

A photograph of a person's hands in handcuffs, holding a pen over a document. The hands are positioned as if about to sign or write. The background is a wooden surface.

Plea Bargaining

97% Percent of federal cases and 94% of state cases end in plea bargains with defendants pleading guilty in exchange for a lesser sentence

[Photo](#) by USDOJ Office of the Inspector General / Public domain



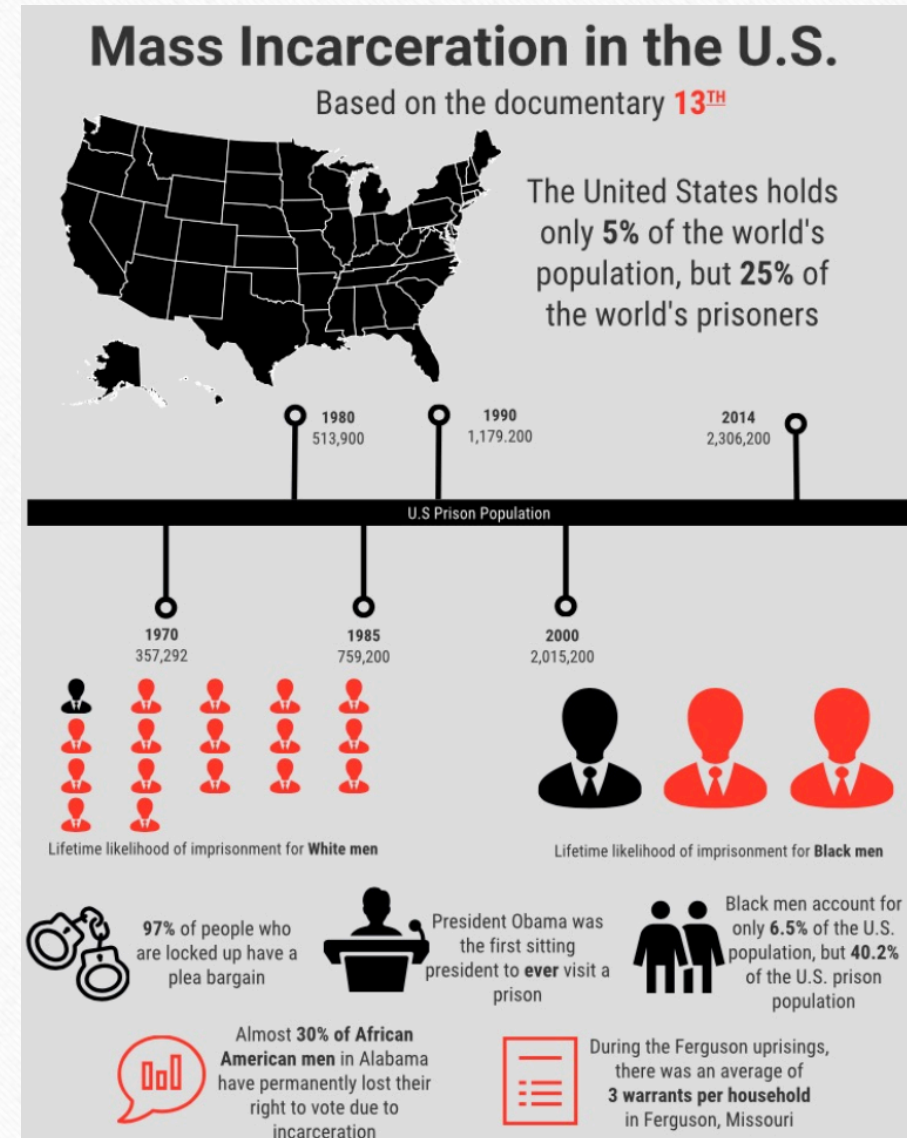
What Is A Plea Bargain?

- A plea bargain is an agreement wherein the defendant pleads guilty to a crime, usually a lesser crime than the original charge, and as a result, waives his or her right to a jury trial.
- What is typically understood as a strategic opportunity to avoid longer sentencing is a tool used to sustain mass incarceration through a prioritization of efficiency that strips defendants of legal protection.
- Prosecutors are rewarded for the number of convictions they accrue, and are incentivized to engage in strategic charge-stacking, conceal information regarding the likelihood of jury conviction and blatantly coerce defendants to plead guilty.

Mass Incarceration Contribution

- Plea bargains are far less time-consuming than a protracted trial process, they keep the system moving at a rapid pace and play an essential role in nurturing the United States' unparalleled prison growth.

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Questionable Ethics

- Judges and prosecutors may be subject to implicit biases when exercising their discretion. With limited information, time, and resources, prosecutors may consciously or subconsciously rely on race in evaluating which defendants are likely to commit crimes in the future, and those determinations are reflected in their plea offers.
- The number of snitches in drug cases has soared because ratting out co-defendants, friends, family, or acquaintances is often the only way to avoid a lengthy mandatory minimum sentences.
- Homes may be searched for drugs based on hunches, a tip from an unreliable confidential informant who is trading the information for money or to escape prison time.

George Alvarez

- In 2006, George Alvarez was charged with assaulting a prison guard while awaiting trial on public intoxication. He knew he didn't do it — the guards jumped him — but the ten-year mandatory minimum sentence at trial scared him so much that he pled guilty. Little did he know that the government had a video proving his innocence, but they *buried it long enough* for prosecutors to extract the plea first. George spent almost four years behind bars fighting for his innocence before finally being exonerated.

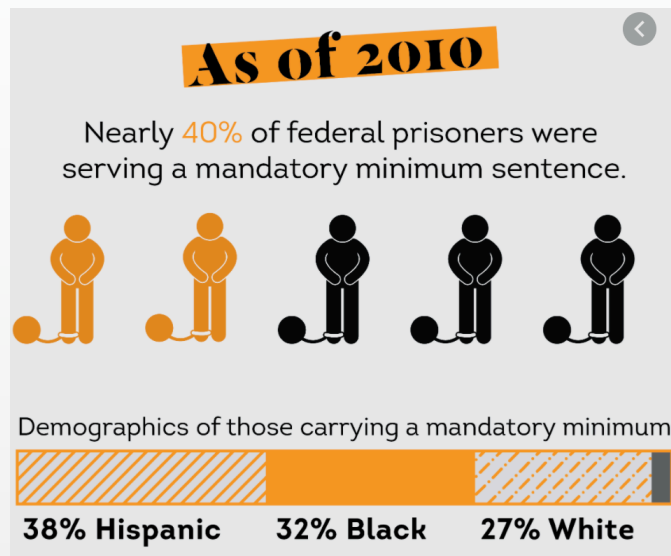


Ray Cromartie



- Look in the slide the state of Georgia executed Ray Cromartie for a 1994 murder. The case against him was paper thin and Cromartie maintained his innocence until the end, but Georgia denied every request for DNA testing that could have set the record straight. A lesser-known fact about the case is that 20 years ago, Georgia prosecutors offered Cromartie a plea deal under which he could have been paroled after seven years and free by now. But Cromartie refused to admit guilt, and so the state retaliated by seeking the death penalty and ultimately killing him.

Punitive Tools To Pressure Defendants



- Since roughly the 1970s and the accompanying War on Drugs, prosecutors have been handed increasingly punitive tools to pressure defendants to take bad deals. These tools include:
 1. Pretrial Detention: Separate defendants from family, jobs, and community.
 2. Mandatory Minimums: Sentence enhancements that ratchet up the trial penalty.
 3. Lax Discovery Rules: allow prosecutors to hide favorable evidence during negotiations, as in George Alvarez's case.
 4. Zero Transparency Requirements: robs defendants, defense lawyers, and voters of the ability to scrutinize how the deals get done
- It all occurs almost entirely behind closed doors, rather than in front of a judge, a jury, and the American public, as the founders intended.

Solution



- Mass Plea Refusal: This proposed solution rests upon the assumption that if every case was taken to trial, the criminal justice system would be forced to bear the real cost of over policing, charge-stacking and mass misdemeanor processing.
- There is a strong evidentiary consensus that a mass plea refusal would successfully overwhelm the system. Because over 90 percent of cases are resolved through plea bargains, there simply does not exist the requisite number of public defenders, courts or police departments to try every case that it charged.