

FAIRNESS FOR ALL? PUBLIC PERCEPTIONS OF PLEA BARGAINING

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In the United States, most criminal cases are adjudicated through guilty pleas; yet, little is known about the public's perceptions of plea bargaining. Here, we applied two competing theories-- a procedural justice framework and plea-bargaining in the "shadow of the trial" theory-- to analyze the impact that process-relevant and evidence-relevant plea bargain variables have on the public's opinion of fairness for defendants, victims, and the greater community. Participants read two vignettes that summarized different plea bargain scenarios with nine key variables manipulated: the type of crime and its consequences, the defendant's prior record, the strength of the evidence against the defendant, the severity of the plea deal sentence, the mandatory minimum sentence associated with the crime, the coerciveness of the plea deal, the presence of emerging exculpatory evidence, and the proximity to trial. Our findings reveal that factors thought to influence the process and outcomes of plea bargaining do not neatly map onto laypeople's perceptions of procedural and outcome fairness and that evidentiary factors and prior attitudes may influence public perceptions of fairness more than procedural variables. These results highlight the need to further investigate the ways in which procedural justice and shadow of the trial frameworks can be applied to the study of public perceptions of plea bargaining.

Key words: Plea bargaining; public perceptions; fairness; procedural justice

Most criminal cases in the United States (between 95-98%) are resolved by guilty plea (Alkon, 2016, 2017; Burke, 2007; Edkins, 2011; O'Hear, 2008). Although researchers have begun to examine the processes and outcomes of plea-bargaining (see for example, Redlich & Summers, 2012; Sacks, 2011; Stephens, 2013; Zottoli, Daftary-Kapur, Winters, & Hogan, 2016), there is little research on how the public perceives the practice of plea bargaining. Current evidence, however, suggests that people hold negative attitudes toward plea bargains. In one survey examining public opinions of the legal system, for example, Fagan (1981) found that 82% of respondents disapproved of plea-bargaining in the United States. Similarly, a survey conducted by Cohen and Doob (1989) revealed that 79% of Canadians disapproved of plea-bargaining. For both of these surveys, however, the cause of participants' dissatisfaction with plea-bargaining remains unclear. For example, people

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might have looked unfavorably on plea-bargaining because the process lacks transparency, is too harsh or lenient for defendants, or fails to provide a fair outcome for victims. To better elucidate the determinants of people's perceptions of pleas, Herzog (2003) examined Israelis' opinions of pleas using an experimental design, manipulating the type of crime committed, how serious the crime was, and the defendant's prior record. His manipulations revealed that crime seriousness significantly influenced participant's perceptions: people expressed more support for plea deals when the crime was serious than when the crime was less serious even after controlling for prior record. These results provide evidence for the idea that—for some populations—people's opinions of plea deals are dynamic and vary according to specific case details.

Although Herzog's (2003) study provided a more direct investigation of public's perceptions of plea-bargaining, plea negotiations in the United States' criminal justice system reflect a unique set of processes that likely influence American perceptions of the current bargaining system in a way that is not readily generalizable to other justice systems. Namely, prosecutors wield large discretion and can overcharge defendants, making it unclear whether some defendants receive accurate plea bargains or whether guilty pleas are a result of a markdown from initial charges (Ball, 2006). The practice of overcharging also affects whether defendants are charged with crimes that have mandatory minimum sentences (der, 2015). Additionally, plea-bargaining has been criticized for being coercive in nature—often leading innocent people to plead guilty to offenses they did not commit (see, for example, Blume & Helm, 2014; Dervan & Edkins, 2013). However, are Americans attuned to the coercive nature of these practices and do these factors influence people's perceptions of plea bargaining fairness? To date, no studies have addressed these important questions. Indeed, understanding public perceptions of pleas is critical because public beliefs about the fairness of legal procedures and outcomes help maintain the legitimacy and effectiveness of the criminal justice system (Anderson & Otto, 2003; Bottoms & Tankebe, 2012; Mazerolle, Bennett, Davis, Sargeant, & Manning, 2013; Tyler and Sevier, 2014). Thus, here, we seek to investigate the influence of various plea bargain features and practices on public opinions of the fairness of plea-bargaining.

What factors might influence the public's judgments about the fairness of plea-bargaining? According to procedural justice theory, judgments made about the fairness of the resolution *process* are important to people's appraisals of the outcome (Thibaut & Walker, 1975; Tyler, 1988, 2000). In the context of plea-bargaining, the process refers to all the steps taken prior to the plea bargain offer, whereas the outcome refers to the offer itself. If the fairness of the process influences people's evaluations of the resolution, then in the context of plea negotiations, we would expect that when people make fairness judgments, they rely on information about the procedure of the plea negotiation. For example, the proximity to trial is one aspect of the plea process that could affect perceptions of fairness (Rakoff, 2014; Zotolli et al., 2016). When a trial is quickly approaching, defendants may feel pressured to enter a guilty plea without ample time to deliberate, weigh their options, or uncover evidence that could exculpate them. Of course, prosecutors are under no obligation to provide defendants with incriminating evidence prior to trial (Alkon, 2014, 2015;

Gregory, 2011; Klein, 2013; Redlich & Summers, 2012) and this practice may obstruct the opportunity for plea bargains to be conducted fairly (Petersburg, 2013). Another factor that may influence the fairness of the process surrounding plea bargain decision making is that defendants sometimes receive a more lenient sentence in exchange for guilty pleas or receive harsher penalties when they opt to stand trial—dubbed a *trial penalty* (Bordens, 1984; Burke, 2007; Caldwell, 2011; Finkelstein, 1975; O’Hear, 2008; Rakoff, 2014). When faced with rewards for taking a plea and punishments for failure to do, defendants are likely to feel little autonomy when they make legal decisions. This idea of limited autonomy in legal decisions flies in the face of the notion of *voluntary cooperation* (Tyler, 2000). Voluntary cooperation, according to procedural justice theory, is essential for people to judge the dispute process as fair. Thus, if the public perceives some aspects of the plea process itself, such as the trial penalty, as being inherently coercive, then their views of the fairness of the process of plea bargaining could diminish (Bowers & Robinson, 2012).

It is entirely possible, however, that people are unaware or unaffected by process variables when considering the fairness of a plea. People may instead be more attuned to case-specific variables—a hypothesis supported by the assumption that bargaining occurs in the *shadow of a trial*. If plea bargaining occurs in the shadow of a trial, then plea decisions should be affected by the perceived probable outcome of a trial. Put differently, case-relevant variables should affect the outcomes resulting from plea bargain negotiations and thus have a greater impact on people’s perceptions of fairness. If people are influenced by the plea-bargaining factors that may shift the probable outcome of a trial, then evidence strength, a defendant’s prior record, and the severity of the crime might guide people’s judgments of fairness (Bibas, 2004).

THE CURRENT STUDY

Here, we used two theories-- a procedural justice framework and shadow of the trial model-- to determine the case factors that are most important when people consider the fairness of plea bargains (Tyler 1988, 2000). To determine the extent to which the procedural justice notion of procedural fairness affects people’s judgments of plea-bargaining fairness, we manipulated the apparent voluntariness of a plea (i.e., whether it was coercive or cooperative in nature) and the proximity to trial. Likewise, to determine the extent to which “shadow of a trial” constructs influence people’s judgments of fairness, we manipulated case-relevant factors, such as type of crime and its concomitant consequences, the defendant’s prior record, the strength of the evidence against the defendant, the severity of the plea deal sentence, and the mandatory minimum sentence associated with the crime.

Finally, because perceptions of plea bargain fairness might be different for each involved actor, we asked participants to rate the fairness of the plea procedure for the defendant, the victim, and the general public. We predicted that case-relevant factors-- under the assumption of a shadow of trial-- would affect people’s perceptions of fairness for the victim, defendant, and the public. However, we predicted that process-relevant factors according to procedural justice theory would mainly affect people’s judgments of fairness for the defendant.

In addition to the main dependent measures, we asked participants questions related to their perceptions of the leniency and coerciveness of the plea bargain situations they read, as these perceptions may affect perceptions of fairness. Moreover, given findings by Doherty and Wolak (2012) that prior attitudes influence perceptions of procedural justice when situations are ambiguous, we also measured pre-existing attitudes, including punitiveness and general beliefs about plea bargaining. We also collected participants' demographic information, including their race, their gender, and the state they lived in, although the inclusion of these variables in analyses was strictly exploratory.

METHOD

Participants

We recruited participants from Amazon's Mechanical Turk (MTurk). In total, 522 (M = 305, F = 209) MTurk workers participated. Approximately 30% ($n = 168$) of participants were excluded from analyses because they were not from the United States. We compensated participants \$0.25 for their time, an amount consistent with payments for surveys of the same length (Amazon, 2017). With respect to ethnicity/race, 63.6% ($n = 211$) self-identified as White, 16.0% ($n = 53$) self-identified as Asian, 13.6% ($n = 45$) self-identified as Latino/Hispanic, 5.4% ($n = 18$) self-identified as Black, 1.2% ($n = 4$) of participants self-identified as American Indian or Alaska Native, and 0.3% ($n = 1$) self-identified as Native Hawaiian or Other Pacific Islander.

A power analysis using the G*Power computer program (Faul, Erdfelder, Lang, & Buchner, 2007) indicated that a total sample of 283 provides power of 0.9 to detect an effect size of $r = .26$ at $p = .05$ with nine predictors.

Design

The study approved by John Jay's IRB followed a 2 (Evidence Strength: Weak vs. Strong) x 2 (Prior Record: Irrelevant vs. Relevant to Crime) x 2 (Sentence Severity: Lenient vs. High) x 2 (Mandatory Minimum: Low vs. High) x 2 (Type of Consequence: Mild vs. Serious) x 2 (Crime Type: Robbery vs. Assault) x 2 (Plea Deal: Cooperative vs. Coercive) x 2 (Emerging Exculpatory Evidence: Present vs. Absent) x 2 (Proximity to Trial: 1 week vs. 1 month) between-subjects factorial design with crime type as a 2-level repeated measure.

Materials

Case summaries

Participants read two different case vignettes. For each vignette, a random combination of the manipulated variables was shown. To control for order effects, vignettes were counterbalanced so that participants viewed either the assault crime type or the robbery crime type first. Appendix A and B provide examples of the vignettes.

The robbery vignette

For the consequences manipulation, participants in the serious consequences condition learned that the suspect's gun accidentally discharged, shooting a civilian in the stomach and resulting in critical injuries. In the mild consequences condition, this sentence

was removed. For the evidence strength manipulation, participants assigned to the strong evidence condition read that the police found jewelry on the suspect's drawer. For the weak evidence condition, however, this information was removed. For the prior record relevance manipulation, the relevant prior record stated that the suspect was previously charged with petty theft. In the irrelevant prior record condition, participants learned that the defendant was previously charged with public intoxication. When the mandatory minimum sentence was high, participants read that the minimum sentence was six years, whereas when the mandatory minimum sentence was low participants, read that the minimum sentence was three years. The proximity to trial was manipulated so that participants learned that the trial was either one week away or one month away. For the cooperative plea deal manipulation, participants assigned to the coercive condition learned that the defendant accepted the guilty plea to "get the whole matter over with." Participants assigned to the coercive condition learned that the defendant accepted the guilty plea "to avoid a more serious charge that the prosecutor will use if he takes the case to trial." For sentence severity, the sentence length was five years in the lenient sentence condition and nine years in the high sentence condition. Last, when emerging exculpatory evidence was present, participants read that a witness later came forth and provided an alibi for the defendant; this information was removed for the no emerging exculpatory evidence condition.

The robbery vignette described a police investigation of a robbery at a jewelry store. In the scenario, the perpetrator took 34 items of jewelry valued at \$225,000 and fled the scene of the crime. Based on a police sketch, a man called and told the police that the sketch resembled his neighbor, Phillip Williams. At Mr. William's residence, the police discovered a t-shirt that matched the description of the shirt worn by the perpetrator during the robbery. The police brought Mr. Williams in for questioning and determined that he had a prior criminal record. They arrested him and charged him with second-degree robbery, which had a maximum sentence of 15 years.

The assault vignette

For the serious consequences, participants learned that the victim had to be hospitalized, whereas in the mild consequences condition, participants learned that the victim sustained minor injuries. For the evidence strength manipulation, participants assigned to the strong evidence condition were told that the suspect is a regular at the bar and that he had injuries on his hand consistent with the assault. For the weak evidence condition, participants learned that the bartender told the police he had never seen the defendant before. For the prior record relevance manipulation, the relevant prior record stated that the suspect had been previously arrested for simple assault. In the irrelevant prior record condition, participants learned that the defendant had been previously arrested for unpaid speeding and parking tickets. When the mandatory minimum sentence was high, participants read that the minimum sentence was four years, whereas when the mandatory minimum sentence was low participants read that the minimum sentence was one year. For sentence severity, the sentence length was three years in the lenient sentence condition and five years in the high sentence condition. The proximity to trial, coercive plea deal, and emerging exculpatory evidence manipulations were the same across both vignettes.

The assault vignette described a police investigation of a bar fight. When the officers arrived at the scene, only one of the men named Brian and who was involved in the fight was present. The bartender explained to the police that the two men began to argue, which turned into a fight. The bartender stated that the man who fled got the best of Brian, knocking him to the floor and hitting him a few times. When the bartender went to the police station to look through mugshots, he identified a man named Lawrence Palmer who had a prior record. The officers visited Mr. Palmer's residence and noticed injuries on his hand. The police arrested him and charged him with second-degree assault, which carried a maximum sentence of seven years.

Measures.

Participants responded to all of the measures for both vignettes.

Procedural fairness of plea deal. Participants responded to three statements about the perceived fairness of the plea bargain deal for defendant, the victim, and the public. Each statement said, "The process of making this deal was fair for the [target actor]" and ranged from 1 "(Completely Disagree)" to 9 ("Completely Agree").

Outcome fairness of plea deal. Participants responded to three statements about the perceived fairness of the outcome for defendant, the victim, and the public. Each statement said, "The outcome determined in this case was fair for the [target actor]" and ranged from 1 "(Completely Disagree)" to 9 ("Completely Agree").

Attitudes toward plea bargains. We had three questions examining people's general attitudes on the plea bargain process and punishment. The plea attitudes questions included, "The use of plea bargaining allows for criminals to be let off easy," "The use of plea bargaining makes it easier for people to plead guilty to crimes they did not commit," and "Plea bargaining is a fair practice."

Prior attitudes and punitiveness. To measure prior attitudes and punitiveness, participants responded to two items: "People get what they deserve," and "When someone commits a crime, they should be punished to the fullest extent." Both statements had scales ranging from 1 "(Completely Disagree)" to 9 ("Completely Agree").

Manipulation checks. We included a manipulation check to test whether participants carefully read the materials. Participants had to correctly identify the defendant's record per their randomly assigned condition. Additionally, to make sure that the manipulations produced their intended effects, we included three questions on perceptions of crime seriousness, sentence leniency, and the coerciveness of the deal. To examine the strength of the consequences manipulations, participants answered the question, "How serious was the act committed by the suspect?" Participants responded on a scale ranging from 1 ("Extremely Trivial") to 9 ("Extremely Serious"). To examine the strength of the sentence severity manipulation, participants responded to the statement, "The defendant was let off easy in the case," and to examine the strength of the coercive plea deal manipulation, they responded to the statement, "The defendant was coerced into taking the plea deal." Both statements had scales ranging from, 1 ("Completely Disagree") to 9 ("Completely Agree").

Procedure

After being recruited from MTurk, participants were directed to a link via the Qualtrics survey platform, where they read an informed consent form and could decide to participate in the survey. Those who chose to participate were randomly assigned to read about the robbery plea bargain vignette or the bar fight plea bargain vignette first. Each participant received the different levels of the independent variables depending on their random assignment. After reading the first vignette, participants responded to the dependent measures. Then participants were instructed to read the second vignette and again respond to the corresponding dependent measures. Finally, participants were debriefed and thanked for their time.

RESULTS

Approximately 22% ($n = 76$) of participants failed the manipulation check, resulting in a total of 273 participants included in the analyses. Despite the large number of cells in the design, analyses focused on main effects. Thus, we have more than 136 observations for each level of the independent variables. See Table 1 for zero-order correlations among the dependent measures.

Table 1. Zero-order correlations among dependent measures.

Variables	1	2	3	4	5	6	7
1. Process Fairness for Defendant	-						
2. Outcome Fairness for Defendant	.80*	-					
3. Process Fairness for Outsiders	.42*	.44*	-				
4. Outcome Fairness for Outsiders	.44*	.50*	.83*	-			
5. "Off Easy" PB attitude ^a	.23*	.21*	-.02	-.01*	-		
6 "Innocent can Plead" PB attitude ^b	-.17*	-.19*	-.11*	-.12*	.16*	-	
7. "PBs are Fair" PB attitude ^c	.40*	.40*	.46*	.45*	-.05	-.18	-

a The use of plea bargaining allows for criminals to be let off easy for their wrongdoings.

b The use of plea bargaining makes it easier for people to plead guilty to crimes they did not commit.

c Plea bargaining is a fair practice.

* $p < .01$.

Manipulation checks

To test whether the coercive plea deal, sentence severity, and consequences manipulations affected participants' perceptions of the case, we conducted independent-samples t -tests. For the coercive plea deal manipulation, there was no statistically significant difference in participant's perception that the defendant was coerced into taking the plea deal when participants learned about the coercive plea deal ($M = 4.96$, $SD = 2.31$) or the

cooperative plea deal ($M = 4.87$, $SD = 2.42$), $t(1080) = -0.63$, $p = .53$. For the sentence severity manipulation, participants who viewed cases with a lenient sentence ($M = 4.61$, $SD = 2.14$) were more likely to report that the defendant was being “let off” easy compared to participants who viewed cases with a more severe sentence ($M = 3.65$, $SD = 2.00$), $t(1084) = 7.65$, $p < .001$. Lastly, for the consequences manipulation, participants who learned about cases with serious consequences viewed the crime as significantly more serious ($M = 7.34$, $SD = 1.40$) compared to those who learned about cases with mild consequences ($M = 6.59$, $SD = 1.48$), $t(1084) = 8.54$, $p < .001$. Thus, the sentence severity and consequences manipulations were effective: cases with lenient sentences yielded higher ratings of the defendant being “let off” easy, and cases with more serious consequences, yielded higher ratings of the crime being serious. However, given that cases with a coercive plea deal did not produce differences in perceptions of the deal being coercive, these results suggest participants’ perceptions of coercion were unaffected by the coercive plea deal manipulation.

Impressions of the plea-bargain

We calculated multiple linear regressions to predict a) participants’ perceptions of process and outcome fairness for the defendant (see Table 2); b) participants’ perceptions of process and outcome fairness for outsiders (a composite score was computed by summing ratings of process and outcome fairness for the victim and the public; see Table 3); and c) participants’ general attitudes toward plea bargaining (see Table 4) based on the manipulated measures, participants level of agreement with the “people get what they deserve” item, and participants’ punitive attitudes. To determine whether process variables or case-specific variables accounted for more unique variance in ratings of procedural and outcome fairness, we ran two regressions per dependent measure: one in which process variables (e.g., proximity to trial and the coerciveness of the plea deal) were entered in the first block along with attitudinal measures, and case-specific variables (e.g., evidence strength, sentence severity, and prior record relevance) were entered in the second block; and one in which case-specific variables were entered in the first block along with attitudinal measures, and process variables were entered in the second block. Because process variables accounted for a modest amount of unique variance¹ in addition to the variance accounted for by case-specific variables, we present the results of the latter model for each dependent variable.

1 Process variables accounted for eight percent of unique variance in ratings of procedural and outcome fairness for the defendant, 11% of unique variance in ratings of procedural fairness for outsiders, and 13% of unique variance in ratings of outcome fairness for outsiders.

Table 2. Multiple regressions predicting process and outcome fairness for the defendant.

Variable	Process Fairness for Defendant			Outcome Fairness for Defendant		
	B	SE B	β	B	SE B	β
Cooperative Plea Deal	-.15	.06	-.07*	-.15	.06	-.07*
Week to Trial	-.02	.06	-.01	-.06	.06	-.03
Belief in Just World	.21	.03	.20**	.26	.03	.24**
Punitive Attitude	.14	.04	.11**	.10	.04	.08*
Robbery	-.17	.06	-.08*	-.23	.06	-.10**
Weak Evidence	.16	.06	.08*	.07	.06	.03
Irrelevant Prior Record	.10	.06	.05	.15	.06	.06*
Lenient Sentence	-.09	.06	-.04	-.14	.06	-.06*
Emerging Exculpatory Evidence	.57	.06	.27*	.76	.06	.33**
Low Mandatory Minimum	.04	.06	.02	.07	.06	.03
Serious Consequences	-.01	.06	-.00	-.01	.06	-.00
R^2		.16			.22	
F for change in R^2		16.05**			26.34**	

* $p < .05$. ** $p < .01$.

^aTo avoid redundancy, we do not report measures of effect size (r) because of its similarity to the standardized betas reported in each table.

^b Reference groups include: assault, strong evidence, relevant prior record, coercive plea deal, harsh sentence, no emerging exculpatory evidence, month to trial, high mandatory minimum, and mild consequences respectively. Variables in the table were coded as -1 in analyses

As indicated in Table 3, participants viewed the process as *less* fair for the defendant in cases where the defendant was accused of assault, evidence was weak, the plea deal was coercive, and when emerging exculpatory evidence was present. Additionally, the more participants believed in the notion that people get what they deserve and the more they held punitive attitudes, the more they viewed the process as fair for the defendant. For outcome fairness, participants viewed the outcome of the plea bargain as *less* fair in cases where the defendant was accused of assault, the defendant's prior record was irrelevant to the crime in question, the deal was coercive, the sentence was harsh, and when emerging exculpatory evidence was present. Similar to ratings of process fairness, the more partici-

pants believed people get what they deserve and the more punitive their attitudes were, the more they viewed the outcome as fair for the defendant.

Table 3. Multiple regressions predicting process and outcome fairness for outsiders.

Variable	Process Fairness for Outsiders			Outcome Fairness for Outsiders		
	B	SE B	β	B	SE B	β
Cooperative Plea Deal	.01	.06	.01	-.02	.06	-.01
Week to Trial	.02	.06	.01	-.0	.06	-.03
Belief in Just World	.32	.03	.34**	.37	.03	.38**
Punitive Attitude	-.18	.04	-.16**	-.16	.03	-.14**
Robbery	.16	.06	.08*	.09	.06	.04
Weak Evidence	.05	.06	.03	-.04	.06	-.02
Irrelevant Prior Record	.13	.06	.07*	.18	.06	.09*
Lenient Sentence	.18	.06	.09*	.17	.06	.09*
Emerging Exculpatory Evidence	.23	.06	.12*	.31	.06	.16*
Low Mandatory Minimum	-.02	.06	-.01	-.04	.06	-.02
Serious Consequences	.13	.06	.06*	.12	.06	.06*
R^2		.15			.18	
F for change in R^2		6.75**			8.85**	

In terms of the fairness of the process for outsiders (i.e., the victim and the public; see Table 4), participants viewed the process as being less fair for outsiders in cases where the defendant was accused of robbery, the defendant's prior record was irrelevant to the crime in question, the sentence was lenient, emerging exculpatory evidence was present, and when the consequences of the crime were serious. Moreover, the more participants ascribed to the idea that people get what they deserve and the less they held punitive attitudes, the more they viewed the plea process as fair for the victim and public. On the other hand, the outcome was viewed as fairer for outsiders in cases where the defendant's prior record was relevant to the crime in question, the sentence was harsh, there was no emerging exculpatory evidence, the consequences of the crime were mild, the more participants believed that people get what they deserve, and the less punitive participants' attitudes were.

Lastly, for participants' general beliefs about plea-bargaining, participants were more likely to believe that plea-bargaining allows criminals to be let off easy for their

wrongdoings when the deal was cooperative, the sentence was lenient, emerging exculpatory evidence was absent, and the more punitive participants had punitive attitudes. Participants were more likely to believe that plea-bargaining makes it easier for people to plead guilty to crimes they did not commit in cases when the sentence was harsh and the consequences were mild. Moreover, people who were less likely to believe that people get what they deserve were also more likely to support the notion that people that are more innocent are likely to plead guilty through the process of pleas. Conversely, participants were more likely to believe plea bargaining is a fair practice in cases where evidence was strong, the defendant's prior record was irrelevant to the crime in question, the less they believed people get what they deserve, and the more they held punitive attitudes.

Table 4. Multiple regressions for general plea-bargain attitudes.

Variable ^c	“Let Off Easy” PB attitude ^a		“Innocent can Plead” PB attitude ^b		“PBs are Fair” PB attitude ^c	
	β^d	<i>t</i>	β	<i>t</i>	β	<i>t</i>
Cooperative Plea Deal	-.06*	-2.19	-.03	-.99	.02	.82
Week to Trial	-.03	-.94	-.01	-.42	.02	.69
Belief in Just World	.00	.05	-.25*	-7.82	-.12*	-4.21
Punitive Attitude	.38*	12.55	.02	.65	.00*	-.00
Robbery	-.01	-.28	-.00	-.03	.08	3.05
Weak Evidence	-.04	-1.52	-.04	-1.51	.08*	3.04
Irrelevant Prior Record	-.02	-.59	-.04	-1.42	-.02*	-.85
Lenient Sentence	-.12*	-4.44	-.01*	-.47	.04	1.48
Emerging Exculpatory Evidence	.06*	2.11	-.10	-3.28	.01	.17
Low Mandatory Minimum	-.02	-.56	.02	.64	.03	1.04
Serious Consequences	.05	1.75	-.10*	-3.43	.54	19.57
<i>R</i> ²	.17		.09		.29	
<i>F</i>	19.74**		9.12**		98.96	

^a The use of plea bargaining allows for criminals to be let off easy for their wrongdoings.

^b The use of plea bargaining makes it easier for people to plead guilty to crimes they did not commit.

^c Plea bargaining is a fair practice.

p* < .05. *p* < .01.

^dTo avoid redundancy, we do not report measures of effect size (*r*) because of its similarity to the standardized betas reported in each table.

^eReference groups include: assault, strong evidence, relevant prior record, coercive plea deal, harsh sentence, no emerging exculpatory evidence, month to trial, high mandatory minimum, and mild consequences respectively. Variables in the table were coded as -1 in analyses.

Overall, the findings demonstrate that when people evaluate plea bargains in terms of the process and outcome fairness for the defendant, victim, and the public, evidentiary

factors account for a greater amount of unique variance. Although evidentiary factors also explained people's judgments of process and outcome fairness for the defendant, process variables also contributed to people's fairness ratings. For example, when people learned that the plea deal was coercive, they were less likely to rate the outcome and process of the plea as being fair for the defendant. Additionally, prior attitudes (e.g., punitiveness and the belief that people get what they deserve) demonstrated the strongest effects across all outcome measures. Taken together, evidentiary factors and prior attitudes guide impressions of plea-bargaining. Moreover, our results suggest that the shadow of the trial model is a better predictor of people's judgments of plea bargain fairness—though process variables still affect people's judgments of fairness, albeit to a less extent.

DISCUSSION

The purpose of conducting this study was to determine the ways in which factors that are known to affect plea bargain outcomes influence public perceptions of plea bargaining. Our findings demonstrate the how different elements of plea-bargaining (e.g., how cooperative the process is and sentence severity) differentially affect fairness judgments. For example, people rated the procedural and outcome fairness for the defendant, victim, and the public differently depending on the type of crime, disclosure of emerging exculpatory evidence, and punitive attitudes. For each actor in the plea bargaining process, participants reported that the plea was less fair when emerging exculpatory evidence was present, which suggests that laypeople take issue with the relatively common practice of prosecutors withholding exculpatory evidence (Alkon, 2014, 2015; Gregory, 2011; Klein, 2013; Redlich & Summers, 2012). In the future, research should examine the public's knowledge of prosecutorial conduct during plea-bargaining.

Our findings also suggest that evidence strength and sentence severity (i.e., case specific variables) and people's attitudes toward punitiveness influence judgments of procedural and outcome fairness for pleas to a greater extent than details such as the coercive nature of the plea deal (i.e., process-relevant variables). Moreover, participant's support of the notion that people get what they deserve and learning that emerging exculpatory evidence was withheld had the most notable effect on people's judgments of plea fairness. This finding suggests that laypeople are attuned to the factors, such as evidence strength put forth by a shadow of a trial model. In addition, pre-existing attitudes matter—a finding that is consistent with results from Doherty and Wolak (2012). Future work could examine whether prior attitudes continue to influence people's evaluations of plea bargaining fairness in cases where there is little doubt that the defendant committed the crime.

Importantly, although crime type influence fairness ratings across all actors, the type of crime affected people's ratings differently depending on whether they were asked to evaluate fairness for the defendant or victim and public. When the crime was an assault, people viewed the plea as being fairer for the victim and the public but when the crime was a robbery, people viewed the plea as being fairer for the defendant. In addition, some variables such as crime type affected fairness judgments for the defendant, victim, and public, while other variables such as the consequences of the crime influenced fairness judgments

for only the victim and the public. Thus, people's judgments of procedural and outcome fairness of plea bargains are not static; rather, they change depending on the involved actor.

Our rather counter-intuitive finding—that learning that the defendant took a plea to avoid a trial penalty failed to influence people's judgments of coercion—warrants discussion. Indeed, this result is inconsistent with research demonstrating the importance that the notion of voluntary cooperation has on procedural fairness (Tyler, 2000) and willingness to negotiate a plea bargain (Houlden, 1980). One possible explanation for our finding is that participants were not attuned to the fact that pleading guilty for the sake of avoiding a more serious sentence is a coercive practice. This rationale is plausible considering our coerciveness manipulation did not affect people's belief that plea-bargaining leads to more innocent people pleading guilty. Alternatively, our manipulation may have not been strong enough and people actually do care about this factor. More research should assess whether the public views trial penalties coercive.

In sum, our findings suggest that factors concerning the evidence of a case account for more unique variance in perceptions of process and outcome fairness for the defendant, victim, and public. Although process variables influenced fairness judgments for the defendant—specifically, the coerciveness of the plea deal—overall, evidentiary factors and prior attitudes generally appear to guide impressions of plea bargaining fairness. As such, these findings provide support for the shadow of the trial model—which states that people will view negotiate plea bargains in light of case-specific factors such as evidence strength—in predicting public perceptions of plea bargain fairness. Our findings also show that prior attitudes about punitiveness and the belief that people get what they deserve predict people's judgments of fairness. Our findings provide a first look at laypeople's knowledge and judgments of plea bargaining practices in the United States that future research can build upon, extending other theoretical frameworks that may also help understand public perceptions of pleas.

Limitations

Although our findings shed light on the ways in which procedural justice theory maps on to evaluations of plea bargain fairness, it is important to note the limitations. We did not include all elements of procedural justice theory in our manipulations. For example, future research could examine whether plea bargain practices such as trial penalties or disclosure of exculpatory evidence impact judgments of *neutrality* or the belief that authority figures engage in equitable treatment of all people (Tyler, 1990). Because there is a lack of research on how plea bargaining practices might map onto procedural justice theory, the findings from this study are primarily exploratory.

Another limitation relates to the third-party nature of these evaluations (i.e., participants were not evaluating cases where they were placed directly in the situation). Research has shown that judgments differ when they are made by a first, second, or third party (Babcock, Loewenstein, Issacharoff, & Camerer, 1995; Fehr & Fischbacher, 2004; Pronin, Gilovich, & Ross, 2004; Rupp & Spencer, 2006). It is thus plausible that procedural fairness judgments of plea bargaining are influenced by the perspective of the evaluator. Future

research should investigate whether there are differences in appraisals of plea bargain fairness as function of self or third party judgments. Moreover, the current study did not look at the influence of defendant characteristics such as race or gender. Prior research has found people make more punitive judgments against Black defendants than they do for White defendants (Sommers & Ellsworth, 2001; Steffensmeier, Ulmer, and Kramer, 1998; Sweeney & Haney, 1992). Consequently, fairness judgments could vary as a function of the defendant's race. Researchers should explore this possibility in future studies.

Notably, our operationalization of disclosure of emerging exculpatory evidence is another limitation. We did not include a level where prosecutors were informed of emerging exculpatory evidence and disclosed it. Rather, either emerging exculpatory evidence was presented and prosecutors failed to disclose it, or the evidence was omitted from the scenarios. Thus, judgments of fairness may differ in cases in which prosecutors decide to disclose exculpatory evidence to the defense. Because we did not include this manipulation in our design, we regarded the emerging exculpatory evidence information as a case-specific variable rather than a process variable. However, future studies could investigate the disclosure of exculpatory evidence as a procedural variable instead.

Conclusions

Taken together, our results demonstrate a greater need to further investigate laypeople's knowledge and impressions of plea bargain practices. Additionally, our findings indicate that procedural justice may be a useful framework to help understand the ways in which people judge plea negotiations. It is clear that laypeople are sensitive to some factors surrounding plea bargain procedures and outcomes, viewing the fairness of these practices differently for the various involved actors. Continuing work on the public's understanding of plea practices will likely have important policy ramifications. For example, by having a clearer understanding whether the public supports or disapproves of certain plea practices may shape how policymakers approach these factors and encourage greater fairness. Additionally, perceptions of procedural fairness drive beliefs about legitimacy (Anderson & Otto, 2003; Bottoms & Tankebe, 2012; Mazerolle, Bennett, Davis, Sargeant, & Manning, 2013; Tyler and Sevier, 2014), it is important to understand whether the public views the plea bargaining system so that the perceived legitimacy of the criminal justice system is not threatened. Addressing aspects of the plea bargaining process that may undermine perceived fairness will help improve the legitimacy of the criminal justice system, and perhaps engender a greater willingness to cooperate with the legal system.

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APPENDIX A: ROBBERY VIGNETTE

This report is a summary of the details of a police report and subsequent investigation:

On May 18th, 2014, a man walked into a jewelry store with a gun in his hand and told everyone that a robbery was taking place and that they had to go to the back of the store. After smashing four cases and taking 34 items of jewelry valued at almost \$225,000, the man started to run out of the store. The man got away, and witnesses worked with police officers to produce a sketch. When the sketch ran on the news that night, a man called in with a tip stating that the sketch looked like his neighbor. Based on that tip, police visited the residence of Phillip Williams the next day, where they discovered a t-shirt that matched the description of the one worn by the perpetrator during the robbery. They brought Phillip in for questioning. They also determined that Phillip had a prior criminal record for being charged with public intoxication. They decided to arrest Phillip.

The defendant was charged with second-degree robbery. In this jurisdiction, this carries a maximum sentence of 15 years. There is also a mandatory minimum sentence of 3 years. Jury selection was set to begin the following week. The defendant's attorney arranged a meeting with the prosecutor to discuss the possibility of a plea bargain. The defendant indicated a willingness to plead guilty in order to get the whole matter over with. Phillip agreed to plead guilty in order to receive a sentence of 5 years. Since then, additional evidence has developed. A witness came forth and maintained that they went to lunch with Phillip at a restaurant several miles away from the jewelry store during the time of the robbery. This information has not been conveyed to the defense.

APPENDIX B: ASSAULT VIGNETTE

This report is a summary of the details of a police report and subsequent investigation:

On November 21st, 2014, officers reported to Flannery's Bar after a call was made about a fight that was underway. By the time the officers arrived on the scene, only one of the two men involved in the fight was there. His name is Brian Hamilton. The bartender told the officers that the two men had exchanged a few words and before he knew it, they began to exchange blows. The bartender also stated that the man who ran out got the best of Brian, knocking him to the floor and hitting him quite a few times. Brian sustained minor injuries. The police asked the bartender to come down to the station to look at some mug shot books and see if he could identify the suspect. When the bartender looked through the first book, he found a picture that he said looked like the guy. When an officer asked him if he was sure, he said that he had never seen him before the fight but thought that he was the guy. The man in the mug shot was Lawrence Palmer, who had been previously arrested for unpaid speeding and parking tickets. Based on the bartender's identification, the police officers made a visit to Lawrence's home. They arrested him.

The defendant was charged with second-degree assault. In this jurisdiction, this carries a maximum sentence of 7 years. There is also a mandatory minimum sentence of 1 year(s). Jury selection was set to begin the following week. The defendant's attorney arranged a meeting with the prosecutor to discuss the possibility of a plea bargain. The defendant indicated a willingness to plead guilty in order to get the whole matter over with. Lawrence agreed to plead guilty in order to receive a sentence of 3 years. Since then, additional evidence has developed. A witness came forth and maintained that they were on a date with Lawrence at the movies during the time of the fight. This information has not been conveyed to the defense.