretrial release** (see entry) is a release operative only until adjudication is completed. These latter releases are for the purpose of granting freedom while awaiting the conclusion of judicial proceedings, not for the purpose of avoiding such proceedings.

In many definitions of "diversion," a distinction is made between "entry" and "penetration." In such contexts, "entry" means first officially noticed intake into the justice system through arrest, referral to a probation agency, or complaint to a court.

"Penetration" means a case disposition after entry that continues direct justice system control (continues and intensifies it) by moving the person to the next process step, such as commencement of prosecution, or a disposition that causes the person to be placed under supervision or in confinement as opposed to no supervision or no confinement.

23. **Habitual Offender** syn **Habitual Criminal** - A person sentenced under the provisions of a statute declaring that persons convicted of a given offense, and shown to have previously been convicted of another specified offense(s), shall receive a more severe penalty than that for the current offense alone.

*Annotation*

Briefly, "habitual offenders" are persons punishable by statutory prescription on the basis of a previous separate conviction(s) in addition to the current conviction. The exact meaning of the term varies among jurisdictions depending on the type and number of crimes for which repeated convictions qualify the offender as "habitual."

In popular speech "habitual criminal" and terms such as "professional criminal" are used interchangeably, but the latter has no legal standing. The terms "career criminal" and "repeat offender," however, are acquiring formal status through official use in criminal justice policy statements and program descriptions. See **career criminal**.

In some jurisdictions, a statutorily defined habitual offender is called a "multiple offender."

See also **recidivist**.

24. **Incompetent To Stand Trial** (*recommended statistical terminology*) - In criminal proceedings, the finding by a court that a defendant is mentally incapable of understanding the nature of the charges and proceedings against him or her, of consulting with an attorney, and of aiding his or her own defense.

*Annotation*

This is a type of **defendant disposition** (see entry).

When a court finds that a given defendant is incompetent to stand trial, criminal proceedings against that defendant are suspended until such time as the defendant may be found competent. Frequently, the court will order periodic examination of the defendant to determine whether competency has been regained.

A plea or finding that a defendant is **not guilty by reason of insanity** differs from a finding that a defendant is "incompetent to stand trial." The former is a defense to prosecution on the grounds that the defendant was mentally incompetent at the time that an alleged crime was committed. The latter concerns only the defendant's mental fitness at the time of trial, and is not related to any determination of guilt. See **capacity**.

A finding of "incompetent to stand trial" can be followed by a **civil commitment** (see entry).

25. **Misdemeanor** - An offense punishable by incarceration, usually in a local confinement facility, for a period of which the upper limit is prescribed by statute in a given jurisdiction, typically limited to a year or less.

*Annotation*

In most jurisdictions misdemeanors are one of the two major classes of crimes, the other being felonies. See **felony** for additional information about the usage of these terms and recommendations concerning the use of this terminology in statistics.

See **infraction** for recommended usage concerning offenses for which incarceration is not a permitted penalty, or for which the period of incarceration is extremely short.

26. **Nolle Prosequi:**

- I. A formal entry upon the record of the court, indicating that the prosecutor declares that he or she will proceed no further in the action.
- II. (*recommended statistical terminology*) - The terminating of adjudication of a criminal charge by the prosecutor's decision not to pursue the case, in some jurisdictions requiring the approval of the court.

*Annotation*

This action, also called "nolle" and "nol pross," is a type of **defendant disposition** (see entry) occurring after filing of a case in court and before judgment. In felony cases it often occurs after the initial complaint is filed in a lower court, and before an **information** or **indictment** is filed in a higher court.

In data presentations, dispositions by nolle prosequi (viewed as prosecutor's dismissals) may be combined with **dismissals** by the court in a single category "dismissed/nolle prosequi." Where general comparisons between dispositions of defendants and related court caseload activity are needed, it is recommended that defendants whose cases are terminated by dismissals or nolle prosequi prior to trial be counted separately from those where the termination occurs after a trial has begun.

In some jurisdictions felony cases can be dismissed on the prosecutor's motion in a lower court but filed anew in a higher court. This can result in inflation of nolle prosequi counts in court activity summary data, and because of variation in practice can distort comparisons between courts or court systems. It is recommended that practices relating to nolle prosequi be explicitly noted in statistical data representations.

27. **Plea** - In criminal proceedings, a defendant's formal answer in court to the charge contained in a complaint, information, or indictment, that he or she is guilty or not guilty of the offense charged, or does not contest the charge.

### *Annotation*

In relation to a given charge or case, the defendant may enter different pleas at different stages of the proceedings. Court and prosecutorial management information systems often provide for recording of the nature of the plea at each stage.

With respect to sequence, the recommended terms are:

- A. **Initial plea (also first plea)** - (*recommended statistical terminology*) - The first plea to a given charge entered in the court record by or for the defendant. The acceptance of an initial plea by the court unambiguously indicates that the arraignment process has been completed, and is therefore a better unit of count in reporting criminal case or defendant flow than "arraignment," which as a process is variously defined in different jurisdictions.
- B. **Final plea** - (*recommended statistical terminology*) - The last plea to a given charge entered in the court record by or for the defendant.

When distinguishing pleas by nature of response, the major types are:

- A. **Not guilty plea** - (*recommended statistical terminology*) - A defendant's formal answer in court to the charge(s) contained in a complaint, information, or indictment, claiming that he or she did not commit the offense(s) listed.
- B. **Not guilty by reason of insanity** - (*recommended statistical terminology*) - A defendant's formal answer in court to the charge(s) contained in a complaint, information, or indictment, claiming that he or she is not legally accountable for the offenses listed in the charging document because insane at the time they were committed. See entry.
- C. **Guilty plea** - (*recommended statistical terminology*) - A defendant's formal answer in court to the charge(s) contained in a complaint, information, or indictment, admitting that he or she did in fact commit the offense(s) listed.
- D. **Nolo contendere** - (*recommended statistical terminology*) - A defendant's formal answer in court to the charge(s) contained in a complaint, information, or indictment, stating that he or she will not contest the charge(s), but neither admits guilt nor claims innocence.

Guilty pleas and nolo contendere pleas are in fact usually combined into a single category in data systems and in statistical presentations, since they have the same legal effect in criminal proceedings. Both pleas can be followed by a judgement of conviction without a trial or verdict, and by a sentencing disposition. The pleas differ, however, with regard to their potential use as evidence in any related civil proceedings. A guilty plea in a criminal case can constitute evidence in a civil proceeding that relevant facts have been admitted; a nolo contendere plea cannot.

"Guilty plea" is a key disposition category in court caseload statistics. See **court disposition**.

"Guilty plea" is a major defendant "manner of disposition" subclass in the model court caseload statistical system developed by the National Court Statistics project (see Appendix E). In this system the guilty plea category (including nolo contendere) contrasts with convictions and acquittals at trial, dismissals, and the other methods by which defendants are disposed of, classified according to impact on court caseload.

In some data systems, the term "leas" is used where only a guilty or nolo contendere plea is meant. This usage is not recommended.

28. **Transfer to Adult Court** - (*recommended statistical terminology*) - The decision by a juvenile court, resulting from a transfer hearing, that jurisdiction over an alleged delinquent will be waived, and that he or she should be prosecuted as an adult in a criminal court.

*Annotation*

"Transfer to adult court" is not a **juvenile court judgment** nor a **juvenile disposition** but is a juvenile court case disposition.

Juvenile courts usually waive jurisdiction over alleged delinquents only when a serious felony has been alleged, and when the juvenile is near the statutory age boundary between juvenile and adult.

At a **transfer hearing** (see entry), probable cause to believe that the juvenile committed the offense must be shown. After a transfer to adult court, the prosecutor decides whether prosecution will take place and what offense will be charged.

This action is sometimes called "waiver" or "certification." A juvenile whose case has been transferred to a criminal court is sometimes called a "certified juvenile."

Recent revisions of criminal and juvenile law have, in some instances, reduced juvenile court original jurisdiction over cases resulting from certain serious crimes, or allowed for waiver in more kinds of cases.

Defendant charging and disposition data should indicate which cases begin in juvenile court.