

# Plea bargaining and police oversight

## How does plea bargaining facilitate police misconduct?

The purpose of a criminal trial is not just to determine if someone is innocent or guilty. The 6th amendment also exists to ensure that the state faces public and judicial scrutiny before depriving citizens of their liberty – or even their life.

Embedded in the right to a fair trial are guarantees which include:

- the ability to be able to see and challenge the evidence for and against you
- the ability to confront and scrutinize your accusers
- the ability to appeal your conviction
- the ability to argue against violation of your rights, such as the right against unreasonable searches and the right against coerced confessions.

All of these mechanisms, which are intended to hold law enforcement publicly accountable, are stripped away by plea bargaining.

Defendants are routinely pleading guilty without possession of evidence that could exonerate them or that could be used to challenge police credibility and the lawfulness of investigations and interrogations. As US jurisdictions struggle to hold police accountable for misconduct, they may be overlooking how plea bargaining reform and the restoration of basic due process can play an important role in public safety and police oversight.

## How would plea bargaining reform help reform police oversight?

Any reform that would decrease over-reliance on plea bargains and increase reliance on trials would ensure defendants have access to police accountability mechanisms that are only guaranteed at trial. This includes:

- evidence that undermines the prosecution's case
- access to evidence
- the ability to put police officers on stand and scrutinize their assertions
- the ability to appeal a conviction based on state misconduct
- the ability to pursue a civil rights action against an officer which may be waived as part of a plea agreement.

Reform that focuses on prosecutorial conduct would also support increased police oversight, such as requiring the state to turn over evidence prior to guilty pleas, banning exploding offers and allowing time for defense investigations, and enabling prosecutors to hide misconduct tainted charges through charge bargaining.

Learn more: [Plea bargaining and mass incarceration](#) and [fairtrials.org/plea-bargaining](https://fairtrials.org/plea-bargaining)