

Section 2.01: Taking pleas of guilty or nolo contendere

[Note: Again, if the answer is yes, pursue the subject with defendant and with counsel to determine that defendant is currently competent to plead.]

7. Have you received a copy of the indictment (information)⁴ pending against you—that is, the written charges made against you in this case—and have you fully discussed those charges, and the case in general, with Mr./Ms. _____ as your counsel?
 8. Are you fully satisfied with the counsel, representation, and advice given to you in this case by your attorney, Mr./Ms. _____?
 9. Is your willingness to plead guilty (nolo contendere) the result of discussions that you or your attorney have had with the attorney for the government? [See Fed. R. Crim. P. 11(d).]
- E. *If there is a plea agreement of any kind, ask defendant:*
1. [If the agreement is written:]
Did you have an opportunity to read and discuss the plea agreement with your lawyer before you signed it?
 2. Does the plea agreement represent in its entirety any understanding you have with the government?
 3. Do you understand the terms of the plea agreement?
 4. Has anyone made any other or different promise or assurance of any kind to you in an effort to induce you plead guilty (nolo contendere) in this case?
 5. [If the terms of the plea agreement are nonbinding recommendations pursuant to Rule (11)(e)(1)(B).⁵]

4. If the case involves a felony offense being prosecuted by information rather than indictment, and if a waiver of indictment has not previously been obtained in open court (see Fed. R. Crim. P. 7(b)), refer to 1.06: Waiver of indictment.

5. Note that a plea agreement may contain factual stipulations which, unless part of a Rule 11(e)(1)(C) agreement, are not binding under the Rules or the Guidelines. However, some cases have held that a factual stipulation that directly affected the severity of the sentence should have been construed as a Rule 11(e)(1)(C) agreement, or that the stipulation was otherwise relied on by