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# Plea Bargaining as Coercion in Illinois' Post-Cash Bail System

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## **Introduction: Plea Bargaining and the Challenge to Due Process**

The American criminal justice system centers on the principle that before the government can deprive an individual of liberty, it must prove guilt through a fair legal process. While this idea, presumption of innocence, may seem simple, it provides the framework by which we ensure that anyone being held in custody is treated with dignity. The Fifth and Fourteenth Amendments guarantee that no person shall be deprived of “Life, liberty, or property, without due process of law,” while the Sixth Amendment guarantees the right to a public trial by an impartial jury.<sup>1</sup> Together, these constitutional protections reflect the Founders’ belief that liberty should never depend on factors such as wealth or status but instead on a fair legal process.

Despite these constitutional safeguards, the modern criminal justice system often functions in ways that significantly differ from these ideals. Today, more than 95% of criminal convictions in the US are decided through guilty pleas rather than jury trials.<sup>2</sup> This makes plea bargaining the primary mechanism by which criminal guilt is determined.<sup>3</sup> The Vera Institute, a nonprofit for criminal justice research, notes that plea bargaining “makes up the vast majority of criminal justice transactions today,” which fundamentally changes how constitutional rights are exercised in practice.<sup>4</sup> While plea bargaining has become crucial to the function of American courts, a guilty plea cannot be truly considered voluntary when the alternatives include months of incarceration or the threat of a noticeably harsher sentence post-trial.<sup>5</sup>

These questions have become especially significant in Illinois following the SAFE-T Act, one of the most prominent criminal justice system reforms in the past decade.<sup>6</sup> By eliminating cash bail, lawmakers aimed to reduce wealth disparities in pretrial detention.<sup>7</sup> However, rather than being eliminated, the sources of coercion simply evolved, shifting to broader structural pressures embedded into the system.<sup>8</sup> Even then, these pressures are not experienced equally. Factors such as race and socioeconomic status, and access to legal representation shape both the

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<sup>1</sup>U.S. Const. amend. V.; U.S. Const. amend. VI.; U.S. Const. amend. XIV, § 1.

<sup>2</sup> The Hidden Law Of Plea Bargaining, Columbia Law Review (July 1, 2018), <https://www.columbialawreview.org/content/the-hidden-law-of-plea-bargaining/>.

<sup>3</sup>Ram Subramanian, In the Shadows: A Review of the Research on Plea Bargaining, Vera Institute of Justice (2020).

<sup>4</sup>*Ibid.*

<sup>5</sup>How The Criminal Legal System Coerces People into Pleading Guilty, Vera Institute (Apr. 4, 2024), <https://www.vera.org/news/how-the-criminal-legal-system-coerces-people-into-pleading-guilty>.

<sup>6</sup>ICJIA, Illinois Criminal Justice Information Authority (Mar. 26, 2026), <https://icjia.illinois.gov/researchhub/articles/the-2021-safe-t-act-icjia-roles-and-responsibilities>.

<sup>7</sup>Sahar Mithani, Cash Bail: Balancing Defendants’ Rights With Public Safe-T, 2025 Illinois Law Review (2023).

<sup>8</sup>The Hidden Law Of Plea Bargaining, Columbia Law Review (July 1, 2018).

likelihood of pretrial detention and a defendant's ability to meaningfully exercise the right to trial.<sup>9</sup>

This paper will argue that although the SAFE-T Act represents meaningful progress, plea bargaining continues to function as a coercive force within Illinois' post-cash bail system. By examining the historical development of plea bargaining, the constitutional principles that surround procedural due process, the lasting effects of pretrial detention, and the disproportionate burdens experienced by marginalized communities, it becomes clear that the elimination of cash bail on its own cannot eliminate coercion and that future reform will require addressing the broader legal incentives that pressure defendants to surrender their constitutional right to trial.

## **Part I: The Rise of Plea Bargaining and the Evolution of Illinois's Pretrial System**

In Part I, this paper will provide historical background surrounding plea bargaining and will explain how it became the primary method of case resolution in the United States. In Part II, it will examine the extent to which Illinois's SAFE-T Act meaningfully reduced coercion in the pretrial process by evaluating the law's impact on pretrial detention and plea bargaining. Part III will examine how intersectional disparities based on race, socioeconomic status, and access to legal representation shape defendants' decisions to plead guilty and reinforce systemic inequalities throughout the justice process. Part IV will analyze the constitutional principles surrounding plea bargaining, drawing on Supreme Court precedent to determine whether the conditions of modern plea agreements allow defendants to make truly voluntary decisions. Finally, Part V will consider the broader implications of coercive plea bargaining and will propose realistic reforms that strengthen due process while preserving the benefits that have made pleas so widespread.

Many people assume criminal convictions are decided primarily through jury trials. But in reality, the overwhelming majority of criminal convictions in the U.S. are never even brought before a jury.<sup>10</sup> Instead, they are often resolved through a more discrete process called plea bargaining, where defendants agree to plead guilty in exchange for reduced charges or lighter

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<sup>9</sup>The Impact of Plea Bargaining on Existing Disparities in the American Legal System By Zara Khan | Published by Critical Debates in Humanities, Science and Global Justice, Published by Critical Debates in Humanities, Science and Global Justice, <https://criticaldebateshsgj.scholasticahq.com/post/2811-the-impact-of-plea-bargaining-on-existing-disparities-in-the-american-legal-system-by-zara-khan>.

<sup>10</sup> Ram Subramanian, In the Shadows: A Review of the Research on Plea Bargaining, Vera Institute of Justice (2020).

sentences.<sup>11</sup> This practice has long been a part of American courts, but has expanded greatly throughout the twentieth century as limited judicial resources made negotiated pleas an easier way of resolving cases.<sup>12</sup> Under the current system, a defendant who is detained before trial may lose employment, housing, educational opportunities, financial stability, and connection to family and community.<sup>13</sup> Faced with these circumstances, a plea agreement often seems like the easiest way to return to normalcy. Even individuals who are innocent may come to the conclusion that pleading guilty is the preferable choice to weeks or months of incarceration before trial.<sup>14</sup> Currently, pleas account for approximately 98% of federal convictions and roughly 95% of state convictions, demonstrating that jury trials have become the rare exception.<sup>15</sup>

This process benefits defendants and lawyers alike. Trials require substantial time, financial investment, judges, prosecutors, public defenders, jurors, courtroom staff, and courtroom availability; however, many jurisdictions simply lack the amount of resources to bring every criminal case to trial.<sup>16</sup> In other words, without plea bargaining, the American criminal justice system would simply be unable to operate because existing resources are not substantial enough to adequately accommodate the volume of criminal prosecutions each year.<sup>17</sup> Therefore, plea bargaining presents a quicker alternative for defendants to settle their cases, making it the primary mechanism by which the American criminal justice system keeps itself from collapsing.<sup>18</sup> The Supreme Court itself has recognized this, describing plea bargaining as an “essential component of the administration of justice” because requiring every criminal case to have a trial would require governments to “multiply by many times the number of judges and court facilities.”<sup>19</sup> On its own, the idea that the system would collapse if more people exercised their right to trial reflects the injustices buried within the system.

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<sup>11</sup>*Ibid.*

<sup>12</sup>The Hidden Law Of Plea Bargaining, Columbia Law Review (July 1, 2018).

<sup>13</sup>How The Criminal Legal System Coerces People into Pleading Guilty, Vera Institute (Apr. 4, 2024).

<sup>14</sup>Lucian E Dervan, The Innocent Defendant's Dilemma: An Innovative Empirical Study of Plea Bargaining's Innocence Problem, (Apr. 23, 2013), <https://scholarlycommons.law.northwestern.edu/jclc/vol103/iss1/1/>.

<sup>15</sup>Somil Trivedi, Coercive Plea Bargaining Has Poisoned the Criminal Justice System. It's Time to Suck the Venom Out., American Civil Liberties Union (Jan. 13, 2020),

<http://www.aclu.org/news/criminal-law-reform/coercive-plea-bargaining-has-poisoned-the-criminal-justice-system-it-s-time-to-suck-the-venom-out>.

<sup>16</sup>The Hidden Law Of Plea Bargaining, Columbia Law Review (July 1, 2018).

<sup>17</sup>*Ibid.*

<sup>18</sup>*Ibid.*

<sup>19</sup>*Santobello v. New York*, 404 U.S. 257 (U.S. Supreme Ct. 1971).

Therefore, while plea bargaining may now be necessary to the justice system, its efficiency often trades off a person's individual rights.<sup>20</sup> Simply put, plea bargaining has evolved beyond a simple administrative tool and now functions as a source of coercion within the legal system.<sup>21</sup> Rather than deciding whether defendants are truly guilty or innocent, they often have to evaluate the risk each option presents.<sup>22</sup> If a defendant accepts a plea agreement, prosecutors often reduce charges or recommend a lighter sentence in exchange for avoiding the time and expense of a trial.<sup>23</sup> By choosing to go to trial, defendants forfeit those concessions, with estimates showing that defendants who proceed to trial and are ultimately convicted receive sentences approximately 15–60% longer than similarly situated defendants who accept plea agreements, making the use of a constitutional right significantly more risky.<sup>24</sup> This dynamic has become commonly referred to as the “trial penalty” and raises serious concerns regarding whether guilty pleas are indeed voluntary or if they are produced through internal pressure.<sup>25</sup> Moreover, this pressure rarely comes from a single factor. Instead, prosecutors may combine longer potential sentences, mandatory minimum penalties, stacked charges, and prolonged pretrial detention to increase this incentive to plead guilty, even if the defendant has a viable defense.<sup>26</sup> It then becomes clear that the decision to plead guilty is less about actual guilt and more about choosing the safest path forward.

## **Part II: Illinois's SAFE-T Act and the Post-Cash Bail System**

These concerns have become particularly relevant in Illinois following 2023's implementation of the Safety, Accountability, Fairness and Equity–Today Act (SAFE-T Act). Before this legislation was enacted, individuals accused of crimes could remain incarcerated for weeks or even months because they lacked the financial means of achieving release.<sup>27</sup> By contrast, wealthier defendants could easily return home when faced with the same allegations, raising serious concerns about equal treatment under the law, leading to the SAFE-T Act, which

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<sup>20</sup> Somil Trivedi, Coercive Plea Bargaining Has Poisoned the Criminal Justice System. It's Time to Suck the Venom Out., American Civil Liberties Union (Jan. 13, 2020).

<sup>21</sup> Ram Subramanian, In the Shadows: A Review of the Research on Plea Bargaining, Vera Institute of Justice (2020).

<sup>22</sup> Lucian E Dervan, The Innocent Defendant's Dilemma: An Innovative Empirical Study of Plea Bargaining's Innocence Problem, (Apr. 23, 2013).

<sup>23</sup> The Hidden Law Of Plea Bargaining, Columbia Law Review (July 1, 2018).

<sup>24</sup> Brian D Johnson, Trials and Tribulations: The Trial Tax and the Process of Punishment, University of Chicago Press (2019).

<sup>25</sup> *Ibid.*

<sup>26</sup> The Hidden Law Of Plea Bargaining, Columbia Law Review (July 1, 2018).

<sup>27</sup> Liu, The Illinois SAFE-T Act: Eliminating Racial Bias in Pretrial Detention, ProQuest <http://www.proquest.com/openview/0c6c060df50a65cfc7f796e75b3fdb85/1?pq-origsite=gscholar&cbl=1576347>.

eliminated cash bail with the goal of reducing wealth-based disparities and focusing on public safety rather than a person's wealth.<sup>28</sup> Governor JB Pritzker defended the legislation by arguing, “your bank account should not determine your freedom.”<sup>29</sup> While the elimination of cash bail was undeniably a valuable step toward addressing the justice system's inequalities, pretrial detention and plea deals remained. For example, individuals held in pretrial detention are approximately 46% more likely to plead guilty than similarly situated defendants who are released before trial, demonstrating how detention itself creates powerful personal and financial pressures that can influence legal decision-making.<sup>30</sup> The persistence of these injustices suggests that coercion in the Illinois justice system has shifted mechanisms rather than been eliminated.

Overall, evaluations of the SAFE-T Act suggest that its effect may have been more moderate than many supporters and opponents initially anticipated. Interestingly, while the SAFE-T Act sparked intense discourse regarding the release of incarcerated individuals, data suggests that a number of defendants who would have been released under previous cash bail are now being held in detention because judges have determined that they pose a risk to public safety, proving that the legislation changed the grounds for detention rather than reducing it.<sup>31</sup> Consequently, the SAFE-T Act illustrates both the potential and the limitations of criminal justice reform, exemplifying that addressing a single source of inequality does not eliminate coercion throughout the broader legal system.<sup>32</sup>

### **Part III: Coercion, Pretrial Detention, and Intersectional Disparities**

The consequences of coercive plea bargaining, however, do not end when a defendant accepts an agreement. Instead, a guilty plea often marks the start of a series of long-term legal and social barriers that persist after a sentence is served. This can include challenges such as reduced employment opportunities, barriers to public housing, limited education access, and overall difficulties when it comes to reentering society.<sup>33</sup> Without these safety nets or meaningful

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<sup>28</sup>ICJIA, Illinois Criminal Justice Information Authority (Mar. 26, 2026).

<sup>29</sup>Peter Hancock, 1 year after end of cash bail in IL, early research shows impact less than many hoped or feared, ABC7 Chicago (Sept. 18, 2024), <https://abc7chicago.com/post/cash-bail-illinois-year-after-end-early-research-shows-impact-less-many-hoped-feared/15321213/>.

<sup>30</sup>How The Criminal Legal System Coerces People into Pleading Guilty, Vera Institute (Apr. 4, 2024).

<sup>31</sup>Peter Hancock, 1 year after end of cash bail in IL, early research shows impact less than many hoped or feared, ABC7 Chicago (Sept. 18, 2024).

<sup>32</sup> Sahar Mithani, Cash Bail: Balancing Defendants’ Rights With Public Safe-T, 2025 Illinois Law Review (2023).

<sup>33</sup>Jean Kjellstrand, Reentering the Community after Prison: Perspectives on the Role and Importance of Social Support, Springer Nature Link (July 30, 2022), <https://link.springer.com/article/10.1007/s12103-020-09596-4>.

opportunities to rebuild their lives, many formerly incarcerated individuals are at an increased risk of recidivism.<sup>34</sup> In many cases, recidivism is not simply a result of the individual's choices, but also of systemic barriers that limit legitimate paths forward after a conviction.<sup>35</sup> This creates a cycle in which a single guilty plea can continue influencing a person's life long after their sentence has been completed, increasing the likelihood of future interactions with the justice system and reinforcing the very patterns of incarceration that reforms such as the SAFE-T Act have sought to reduce.<sup>36</sup>

The pressures to plead guilty are not distributed equally across all defendants. Rather, they are often intersectional, meaning that multiple aspects of a defendant's identity shape how they experience the criminal justice system.<sup>37</sup> Factors such as race, socioeconomic status, and access to effective legal representation all influence a defendant's ability to exercise their right to a fair trial freely.<sup>38</sup> For example, low-income defendants are often less able to withstand prolonged pretrial detention because they often have fewer financial reserves, increasing the pressure to accept a plea deal regardless of the strength of the evidence against them.<sup>39</sup> Even after the SAFE-T Act, defendants with greater financial resources are often in a stronger position throughout the pretrial process because they are better able to afford private counsel and are not as severely impacted by the financial and personal costs of waiting for trial.<sup>40</sup>

Additionally, race plays a significant role in both plea negotiations and the long-term consequences of conviction. For example, White defendants are approximately 25% more likely than Black defendants to have charges reduced or dismissed, demonstrating that disparities exist even before a conviction is entered.<sup>41</sup> These unequal outcomes are reflected in guilty pleas as well, as more than 60% of exonerees who pleaded guilty are people of color, illustrating that coercive plea bargaining disproportionately burdens historically marginalized communities.<sup>42</sup>

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<sup>34</sup> Christy Visher, *Returning Home: Understanding the Challenges of Prisoner Reentry Maryland Pilot Study: Findings from Baltimore*, (Mar. 10, 2004), [https://floridaliteracy.org/Corrections/410974\\_ReturningHome\\_MD.pdf](https://floridaliteracy.org/Corrections/410974_ReturningHome_MD.pdf).

<sup>35</sup> Jean Kjellstrand, *Reentering the Community after Prison: Perspectives on the Role and Importance of Social Support*, Springer Nature Link (July 30, 2022).

<sup>36</sup> Christy Visher, *supra* note 34.

<sup>37</sup> *The Impact of Plea Bargaining on Existing Disparities in the American Legal System* By Zara Khan | Published by Critical Debates in Humanities, Science and Global Justice, Published by Critical Debates in Humanities, Science.

<sup>38</sup> *Research Finds Evidence of Racial Bias in Plea Deals*, (Oct. 26, 2017), <https://eji.org/news/research-finds-racial-disparities-in-plea-deals/>.

<sup>39</sup> *How The Criminal Legal System Coerces People into Pleading Guilty*, Vera Institute (Apr. 4, 2024).

<sup>40</sup> Sahar Mithani, *Cash Bail: Balancing Defendants' Rights With Public Safe-T*, 2025 *Illinois Law Review* (2023).

<sup>41</sup> *Research Finds Evidence of Racial Bias in Plea Deals*, (Oct. 26, 2017).

<sup>42</sup> *Coerced Pleas*, Innocence Project <https://innocenceproject.org/coerced-pleas/>.

Furthermore, once a conviction has been made, racial disparities continue to shape successful reentry, with data showing that a criminal record reduced job callback rates for White applicants by approximately 30%, even though it reduced callback rates for Black applicants by approximately 60%.<sup>43</sup> Because of this, plea bargaining reinforces its inequalities at every stage of the criminal justice process, from plea negotiations to successful reentry.

#### **Part IV: Constitutional Analysis; Due Process and Voluntariness**

The Constitution is built upon the idea that before an individual can be imprisoned, guilt must be proved beyond a reasonable doubt to an impartial jury while respecting every procedural protection guaranteed by the Bill of Rights.<sup>44</sup> These protections were never designed to make prosecutions more difficult, but reflect the philosophy that government power must always be limited by individual rights.<sup>45</sup>

But in our modern system, it is unclear what the constitutional right to a jury trial guarantees when nearly every criminal case ends without one. The Supreme Court has repeatedly held that plea bargaining is constitutional because defendants voluntarily waive their right to trial.<sup>46</sup> In *Brady v. United States* (1979), the Court concluded that a guilty plea remains valid as long as it is entered voluntarily. Just a year later, in *Santobello v. New York* (1980), the Court described plea bargaining as an “essential component of the administration of justice, recognizing that negotiated pleas had become necessary for courts to function efficiently.”<sup>47</sup> But in many ways, plea bargaining has evolved to become the system.<sup>48</sup> Together, these cases show that the Court has accepted plea bargaining not as an exception to criminal procedure but as one of its central features.<sup>49</sup> The legal standard, therefore, does not ask whether a defendant would have preferred a trial in an ideal world.<sup>50</sup> It asks whether the defendant understood that they were waiving their rights and whether the plea was truly voluntary.<sup>51</sup>

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<sup>43</sup> Sequencing Disadvantage: Barriers to Employment Facing Young Black and White Men with Criminal Records, PMC <https://pmc.ncbi.nlm.nih.gov/articles/PMC3583356/>.

<sup>44</sup> U.S. Const. amend. V.

<sup>45</sup> Russell D Covey, Plea-Bargaining Law After Lafler and Frye, 51 Duquesne Law Review (2013).

<sup>46</sup> *Brady v. United States*, 397 U.S. 742 (U.S. Supreme Ct. 1970).

<sup>47</sup> *Santobello v. New York*, 404 U.S. 257 (U.S. Supreme Ct. 1971).

<sup>48</sup> Ram Subramanian, In the Shadows: A Review of the Research on Plea Bargaining, Vera Institute of Justice (2020).

<sup>49</sup> *Ibid.*

<sup>50</sup> *Ibid.*

<sup>51</sup> *Ibid.*

While it is clear that plea bargaining conserves resources and reduces delays, constitutional analysis cannot end there.<sup>52</sup> The Constitution was not written to guarantee the most efficient legal system possible. It was written to protect individual liberty, even when doing so makes government less efficient.<sup>53</sup> The legal issues that must then be considered are whether a decision to waive your jury trial rights can truly be considered voluntary when the consequences of exercising this constitutional right are significantly more severe than surrendering it.<sup>54</sup> This is where the legal definition of coercion becomes difficult. Courts usually focus on whether the government directly forced or deceived the defendant.<sup>55</sup> However, plea bargaining creates pressures in less obvious ways.<sup>56</sup> Technically, a defendant can be free to reject a plea offer, but that choice becomes much less meaningful if going to trial risks consequences such as a dramatically longer sentence or the loss of employment and housing.<sup>57</sup> This distinction between formal choice versus a practical one is the core constitutional problem.<sup>58</sup> While this does not mean that every plea is unconstitutional, it does reveal a gap between constitutional doctrine and lived reality, as the Court does not always account for the structural pressures that surround the decision to waive your rights to trial.<sup>59</sup>

The constitutional issue then is not whether plea bargaining should exist, but whether it gives defendants a genuine opportunity to choose trial without facing punishment for exercising that right. If the right to trial exists only for defendants who can afford to wait or afford the risks of losing, then due process becomes unequal in practice, clearly showing that our criminal justice system can be efficient yet fail to be fair.<sup>60</sup> For plea bargaining to satisfy due process, the decision to plead guilty must be more than a strategic choice driven by surrounding pressures. It must be a choice that was truly informed and truly voluntary.

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<sup>52</sup> The Hidden Law Of Plea Bargaining, Columbia Law Review (July 1, 2018).

<sup>53</sup> U.S. Const. amend. XIV, § 1.

<sup>54</sup> NACDL - From The President: A Plea for Brady — A Case for Brady Material in the Plea Bargaining Process, From The President: A Plea for Brady A Case for B (Dec. 13, 2019), <https://www.nacdl.org/Article/Dec2019-FromThePresidentAPleaforBradyACaseforBrady>.

<sup>55</sup> Russell D Covey, Plea-Bargaining Law After Lafler and Frye, 51 Duquesne Law Review (2013).

<sup>56</sup> The Hidden Law Of Plea Bargaining, Columbia Law Review (July 1, 2018).

<sup>57</sup> Russell D Covey, Plea-Bargaining Law After Lafler and Frye, 51 Duquesne Law Review (2013).

<sup>58</sup> *Ibid.*

<sup>59</sup> *Ibid.*

<sup>60</sup> *Ibid.*

## **Part V: Policy Recommendations to Strengthen Due Process in Illinois**

The right to a trial is one of the most fundamental protections the Constitution guarantees. However, this right, like any right, is only meaningful when citizens can exercise it without fear of the consequences.

Our society will not solve this issue with a single piece of legislation, as the SAFE-T Act attempted. While Illinois took this important step, the current existence of coercive plea bargaining demonstrates that reform is not complete. It is in our best interest to fight for a justice system that prioritizes fairness rather than efficiency. But to do that, we must examine the structures that push defendants to surrender their constitutional rights in the first place. The next phase of reform must focus on three interconnected priorities: education, resources, and representation. Together, these efforts can continue the fight against structural pressures that have made plea bargaining so coercive, while preserving the efficiency of negotiated pleas when truly voluntary.

Overcoming these barriers begins with awareness. Plea bargaining affects thousands of lives each year, yet it is absent from public discussion because it takes place outside the courtroom. Illinois should prioritize greater legal literacy. Schools can strengthen civics education by incorporating lessons on constitutional rights and the realities of the criminal justice system. While this is already happening in some communities, teaching it statewide in an understandable way is key to educating citizens on these topics. Beyond putting the responsibility entirely on schools, libraries, local legal aid organizations, and/or bar associations can host workshops, while courts and public defender's offices can provide multilingual guides that explain plea bargaining and contrast its benefits with the long-term consequences. An informed public will be better equipped to protect their rights and continue to push for reform while holding institutions accountable.

Still, awareness alone is not enough. Defendants need access to resources that let them make genuine choices rather than ones driven by desperation. Therefore, Illinois should continue investing in programs such as employment and transportation assistance, housing support, and mental health services for individuals returning from incarceration. These investments will not only improve reentry outcomes but also reduce recidivism by addressing the barriers that contribute to the cycle of repeated crime. Funding these programs could come from federal grants from the U.S. Department of Justice's Office of Justice Programs and partnerships with

nonprofit organizations focused on reentry services. Because successful reentry reduces future incarceration, these investments can lower correctional costs down the road, allowing savings to be reinvested into continued rehabilitation.

One of the most meaningful ways policymakers can also strengthen due process is by investing in public defense. Presently, public defenders' offices are significantly underfunded, with many attorneys dealing with overwhelming caseloads that limit the time they are able to spend with each client.<sup>61</sup> Illinois should increase funding to hire more public defenders, social workers, and other support staff. This would allow attorneys to devote more time to each client and ensure that defendants are able to make decisions that they truly understand rather than ones driven by desperate circumstances. Illinois law schools could also partner with county public defender offices to expand internship and postgraduate fellowship programs so that law school students could assist with legal processes like client interviews, increasing office capacity while also providing meaningful educational experience to the public defenders of the future.

However, the power to make these changes should not rest solely with legislators. Each of us can make a change to help individuals struggling through this process. If you want to make a difference, support organizations that provide legal aid. Doing so will help increase resources for public defense and reentry services. Advocacy can also go a long way toward combating these issues. Consider hosting a fundraiser to spread awareness and advocate for evidence-based criminal justice reform. Even simply educating yourself and others about the realities of plea bargaining and due process can make a small difference and drive reform down the road. When we face injustices like this, we must remember that the most powerful forces of change come from within our own communities.

## **VII: Conclusion**

This research paper sought to answer whether plea bargaining continues to act as a coercive force within Illinois's justice system, particularly after the successful elimination of cash bail. It also sought to evaluate what those findings reveal about how due process is truly used in practice. The evidence suggests that although the SAFE-T Act was a meaningful policy that reduced a key source of inequality, it did not eliminate the systemic injustices that continue to influence guilty pleas. Pretrial detention, the trial penalty, unequal access to legal

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<sup>61</sup> NACDL - From The President: A Plea for Brady — A Case for Brady Material in the Plea Bargaining Process, From The President: A Plea for Brady A Case for B (Dec. 13, 2019).

representation, and the lasting collateral consequences of conviction all contribute to a system in which defendants plead guilty because it is the safest option.

Nonetheless, this paper does not argue that plea bargaining should be abolished entirely. Because the volume of criminal cases remains extremely high each year, negotiated pleas remain essential because they conserve resources and reduce delays. However, when defendants face greater punishment for exercising their right to trial or lack the resources to make the best decision for them, the balance between efficiency and free choice does not align with our constitutional protections.

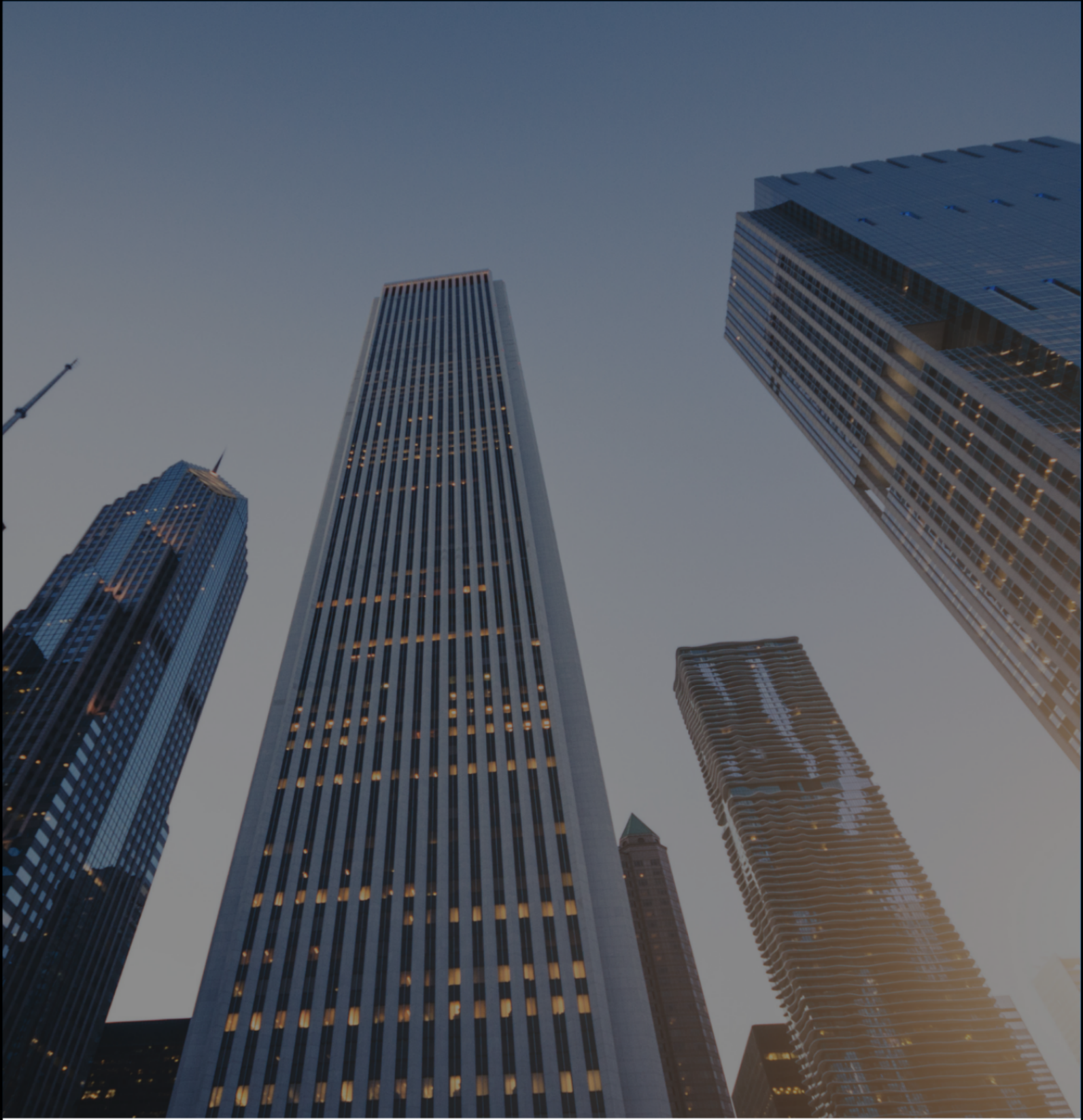
Ultimately, we must remember that Constitutional rights mean nothing on paper alone. For our democracy, they must be protected in real life. Illinois has already made efforts to pursue criminal justice reform. But the next phase of reform is in our hands. Together, we can work to strengthen public defense and increase awareness and representation throughout the pretrial process. Pursued thoughtfully, these reforms offer the opportunity to become a national model for ensuring that incarcerated individuals are treated with the dignity and respect they deserve. A justice system should not be judged by its ability to resolve the maximum number of cases, but by whether it maintains its promise to its citizens to protect their constitutional rights.



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