

Benchmark
**for U.S. District
Court Judges**

FIFTH EDITION

Federal Judicial Center
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Section 2.01: Taking pleas of guilty or nolo contendere

Has anyone attempted in any way to force you to plead guilty (nolo contendere) or otherwise threatened you? Has anyone made any promises or assurances of any kind to get you to plead guilty (other than those that are in the plea agreement)? Are you pleading guilty of your own free will because you are guilty?

[See Fed. R. Crim. P. 11(b)(2) [formerly 11(d)].

- G. *If the plea relates to a felony offense*, consider asking the defendant:

Do you understand that the offense to which you are pleading guilty (nolo contendere) is a felony offense, that if your plea is accepted you will be adjudged guilty of that offense, and that such adjudication *may* deprive you of valuable civil rights, such as the right to vote, the right to hold public office, the right to serve on a jury, and the right to possess any kind of firearm?

[If the defendant is not a citizen of the United States, ask:

Do you understand that your plea of guilty may affect your residency or your status with the immigration authorities?]

- H. Inform the defendant of the following:

1. The maximum possible penalty provided by law, and any mandatory minimum penalty:
 - (a) *For drug offenses*: Determine whether the drug quantity involved or other aggravating factors will trigger application of a mandatory minimum sentence. Because this may not be known at the time the plea is taken, the court is advised to warn the defendant of any *possible* maximum and mandatory minimum sentences that may be imposed after a final determination of quantity and other aggravating factors.
 - (b) Determine whether the defendant faces a mandatory minimum sentence or an increase in the statutory maximum sentence because of one or more prior firearms offenses, violent felonies, or drug offenses. If this is not known at the time of the plea, advise the defendant of the *possible* maximum sentence.
 - (c) Include the duration of any authorized or mandatory term of supervised release, and ask the defendant: