

## Plea Bargaining

A “[plea bargain](#)” is simply an agreement between a [criminal](#) defendant and the prosecution that the defendant will plead guilty, in exchange for the prosecution seeking a sentence that is significantly lower than the maximum allowed by law.

There are a few reasons why both sides might find it in their interest to come to a plea bargain. If the defendant is actually guilty, he or she might be eager to plead guilty if it means a lighter sentence than they might otherwise receive.

Likewise, if the prosecution is convinced that the defendant is guilty, but their case isn’t strong enough to guarantee a conviction, they might propose a generous plea bargain if it means they can avoid the time and expense of going to trial, and the risk of a potentially-embarrassing acquittal.

An interesting fact about plea bargains is that the United States is one of the only countries in the world that allows them. And of the few countries that allow plea bargains, the United States uses them far more extensively than anywhere else.

This article will discuss the pros and cons of plea bargains, as well as how they work in practice in the U.S. legal system.

### **Pros**

As discussed above, plea bargains might be attractive to both the prosecution and the defense side of a criminal proceeding, for various reasons.

First of all, they can save the judicial system a great deal of resources. A criminal trial can take weeks to complete, and that doesn’t count the months or years that preparation for the trial might consume.

Obviously, if a defendant simply pleads guilty, none of this will be necessary.

Furthermore, if a defendant knows that they’re guilty, and the evidence against them is rock-solid, they can usually negotiate a lower sentence than they might otherwise receive if they were convicted at trial.

### **Cons**

The biggest criticism of the widespread use of plea bargaining is that it might encourage innocent people to plead guilty, if they believe that the prosecution has a good case. It’s hard to say how many innocent people have accepted plea bargains out of a fear that, if they plead “not guilty” they would be convicted despite their innocence. However, there is no doubt that it has happened.

Another criticism of the plea bargaining results more from the popular conception of it, thanks to police and legal dramas in the media, as opposed to reality. When many people think “plea bargain” they picture a backroom deal where a guilty, but powerful, criminal pressures the prosecution to accept a plea bargain resulting in a lenient sentence.

Alternatively, someone might picture an overbearing prosecutor threatening an innocent defendant to plea guilty, or else they’ll “throw the book at them.”

Obviously, either scenario might leave you with a negative image of the whole process. Thankfully, however, such overt acts of corruption in plea bargaining are extremely rare.

### **The Process of Plea Bargaining**

It should be noted that the judge always has discretion to determine the defendant’s sentence when the defendant is convicted or pleads guilty.

This means that, if the prosecution and defendant come to a plea bargain, the judge has discretion to reject it, and enter another sentence. However, in almost every case, a judge will enter a sentence in accordance to what the parties agreed to, because they probably want to encourage plea bargaining as well, since it saves judges a great deal of time.

### **What Happens When One Side Doesn’t Hold Up Their End of The Deal?**

Plea bargains are treated much like [contracts](#), with each side having an obligation to abide by the terms, or risk relieving the other side of their obligations.

If the prosecution goes back on the plea bargain (seeking a larger sentence than they agreed to, or going ahead with charges they agreed to drop), the defendant has a few options: they can get a court order enforcing the plea bargain, and ordering the prosecutor to abide by its terms, or they can have the defendant’s guilty plea set aside, bringing both parties back to square one.

Likewise, if the defendant doesn’t hold up his or her side of the deal (by refusing to testify against a co-defendant after they agreed to do so as part of the plea agreement, for example), the prosecution can usually ignore the plea agreement, and pursue charges that they agreed to drop as part of the deal.

### **Conclusion**

If you are charged with a crime, you should hire an experienced [criminal defense attorney](#). Criminal defense attorneys typically have a lot of experience negotiating plea bargains, and can probably get you the best deal possible.