

Vera Institute of Justice

Criminal Justice Issues and Prisoners' Rights

<https://www.vera.org/publications/in-the-shadows-plea-bargaining>

Policy Issue Resources

Publication

Most criminal cases that result in conviction 97 percent in large urban state courts in 2009, and 90 percent in federal court in 2014 are adjudicated through guilty pleas. Of these, researchers estimate that more than 90 percent are the result of plea bargaining an informal and unregulated process by which prosecutors and defense counsel negotiate charging and sentencing concessions in exchange for guilty pleas and waivers of constitutionally guaranteed trial rights. But there are concerns about plea bargaining's coercive nature, its role in encouraging the forfeiture of procedural protections, and its role in fueling mass incarceration. In order to provide an accessible summary of existing research, the Vera Institute of Justice (Vera) examined the small but growing body of empirical studies that has developed around plea bargaining. The result is a mix of complicated, nuanced, and sometimes contradictory research findings.

Fixing the major failings of America's justice system including mass incarceration and systemic racism is made more difficult when the most common and fundamental of court operations is largely invisible. It is incumbent on court actors, legislators, advocates, researchers, and the community to demand a system that embraces greater transparency.

There is a strong association between pretrial detention and guilty pleas, as people who can't afford bail agree to plea deals to secure their release from jail.

When prosecutors have the option to pursue the death penalty, people are more likely to plead guilty.

On average, Black men receive the least lenient plea deals, and white women the most lenient.

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