



THINGS

**EVERY DEFENDANT
SHOULD KNOW ABOUT
PLEA BARGAINS**



CRIME SCENE

Most criminal cases end with a plea bargain, rather than a trial. If you are facing criminal charges, you need to understand the fundamentals of the plea bargaining process so that you can discuss your options intelligently with your criminal defense lawyer.

**HERE ARE 9 THINGS EVERY
CRIMINAL DEFENDANT SHOULD
KNOW ABOUT PLEA BARGAINS:**

A PLEA BARGAIN IS A NEGOTIATED SETTLEMENT.

Plea bargaining is the process of negotiating to resolve criminal charges without a trial. The resultant **"plea bargain"** is, essentially, an out-of-court settlement of a criminal case.





TWO CATEGORIES OF PLEA BARGAINS EXIST: CHARGE BARGAINS AND SENTENCE BARGAINS.

A **charge bargain** is one in which the prosecutor agrees to dismiss or forego certain charges in return for your plea to other charges.

A **sentence bargain** is one in which the prosecutor agrees to recommend a particular sentence or sentencing range, but the recommendation does not bind the judge, and you cannot withdraw your guilty plea if the judge deviates from the recommendation at the time of sentencing. Thus, the value of a sentence bargain depends largely on the judge's practice in deferring to prosecutors' recommendations.

A GUILTY PLEA CONSTITUTES A WAIVER OF CONSTITUTIONAL RIGHTS.

**When you agree to plead guilty,
you are agreeing to give up (or
"waive") three constitutional
rights:**

- ✓ the right to a jury trial;
- ✓ the right to confront your
accusers; and
- ✓ the right not to incriminate
yourself.

A GUILTY PLEA MUST BE MADE KNOWINGLY AND VOLUNTARILY.

You will enter your plea at a hearing presided over by a judge. The judge will ask you six categories of questions to ensure that your plea is entered knowingly and voluntarily:

- ✓ Questions concerning your mental competence.
- ✓ Questions concerning your satisfaction with your legal representation.
- ✓ Questions to ensure that you understand the legal rights you are surrendering by pleading guilty, including trial and appellate rights.
- ✓ Questions to ascertain your understanding of the penalties for conviction.
- ✓ Questions about the existence of any plea agreement and any other threats or promises.
- ✓ Questions to assure the judge that there is some factual basis for your guilt.



A GUILTY PLEA COUNTS AS A CONVICTION.

A guilty plea entered as part of a plea bargain counts as a conviction. You will be subject to all the collateral consequences that accompany a criminal conviction, including, possibly:

- ✓ Immigration-related consequences
- ✓ Employment-related consequences
- ✓ Loss of professional licenses
- ✓ Loss of voting privileges
- ✓ Loss of driving privileges
- ✓ Loss of the right to possess firearms



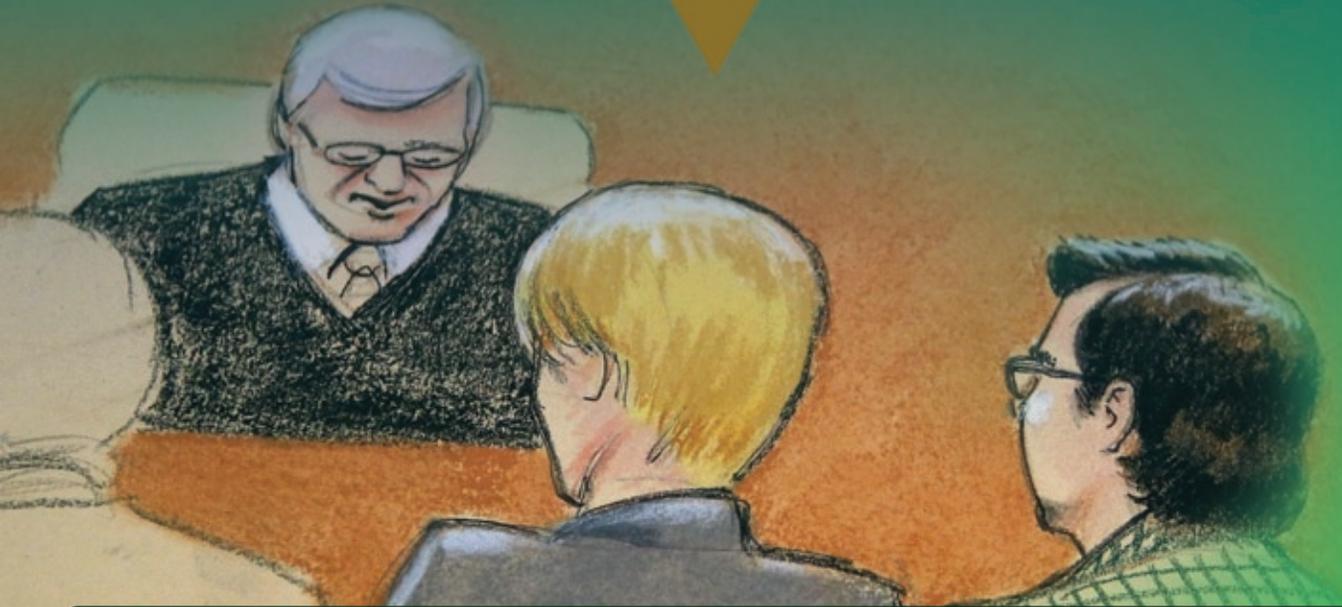
JURIES ARE UNPREDICTABLE.



No one can calculate precisely your chances of acquittal. However, certain factors may tip the scales and help you to decide whether to take your chances at trial or strike a bargain. For example:

- ✓ What are the witnesses going to say? Are they credible? Will they appeal to the jury?
- ✓ What physical evidence does the prosecution have? Was it lawfully obtained? Can it be suppressed?
- ✓ What is the prosecutor's reputation?
- ✓ What is the maximum sentence you are facing if you are found guilty at trial?
- ✓ What is the likely outcome if you agree to plead guilty?

YOUR DECISION MAY HINGE ON PERSONAL FACTORS.



The decision to plead guilty or proceed to trial is unique to each individual. In weighing your options, consider:

- ✓ Your ability to tolerate risk
- ✓ Your age
- ✓ Your ability to endure a stressful trial
- ✓ Your prior experience with prison
- ✓ Your family situation

IT IS YOUR DECISION.



The decision to plead guilty or go to trial belongs to you – not your lawyer, not the prosecutor, not the judge. The law places the final decision in your hands because you are the one who must live with it. Given the gravity of this decision, it is best made with the counsel of a trusted and experienced criminal defense lawyer.

ONCE YOUR DECISION IS MADE,
IT IS DIFFICULT TO UNDO.

After sentencing, you
can withdraw your
guilty plea only if you
can demonstrate that it
was made unknowingly
and involuntarily.

