

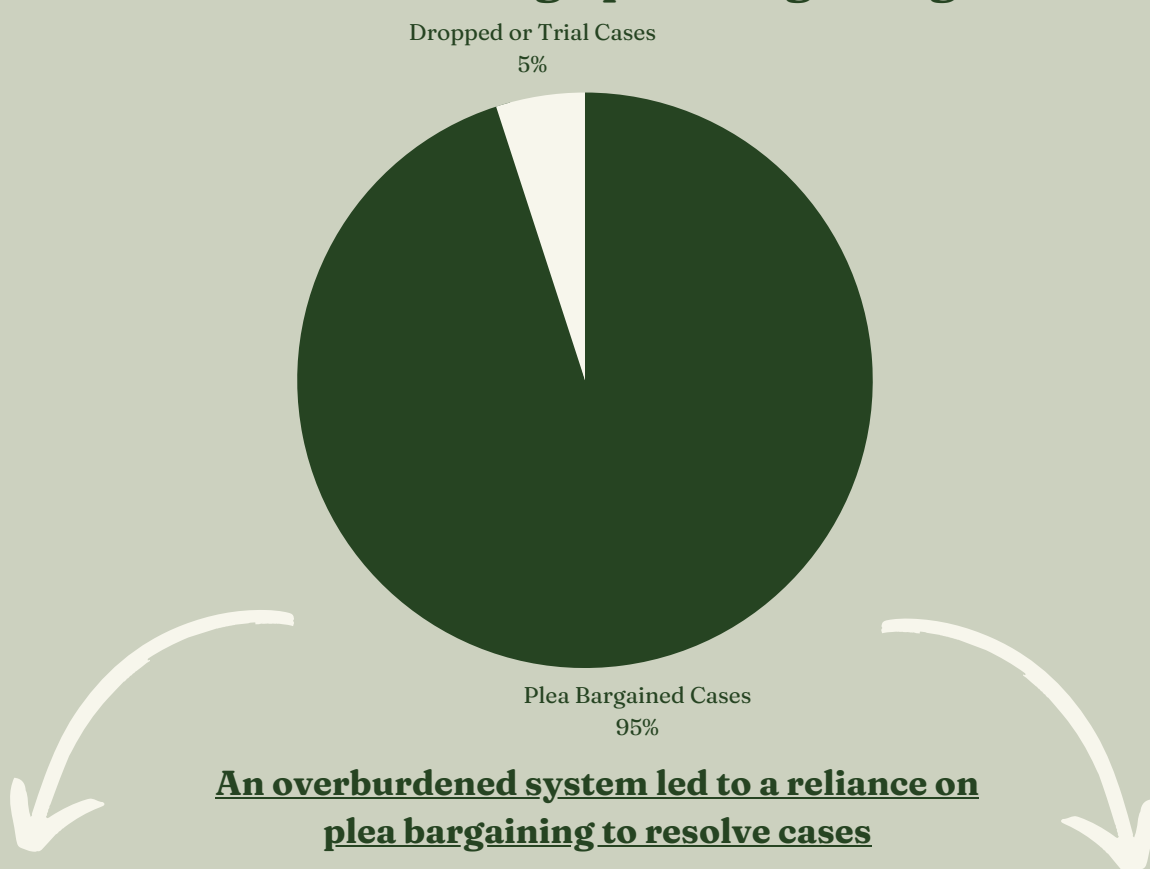
The Impact of Unchecked Prosecutorial Discretion On Coercive Plea Bargaining

A **PLEA BARGAIN** IS A DEAL OFFERED BY THE **PROSECUTOR** TO THE **DEFENDANT** THAT ENTAILS THE DEFENDANT SUBMITTING A GUILTY PLEA IN EXCHANGE FOR AN AGREED-UPON SENTENCE OR ALTERNATIVE FORM OF PUNISHMENT

PLEA BARGAINING REQUIREMENTS FOR THE DEFENDANT'S ACCEPTANCE OF THE PLEA

1. **KNOWING:** the defendant had all the information necessary to make a decision
2. **INTELLIGENT:** the defendant understood all the information conveyed to them
3. **VOLUNTARY:** the defendant accepted the plea of their own volition, and not by use of force or threats

An estimated **93-97%** of cases in the U.S. criminal justice system are resolved through plea bargaining



An overburdened system led to a reliance on plea bargaining to resolve cases

The Prosecutor's Power in Plea Bargaining

- The prosecutor singlehandedly decides what charges to file and how to plead the case out
- Not required to put plea offers on the record or reveal information to the defense
- No "check" or oversight on their decisions

Plea bargaining occurs **behind closed doors**, so what occurs during negotiations is hidden



This has created a "**Prosecutorial Black Box**" which refers to an area of the justice system we cannot tap into

The
Prosecutorial
Black Box

The Defendant's Perspective

- Uninformed and intimidated by the process
- Lack adequate knowledge of their rights
- May not know how plea bargaining works

The Defendant's Decision in Plea Bargaining

Defendants are forced to choose between:



a very certain smaller punishment

vs.

a substantially greater punishment with a difficult-to-assess probability

Defendants are placed in a **state of duress** where they cannot **reasonably reject** this offer

Collateral Consequences

Wrongful Convictions

Perpetual Cycle of Violence in Communities

Consequences for Children with Incarcerated Parents

The coercive nature of plea bargaining and the defendant's perspective during the process has not been adequately addressed, leaving defendants vulnerable and at the will of an unchecked prosecutor's discretion