

Plea bargaining – who benefits?



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Plea Bargaining – Who Benefits? Plea bargaining is a process of negotiation and resolution that is an efficient, informal and by and large, successful alternative to the formal process of a criminal trial. Despite this less formal approach, the goal that drives plea bargaining is exactly the same: to bring about a fair, balanced and just resolution to an act of wrongdoing (Larson, 2000). In this regard, the use of plea bargaining is not only beneficial to all concerned in the judicial process; but may be preferable to a formal trial. The process of bringing a defendant to trial is a costly and complex endeavor that ultimately involves many people, from the police who investigate crimes and offer testimony to witnesses, victims, attorneys and of course, the presiding judge and other court personnel.

Plea bargaining is, in essence, a form of negotiation. As with any negotiation, give-and-take occurs between prosecutors and defendants wherein those accused weigh the persuasiveness of evidence against ultimate punishments and the possible reduction of those punishments in exchange for information, testimony and an acknowledgment of guilt. On the other side of the table, prosecutors consider the time and costs resulting from holding a full trial, the chance that a clever defense attorney might be able to persuade a recalcitrant jury of the defendant's innocence, and the potential value of testimony that might be bought from the accused using reduced charges and shorter sentences to secure cooperation. Clearly, both the accused and prosecutor benefit directly from the plea-bargain system. However, other beneficiaries are not difficult to identify. For example, when a defendant pleads guilty in exchange for lighter sentences or reduced charges, the benefit to that individual is obvious.

But if that deal also includes an agreement that the accused will provide crucial information and testimony that will solve other crimes and bring other perpetrators to justice, the system itself – and indeed the citizenry that it serves – benefit as well, and that benefit may ultimately be far greater than the relatively small concession made to secure it. The criminal justice system as a whole benefits from the smooth, streamlined continuation of the plea-bargaining process, which would be difficult to maintain in its absence. In fact, when viewed from that perspective, the plea-bargaining process becomes a simple issue of practicality. In 2004, PBS estimated that “ about 95 percent of all felony convictions in the United States are the result of plea bargains” (Schulhofer, 2004, ¶1).

It is difficult to imagine how the modern court system would continue to function if the use of plea bargaining was no longer available. Simply stated, if all defendants were to insist on taking – or were required to take – every case to a full trial, court calendars and courthouses would soon swell to overflowing, and the system would collapse under its own weight. Society must have confidence in the criminal justice system and in that system’s ability to effectively deter crime, punish offenders and maintain the rule of law. Plea bargaining does serve the achievement of all these goals, by keeping the machinery of justice running smoothly. Critics of plea bargaining exist on both sides of the issue. Certainly due process adherents have a valid point when they express concerns about the potential for abuses, wherein the presumption of innocence becomes lost in the process (Neubauer, 2002).

Having said this, it is important to note that no defendant is required to accept a plea bargain. Any and all offers may be rejected, and the accused

may exercise the right to a full trial by jury at any point. Indeed, no one involved in the plea bargain process is required to accept a deal that is considered to be fundamentally unfair. The option to take the case to trial remains available to all involved and such trials do take place every day in courtrooms across the country. Supporters of the crime control model also score points with claims that deals made through plea bargains allow criminal defendants to avoid the full punishment for their wrongful acts. Many such critics declare “ that the criminal justice system has become too soft on criminals by allowing for lighter sentencing in exchange for a guilty plea” (Tapscott, 2006, ¶16).

If this were strictly true, U. S. prisons would not be full to overflowing and the number of convicts being held under three strikes sentencing guidelines would not be at record levels. Perhaps the greatest concern is for those unfortunates who are the victims of crime.

Aren't they entitled to satisfaction through the knowledge that those who have wronged them will face prosecution and punishment? Certainly! But the victim of any crime remains the victim, regardless of a trial's outcome, and one could argue that the victimization of any person cannot be undone, no matter what method is used to address the criminal act that harmed them. However, if a victim can obtain some sense of satisfaction by the exercise of a process that punishes their wrongdoers, then such satisfaction is also available from the outcome of a successful plea bargain. Indeed, the issue of how to address victims has always been the most difficult aspect of the Criminal Justice System. The court system has never found a truly effective to address wrong and make that wrong right.

Until a more perfect idea comes to the fore, the process of plea bargaining, for the moment at least, does serve the needs of the court system and society at large. References Larson, Aaron, 2000, Expert Law Library, How Does “Plea Bargaining” Work? Retrieved September 15, 2007 from http://www.expertlaw.com/library/criminal/plea_bargains.html Neubauer, D. W.

, 2002, America’s courts and the criminal justice system (7th edition), Belmont, CA: Wadsworth/ Thomson Learning. Schulhofer, S. , 2004, PBS, Frontline, Benefits and Problems with Plea Bargains, Retrieved September 13, 2007 from <http://www.pbs.org/wgbh/pages/frontline/shows/plea/faqs/> Tapscott, Kenneth R.

, 2006, Plea Bargaining Pros and Cons, Retrieved September 14, 2007 from <http://www.lawslaws.com/law-info/plea-bargaining-pros-and-cons.html>