

PLEA NEGOTIATIONS AND PLEA AGREEMENTS

What is a plea agreement?

A plea agreement is a negotiated outcome in a criminal case in which a prosecutor and a defendant agree to a disposition of the charges against the defendant. The defendant agrees to plead guilty in exchange for the State's recommendation to the court of a specified sentence.

It is rare for a Judge to refuse to follow an agreed plea. If a Judge rejects a plea agreement, the defendant is allowed to withdraw his plea of guilty and continue to a jury trial.

Why negotiate a plea?

The reason for a plea negotiation by either side may vary. However, in most cases, the proposal of a plea is to avoid the uncertainty of the jury trial, and minimize the risk of an undesirable result for either side.

In a plea negotiation, the defendant must choose between the certainty of an agreed sentence or this risk of being found guilty by a Jury and the possibility of a greater sentence.

In some cases, the prosecutors may be confident of the actual guilt of the defendant in a matter, but harbor realistic concerns that the evidence may not be enough to convince a jury of the defendant's guilt.

The plea agreement also allows prosecutors to settle cases, sparing the victim from having to testify in a Jury trial, a lengthy court process.

Once a defendant decides to plead guilty, it is up to the District Attorney's Office and the defendant's attorney to work out an agreement to present to the Judge. The Judge may accept or reject the plea agreement.

OTHER PLEAS

No Contest Plea

A plea that a defendant enters in court in which he/she does not contest the facts presented by the State but does not admit guilt. The court will enter a finding of guilty. No Contest Pleas are very seldom negotiated by our office as we believe a defendant should accept responsibility for his/her actions. However, a defendant may enter a blind plea of no contest to a Judge.

Blind Plea

If the defendant has not reached a plea agreement with the District Attorney's Office, he/she may still plead guilty. In this situation, a defendant does not know the punishment the Judge will impose and the defendant is putting the case in the discretion of the court. A pre-sentence investigation is ordered. At sentencing, both the State and defendant have an opportunity to present evidence to the Judge regarding sentences. Victims and witnesses, and the public have a right to attend the sentencing hearing. The prosecuting Attorney often asks victims or witnesses to attend sentencing hearings.

Consideration of the Victim

You will be given an opportunity to express your opinion about a plea agreement to your prosecutor, however; the recommendations agreed to under a plea agreement are ultimately the decision of the prosecutor.

10 Day Waiting Period

Please remember that a defendant has ten (10) days to Request to Withdraw his/her plea agreement.

If requested, the court must hold a hearing. This is rarely granted unless the defendant was forced to enter his guilty plea or did not truly understand the proceedings.