Plea Bargaining: Unpopular but Necessary to Our Criminal Justice System

Student Name

Genesee Community College

Author Note

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Abstract
This paper explores the importance of the concept of plea bargaining to the criminal justice system. For some plea bargaining is an important and useful tool used to keep the wheels of justice moving in a timely fashion, but to others it is a slap on the wrist to offenders and a further insult to victims and their families. Some argue that the results of plea bargains make for inconsistent justice, but the Supreme Court has endorsed the practice and therefore it is important that judges monitor the system to make sure plea bargains are used fairly and without discrimination.
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A Livingston County teen was recently charged with criminally negligent homicide in the heroin overdose death of a female friend. The young man was accused of administering the dose. In order to receive a lighter sentence, he forfeited a trial and pled guilty to the charges; as a result, he will spend six months in a New York State “shock camp” rather than serve extensive prison time.

An editorial in the Livingston County News, “A Doubly Meaningless Death,” (2001) raised objections to the plea bargain. The writer saw the plea bargain and subsequent sentence as “equivalent to a slap on the wrist” (p. A4). The writer believed that such a decision sent the wrong kind of message for such a serious crime. Furthermore, said the writer, “To free [the young man] with no more than a six-month slap on the wrist makes her death doubly meaningless and should not happen” (p. A4).

This instance of plea bargaining points out the significance of this process in the criminal justice system. On the one hand, plea bargaining reduces the time and thus the money spent on a trial, however, the accused usually receives a lighter sentence.

According to Black’s Law Dictionary (2009), a plea bargain is a “negotiated agreement between a prosecutor and a criminal defendant whereby the defendant pleads guilty to a lesser offense … in exchange for some concession by the prosecutor … a more lenient sentence or a dismissal of other charges” (p. 1173).

As explained in Schmalleger (2007), such a process is beneficial to all parties. A plea bargain is in the best interest of a defense team if they feel they cannot win an acquittal and prosecutors will choose to plea bargain if they feel their evidence is weak. The accused benefits
from the possibility of “reduced or combined charges, lessened defense costs, and a lower sentence than might have otherwise been anticipated” (p. 312). The victims also begin to restore their lives to some sort of normalcy.

Although there was a recommendation by the National Advisory Commission on Criminal Justice Standards and Goals in 1973 to abolish the practice of plea bargaining, the Supreme Court has ruled that the process is an “important and necessary component of the American system of justice…it is to be encouraged” (Schmalleger, 2007, p. 312). The reason is that the current judicial system—both court facilities and manpower—is not equipped to handle every criminal case in this country. “If every case went to jury trial,” wrote Mirsky and Kahn (1997) in their article in *The American Prospect*, “resources would have to multiply by ‘many times’” (p. 56). Thus a provision must be in place to administer justice in a reasonable, timely and cost effective manner. Plea bargaining allows for that.

Despite its sanction by the Supreme Court, plea bargaining does have its opponents. The primary complaint is that it lets defendants off with lighter punishment than they ought to get. In fact, it’s so unpopular that “prosecutors who regularly engage in the practice rarely advertise it” (Schmalleger, 2007, p. 313).

Another complaint against plea bargaining is that results are inconsistent and dependent on the kind of attorney representing the client. Research done by Peter Nardulli (1986), a professor at the University of Illinois, Urbana, found the complaint to be probably invalid (p. 380). Nardulli (1986) studied plea bargaining in nine medium sized counties in Illinois, Michigan and Pennsylvania. He compared the plea bargains obtained by various kinds of attorneys—privately retained or publicly paid. He found that there were few statistically significant differences and thus concluded that the results of plea bargaining were reasonably
consistent. In these counties, at least, the results depended more on local rules and practices than on the type of attorney.

While plea bargaining may be viewed with suspicion by much of the public, given the amount of crime and the present structure of our judicial system and available resources, it is unlikely to disappear anytime soon. Judges must remain diligent in monitoring plea bargaining to ensure justice is served to all, regardless of race, color, gender or social status.
References


