

EXECUTIVE SUMMARY

Plea Bargaining Institute

2025 Symposium

Plea Bargaining Policies, Reforms, and Research

Presented by the Quattrone Center for the Fair Administration of Justice
and the Plea Bargaining Institute

Friday, April 4, 2025

The University of Pennsylvania Carey Law School

Introduction

The American criminal justice system is dominated by pleas of guilty and plea bargaining. Increasingly, other criminal justice systems around the world are also embracing varying forms of plea bargaining. The Plea Bargaining Institute (PBI) strives to ensure that practitioners, policy makers, and advocacy organizations have access to important research findings and case developments so that this information might assist them in their work. Simultaneously, the PBI seeks to create opportunities for dialogue and collaboration between academics, practitioners, policymakers, and advocacy organizations to assist in identifying new areas for research and inquiry in this field. Through these efforts, the PBI assists in the creation of cutting-edge research and the creation of opportunities for plea bargaining reform efforts, policy initiatives, and legislation to be informed by research.

Pursuant to the PBI mission to create opportunities for dialogue and collaboration, the institute convenes and participates in various events throughout the year. The focus of these events and the target audiences for these offerings vary, but each is designed to further the institute's mission of sharing knowledge and creating opportunities for collaboration.

In April 2025, the PBI convened a symposium in collaboration with the Quattrone Center for the Fair Administration of Justice to discuss pressing issues in the field of plea bargaining and encourage further collaboration between academics, practitioners, policy advocacy organizations and policymakers. The event, entitled *Plea Bargaining Policies, Reforms, and Research*, occurred on April 4, 2025 at the University of Pennsylvania Carey Law School in Philadelphia, Pennsylvania. The event began with an examination of plea bargaining reform that included insights from the Hon. Stephanos Bibas, Hon. John Gleeson, Paul Heaton of the Quattrone Center, and Nina Patel of the ACLU. The day also featured a panel discussion focusing on prosecution office plea bargaining policies. Consistent with the PBI mission to make research more accessible

to policymakers, advocacy organizations, and practitioners, there were two research download sessions during which attendees heard from several researchers about their current studies and findings. Finally, attendees broke into small groups during lunch where they engaged in insightful conversations about plea bargaining, their work in the field, and the future of reform.

Below is a summary of the presentations from the symposium.

Plenary Session I - A Conversation Regarding Plea Bargaining and Plea Bargaining Reform

Moderator:

Paul Heaton, Professor of Law and Academic Director of the Quattrone Center for the Fair Administration of Justice

Speakers:

Hon. Stephanos Bibas, U.S. Court of Appeals for the Third Circuit

Hon. John Gleeson, Debevoise & Plimpton

Nina Patel, Senior Policy Counsel, ACLU

The panel opened with each speaker sharing their thoughts about the advantages and disadvantages of a criminal system dominated by pleas of guilty and plea bargaining. Panelists also shared the ways in which one's position and vantage point in the criminal system influence one's perspective. Mandatory minimum sentences were a focus of the discussion, including the need to address the role of mandatory minimum sentences in plea bargaining. Another issue explored by the group was pretrial detention and its impact on plea bargaining. The panel also considered the need for more data on plea bargaining, including across jurisdictions and between judges, to better understand the current system of pleas and create more uniformity in approach.

Data Download Presentations – Morning

David Abrams, William B. and Mary Barb Johnson Professorship of Law and Economics, University of Pennsylvania Carey Law

This presentation revolved around research comparing sentences when defendants accept a plea offer and when defendants reject a plea offer. The research studied over 20,000 felony cases in Philadelphia from 2012 to 2017. The study also included all plea offers, regardless of whether they were accepted or rejected. The details of the cases were collected by the District Attorney's office in Philadelphia. The presentation used the research to explore how initial offers compare to actual sentences imposed (the sentencing differential). Specifically, the presentation focused on the sentence differences based on several different factors: whether offers are rejected or accepted; how age, race, and gender affect initial plea offers; and how being in pre-trial detention impacts initial plea offers.

Tina Zottoli, Ph.D., Associate Professor, Montclair State University

This presentation focused on youth and plea bargaining. Many US states have adopted legislation designed to protect youth who are convicted in criminal court from the negative impacts of a

criminal sentence. These specialized sentencing laws may provide for reduced lengths of incarceration, probationary sentences, sealed or conditionally sealed records, and access to rehabilitative services. Although these laws are intended to confer protective benefits on youth, if the protections are contingent on plea agreements (whether stipulated in the law or by common practice), they can place enormous pressure on youth to plead—regardless of their actual innocence or likelihood of conviction at trial. Zottoli & Daftary-Kapur (2019) found high rates of self-reported false guilty pleas among youth who were pleading guilty to felonies in New York City in exchange for the prosecutor’s recommendation that they be sentenced as Youthful Offenders (YO; NY CPL § 720.10). YO status results in a conditionally sealed record and, for the youth in this particular study, almost always in a probationary sentence. Follow up experiments showed, unsurprisingly, that the rate of false guilty pleas increases substantially when a guilty plea leads to these two benefits (Zottoli et al., 2020). The practice of obtaining YO status through plea bargaining is quite common in New York City; moreover, when asked how often they expected the prosecutor to fight YO at sentencing if their client didn’t plead guilty, 6 of 18 New York attorneys said they expected it in 100% of cases and only 3 of the attorneys said they expected it in less than half their cases (Grove & Zottoli, in preparation). The presentation included discussion of the above research and a new survey being conducted of attorneys in states that have specialized sentencing laws to learn more about whether and how specialized sentencing for youth is used in plea bargaining. Preliminary data suggest that there is a great deal of variability in whether these laws are used to incentivize pleas, but that where this is common, the practice exerts substantial pressure on youth to plead guilty.

Miko Wilford, Ph.D. Associate Professor, Iowa State University

A Presentation regarding “Decisions in the shadows: The impact of evidentiary discovery on plea decisions” by Miko M. Wilford, Ph.D., Keely M. Allain, M.A., & Joseph E. Gonzales, Ph.D.

The U.S. Supreme Court has not explicitly ruled on whether the Constitutional right to evidentiary discovery (i.e., the *Brady* rule) is preserved for defendants who plead guilty. Yet, Wilford et al. (2024) found that plea offers extended before evidence has materialized (i.e., when confidence in guilt is lower) coincide with a higher risk of false guilty pleas. That authors examined the impact of evidentiary discovery on plea decision outcomes using an interactive simulation of legal procedures. The study employed a 2 (Guilt Status: Innocent or Guilty) x 2 (Discovery: Inculpatory or Exculpatory) x 2 (Evidence Type: DNA or Eyewitness) + 2 (Innocent Control or Guilty Control) between-subjects design. Undergraduate students and community adults ($N = 1,201$) participated in the study. Innocent participant-defendants were less likely to accept the plea offer than guilty participants. Participant-defendants were also less likely to accept plea offers after receiving exculpatory discovery and were more likely to accept plea offers after receiving inculpatory discovery, regardless of evidence type. Participant-defendants’ plea decisions did not change significantly after receiving no discovery (i.e., in the Control conditions). Overall, the results indicate that participant-defendants respond to evidentiary discovery rationally—when it lowers the likelihood of trial conviction, they’re more likely to reject a plea offer; when it increases the result of trial conviction, they’re more likely to accept a plea offer. Further, the impact of exculpatory evidence on plea outcomes and willingness to plea was greater than the impact of inculpatory evidence—thus, evidentiary discovery could be a more potent shield against false guilty pleas than it is a sword cutting true guilty pleas.

Plenary Session II - Prosecution Plea Bargaining Office Policies

Moderator:

Amy Fetting, Acting Co-Executive Director, Fair and Just Prosecution

Speakers:

Thea Johnson, Professor of Law and Assoc. Dean for Faculty Research, Rutgers Law School and Reporter for the ABA Plea Bargain Task Force

Johnathan Wroblewski, Former Dir. Of the Office of Policy and Legislation, U.S. Department of Justice and Member of the ABA Plea Bargain Task Force

The panel opened with a prosecutor's view of plea bargaining, including a discussion of the ways in which prosecutors find plea bargaining helpful to their goals and objectives. The panel then shifted to a discussion of the ABA Plea Bargain Task Force Report on plea bargaining reform and the need for prosecutors and defense attorneys to work together on reforms. As part of this conversation, the panel considered the tension that results from seeking standards and consistency in a complex system of pleas involving individual defendants and unique cases. Panelists also discussed what plea bargaining policies prosecutor offices can implement moving forward to increase efficiency, transparency, and accountability.

Data Download Presentations - Afternoon

Laura Ginsberg Abelson, Quattrone Center for the Fair Administration of Justice Fellow, University of Pennsylvania Carey Law School

This presentation discussed a paper that examined data from the Pennsylvania criminal court system showing that family members who are charged together have substantially different outcomes than similarly situated groups of non-family member defendants. Using a dataset of approximately 1,000,000 Pennsylvania criminal cases over a ten-year period and a related experimental vignette survey, the study showed that the practice of charging family members together may lead prosecutors to over-charge family members, by bringing charges against less culpable defendants whose conduct would not be serious enough to warrant prosecution but for their familial relationships, in part because of un-founded assumptions prosecutors make about the efficacy of charging a less culpable family member to induce a guilty plea from a more culpable family member co-defendant.

Brian Johnson, Ph.D., Professor and Associate Chair, University of Maryland

A Presentation regarding "Pleading for Justice: Insights from Guilty Plea Research in Maryland" by Brian Johnson, University of Maryland, Lydia Becker, University of Maryland, Allison Redlich, George Mason University, and Miranda Galvin, Towson University

Much existing work on prosecution and plea bargaining is based on hypothetical vignettes or small samples of specific offenses drawn from single jurisdictions. The current work presented here expanded upon prior work by collecting and analyzing two unique datasets on plea bargaining. The first project involved a cooperative researcher-practitioner partnership with three jurisdictions in Maryland to collect a large, diverse sample of criminal cases from prosecutorial case management systems in Baltimore City, Montgomery County, and Frederick County – three local jurisdictions that vary in size, organizational structure, and the demographic populations served. Utilizing this original data collection, this work investigated underlying sources of racial inequality in plea bargaining across jurisdictions. Maryland is unusual in that police control the initial filing of criminal charges. Examining how prosecutors subsequently alter charges during the plea negotiation process provides insight into how initial patterns of inequality are shaped by prosecutorial discretion. Findings from the study show that prosecutors often use their discretion to mitigate racial disparities that are generated by initial police arrest and filing decisions. Compared to similarly situated White defendants, Black defendants are more likely to have their cases dismissed, less likely to be convicted, and more likely to receive charge reductions across jurisdictions.

The second study addressed the role of mandatory minimums in plea bargaining for firearms-related offenses in Maryland. It collects a unique, statewide web-scraped database on all firearms-related crimes over a four-year period, including detailed criminal histories and rich case processing details. Findings from this project indicate that the presence of a mandatory minimum charge significantly increases the likelihood that a defendant will plead guilty. However, only a small fraction of cases results in conviction on a mandatory minimum offense. The piece suggests prosecutors routinely charge mandatory minimums with the intent of inducing guilty pleas by pleading down to lesser offenses that do not carry mandatory penalties. Additional results indicate that conviction on a mandatory minimum offense significantly increases average sentence severity, providing further evidence for the coercive nature of mandatory minimums in plea bargaining.

Allison Redlich, Ph.D., Associate Chair and Distinguished University Professor, George Mason University

Professor Allison Redlich presented, *The Ultimate Legal Fiction: Knowing and Voluntary Plea Decision-Making*. She reviewed research in which she and her team of researchers systematically observed and coded about 600 felony circuit court plea hearings, and then interviewed (and assessed) nearly 100 of the observed defendants—which enabled them to document what defendants had been asked or told in the plea hearing and what they actually understood. They found that felony court plea hearings were quite brief on average (13 minutes) and that knowing, intelligent, and voluntary questions/statements in the plea hearing had no influence on actual knowledge and perceived coercion. In addition, defendants’ actual knowledge was low. For example, 80% of defendants ‘failed’ the measure of plea vocabulary, with significant minorities not being able to define the words Plea, Appeal, or Right, despite having just pleaded guilty and waiving numerous rights. However, whereas actual knowledge was low, perceived knowledge was quite high, indicating that defendants believed themselves to understand the plea process but in actuality did not. Professor Redlich concluded that some defendants are not making knowing and intelligent plea decisions, and that asking simple yes/no questions in plea hearings is an insufficient and invalid method to assess true understanding.

Appendix A
(Symposium Agenda)

Plea Bargaining Policies, Reforms, and Research

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AGENDA

Time	Session	Speakers
9:00am-9:50am	Networking Breakfast	
9:50am-10:00am	Introductions from the Quattrone Center and the Plea Bargaining Institute	Ross Miller, Asst. Director, Quattrone Center for the Fair Administration of Justice Lucian Dervan, Prof., Belmont Univ. College of Law and Founding Dir., Plea Bargaining Institute
10:00am-11:00am	A Conversation Regarding Plea Bargaining and Plea Bargaining Reform	<i>Moderator:</i> Paul Heaton, Professor of Law and Academic Director of the Quattrone Center for the Fair Administration of Justice Hon. Stephanos Bibas, U.S. Court of Appeals for the Third Circuit Hon. John Gleeson, Debevoise & Plimpton Nina Patel, Senior Policy Counsel, ACLU
11:00am-11:15am	Break	
11:15am-12:15pm	Research Data Download I	<i>Moderator:</i> Lucian Dervan, Prof., Belmont Univ. College of Law and Founding Dir., Plea Bargaining Institute

		David Abrams, William B. and Mary Barb Johnson Professorship of Law and Economics, Univ. of Pennsylvania Carey Law Dr. Tina Zottoli, Assoc. Prof., Montclair State Univ. Dr. Miko Wilford, Assoc. Prof., Iowa State University
12:15pm-1:15pm	Lunch Break Out Sessions	Participants will divide into three separate groups to share lunch and discuss questions around plea bargaining policies, research, and reform.
1:30pm-2:45pm	Prosecution Plea Bargaining Office Policies	<i>Moderator:</i> Amy Fettig, Acting Co-Executive Director, Fair and Just Prosecution Thea Johnson, Professor of Law and Assoc. Dean for Faculty Research, Rutgers Law School Johnathan Wroblewski, Former Dir. Of the Office of Policy and Legislation, U.S. Department of Justice
2:45pm-3:00pm	Break	
3:00pm-4:00pm	Research Data Download II	<i>Moderator:</i> Ross Miller, Asst. Director, Quattrone Center for the Fair Administration of Justice Laura Abelson, Quattrone Center Research Fellow Dr. Brian Johnson, Prof. and Assoc. Chair, Univ. of Maryland Dr. Allison Redlich, Assoc. Chair and Distinguished Univ. Prof., George Mason Univ.
4:00pm	Brief Closing Remarks	

Appendix B
(Breakout Questions from Symposium)

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Lunch Breakout Questions

We hope you will take this opportunity to engage in a discussion with your group about plea bargaining, plea bargaining reform, and plea bargaining research. Please feel free to discuss any topics of interest to your group. To assist you in getting started, we include below some potential questions for consideration.

1. Reform Efforts

- a. Where do you believe plea bargaining reform efforts should focus? What are the most pressing areas in need of reform?
- b. What proposals for reform do you feel most strongly about? How do you believe these reforms will help address the areas discussed above?

2. Research Needs

- a. For *practitioners and advocacy organizations*, what research do you need to further advance your work? What research is missing?
- b. For *academics*, where do you think more research is needed and what questions do you have for the practitioners and advocacy organizations about the plea bargaining system?

3. Information Sharing

- a. What experiences, information, or perspectives would you like to share with the group to better inform the current conversation about plea bargaining? What is something you would like others interested in plea bargaining reform to take away from today's lunch discussion.

4. Future Directions for PBI

- a. What type of programming or initiatives would you like to see next from the Plea Bargaining Institute?