



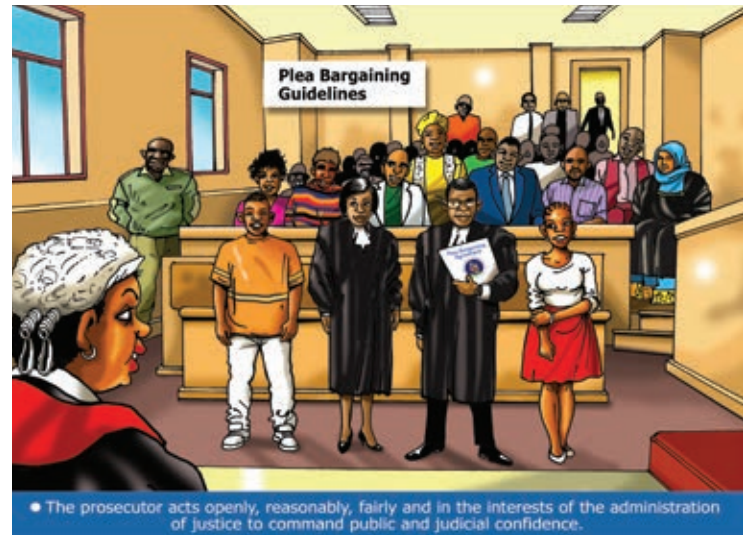
OFFICE OF THE DIRECTOR OF PUBLIC PROSECUTIONS

PLEA BARGAINING FACT SHEET

What is Plea Bargaining?



What is Plea Bargaining?



THE PROSECUTOR SHALL BEFORE NEGOTIATING A PLEA AGREEMENT ENSURE:

- That the accused is informed of the right to a full trial before a court of law.
- There is sufficient evidence to support a conviction and that it is in the public interest.
- That the process must be fair, just, transparent and of integrity.
- The accused understands the case against him/her and voluntarily agrees to negotiate. In serious cases the accused should get legal aid.
- The accused must understand the sentences that are available.
- Ensure that sentence reflects public interest, confidence, safety and public wellbeing.

WHAT IS PLEA BARGAINING?

A plea bargain is a negotiated agreement between a criminal accused and a prosecutor where the accused agrees to plead “guilty” or “no contest” for a concession from a prosecutor in exchange for a plea. For example;

- For a lesser charge. e.g. murder/manslaughter, robbery with violence/robbery.
- Fewer counts (withdrawal of some charges).
- Lenient sentence-maximum and minimum sentence (scale).
- In Kenya, Plea Bargaining is guided by Section 137 A - O of the Criminal Procedure Code and the Criminal Procedure (Plea Bargaining) Rules, 2018.

THE ACCUSED

- Waives the right to full trial.
- Pleads guilty.
- Is ready for convictions and some form of punishment. (imprisonment, fine, probation, community service, compensation, restitution, apology, supervision).
- Waives the right to appeal.
- MUST uphold his or her end of the deal, such as cooperating in the investigation of another offense, or testifying against a co-accused or the plea bargain may be revoked.

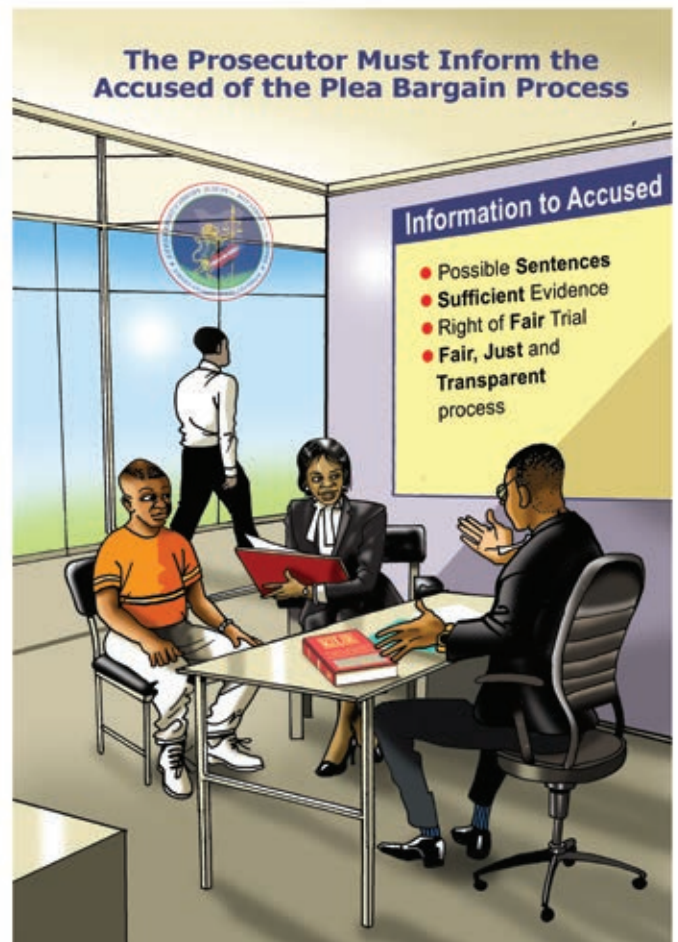
THE PROSECUTOR SHALL IN APPROPRIATE CASES:

- Consult the investigators.
- Unless circumstances do not permit, consult with the victim or their legal representative.
- Inform those who might be affected.



THE PROSECUTOR

- Withdraws charges
- Reduces charges
- Stays charges
- Alternative to Prosecution
- Recommend sentence
- Recommends compensation and rehabilitation



THE COURT

- Considers the agreement.
- Ensures it meets the ends of justice.
- Protect the rights of victims and complainants.
- Protect the integrity of the system.
- Ensures the accused understands the contents of the agreement and enters into it voluntarily.



ADVANTAGES OF PLEA BARGAINING

- Saves expenses that would be incurred if a case goes to full trial.
- Saves time
- Allows prosecutors time to focus on higher level cases by significantly reducing the number of cases that go to full trial.
- Accused avoids stricter punishment



- Shortened trial time
- Lighter sentences
- Non-custodial sentences
- Decongested prisons
- Reduces build-up of cases
- Reconciliation
- Compensation for loss
- Access to justice enhanced
- Confidence in criminal justice system

ADOPTION OF PLEA BARGAINING GLOBALLY

300%

Increase of plea bargaining worldwide since 1990 (Fair Trials)

97%

No. of cases resolved via plea bargain in the US by 2015

64%

No. of cases resolved via plea bargain in Russia by 2014.

NEED MORE INFORMATION ABOUT PLEA BARGAINING?

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