

Social Psychology and Plea Bargaining: Applications, Methodology, and Theory

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Two experiments with male subjects were conducted to investigate the plea bargaining process. Experiment 1 used a role-playing procedure to identify variables that affect the acceptance of a plea bargain. Eighteen percent of the subjects playing the role of innocent defendants accepted the plea bargain, whereas 83% of the guilty defendants accepted. Two other main effects revealed that defendants were more likely to accept a plea bargain when relatively many charges had been filed against them and/or when the severity of punishment upon conviction was great, although internal analyses revealed that these effects were present in guilty defendants only. Experiment 2 was conducted using involved participants to provide validation for the major result of Experiment 1. Students were made to be innocent or guilty of having prior information about an exam. All were accused of having used prior information and were given an opportunity to plea bargain rather than face an ethics committee. In accord with Experiment 1, guilty students accepted the plea bargain significantly more often than innocent students. Results are discussed in terms of information differences between innocent and guilty defendants and the availability heuristic. Implications of the data for the criminal justice system are discussed, as are limitations of the present approach and suggestions for further research on plea bargaining.

Social psychologists are devoting increasing attention to the study of the criminal justice system, with the major focus being the examination of jury processes (Shaver, Gilbert, & Williams, 1975). Recent attention has also been devoted to such diverse topics as bail setting (Ebbesen & Konečni, 1975) and testi-

fyng in one's own behalf (Frankel & Morris, 1976). The emphasis on studying jury processes is surprising when it is considered that over 90% of all felony convictions are reached through the plea bargaining process (Blumberg, 1967). Plea bargaining refers to the process of the prosecutor reducing the charge or charges against a defendant in return for a plea of guilty. Thus, a typical plea bargain involves a defendant entering a guilty plea to a lesser charge and accepting a punishment that is less severe than the one faced should the defendant choose a jury trial and be found guilty of the original charge. Only a few papers are extant that discuss this important aspect of the criminal justice system (Newman, 1956; Swartzman, Lipton, LaDolce, & Burciaga, 1974).

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With the current paucity of empirical studies investigating plea bargaining, the present research was undertaken to fulfill two pur-

poses: first, to establish a procedure for examining the plea bargaining process in a controlled manner; second, to identify variables that can affect the decision to accept or reject a plea bargain. The absence of systematically derived information concerning plea bargaining, especially in the realm of psychological processes, rendered it impossible to characterize plea bargaining as representative of any single psychological process. Rather, following the precedent set by Lingle, Brock, and Cialdini (1977) in their studies of surveillance and entrapment, the variables selected for experimental manipulation in the present studies should be derived from factors occurring naturally in the plea bargaining situation and factors identified in the social psychological literature on discretionary law.

Selection of Variables for Investigation

One naturally occurring variable inherent in plea bargaining situations is the innocence or guilt of a defendant. An axiom followed by defense lawyers and prosecuting attorneys is that actual innocence or guilt is irrelevant in a jury trial. Since the jury's verdict is to rest solely on the evidence presented, it is the weight of evidence alone that is important in determining the probability of conviction. From that perspective, a defendant's private knowledge of his or her guilt or innocence should not affect his or her estimate of the probability of conviction. When confronted by identical evidence, then, guilty and innocent defendants should arrive at the same decision about accepting a plea bargain. It is possible, however, that private knowledge may distort or change the process of estimating the probability of conviction. Belief in one's own guilt or innocence was therefore selected as an independent variable.

There is also a serious question as to whether the contingencies of plea bargaining are arranged such that innocent defendants are pressured into pleading guilty. For example, if the punishment associated with being found guilty by a jury were very severe, a defendant, regardless of innocence or guilt, might prefer the certainty of a less severe punishment. Similarly, if a prosecutor charges

a defendant with several related crimes, the defendant may perceive a greater likelihood of being found guilty by the jury and consequently plead guilty. This judicial tactic, known as "overcharging," is employed by prosecutors (Alschuler, 1968). However, the practice of overcharging involves the covariation of the number of charges against a defendant with the severity of the punishment for each charge. Typically, as the number of charges increases, the severity of the punishment is also increased.

Both the severity of the sentence and the number of charges have been identified as salient variables in juror decisions (Hester & Smith, 1973; Vidmar, 1972). However, in Vidmar's study the charges and the severity of the sentence covaried, while the Hester and Smith study examined only the severity of the sentence. In the present study, these two variables were isolated to determine their effects on the plea bargaining of defendants.

Thus, the variables chosen for systematic manipulation yielded a $2 \times 2 \times 2$ factorial experiment. Two levels of the number of charges, two levels of the length of sentence, and the guilt or innocence of the defendant were manipulated in Experiment 1.

Experiment 1

Method

Overview. Students were asked to imagine that they were innocent or guilty of having committed an armed robbery. Since most armed robberies are committed by men, only male students were used. After listening to a tape recording of their defense attorney's summary of the evidence that would be presented for and against them at their trial, students opened an experimental booklet that contained information about the charges against them (four versus one), the punishment they would face if convicted (10 to 15 years in prison versus 1 to 2 years in prison), and the details of a plea bargain that was offered them. Students then indicated whether they accepted or rejected the plea bargain, responded to manipulation checks, indicated their perceived probability of conviction, and indicated how sure were their defense attorney and the judge of their innocence or guilt.

Subjects. One hundred forty-three male introductory psychology students served as subjects. At Arizona State University, students enrolled in introductory psychology have the option of writing three brief research reports or participating in 3 hours of laboratory research. Students participating in this experiment had chosen the latter option.

Procedure. After arriving at the experimental session, students listened to one of two randomly assigned audio cassette recordings. Students in the innocent condition heard a vivid description of the details that led to their presence in the area of the crime and the events that led to their mistaken arrest for armed robbery. Students in the guilty condition listened to a detailed account of the events that led to the commission of the crime, the crime itself, and their own arrest. Students in both conditions were given details of an identical story that they told the defense attorney in an attempt to convince the defense attorney of their innocence. For innocent students, this story consisted of the actual circumstances surrounding their arrest. Guilty students were told that they had created the story prior to the commission of the robbery so as to have a plausible alibi in the event that they were caught.

From that point on, the information contained in the tapes for the two conditions was identical. All students were told that the defense attorney initially disbelieved their story, but became convinced that it was the truth. The circumstantial evidence on which the students were bound over for trial was described. Following this, each student heard a summary of the evidence that the prosecutor would bring to bear against the defendant and a summary of the evidence that the defense attorney would present in his behalf. The entire summary was represented as being told to the defendant by his own attorney in advance of the trial, since the attorney wanted the defendant to know his chances of being found innocent or guilty. The attorney also informed the defendant that since this was his first offense, the prosecutor had offered the defendant the possibility of a plea bargain. The tape concluded with the defense attorney telling the defendant (referring to his chances in court) that "it doesn't look too good, but the decision to accept or reject the plea bargain is up to you." The evidence presented in the tape recording had been arranged such that slightly less than 40% of the simulated jurors who had heard it in a separate study (Gregory & Mowen, Note 1) had delivered guilty verdicts. The summary included all witnesses who could have any conceivable effect on the outcome of the trial, and their maximal contributions were stated. The story the defendant would relate upon taking the witness stand was also described.

Following the tape recording, students were instructed to open their experimental booklets, which contained the charges against them, the severity of their punishment if convicted, and the details of the plea bargain offered to them. The students learned that they were charged with armed robbery, grand theft with a dangerous weapon, assault with a deadly weapon, and first degree burglary (high charge condition) or armed robbery only (low charge condition). The charges were accompanied by condensed legal definitions. Additionally, students were informed that if they were convicted

of any or all charges (or the one charge, in the low charge condition) they would go to prison for 10 to 15 years (high severity condition) or 1 to 2 years (low severity condition). The students in the high charge condition were informed that the sentences for each crime for which they might be convicted would be served concurrently. The high severity condition was created by stating that the judge who was trying the case was up for reelection and was being very punitive.¹ For the low severity condition, defendants were informed that the judge who was trying the case was very tolerant toward first offenders.

Dependent variables. After reading the information concerning the charges and the punishment, defendants encountered a plea bargain offered to first offenders charged with armed robbery: entering a plea of guilty to second degree burglary and going to jail for 3 months. After indicating whether or not they accepted the plea bargain, the students completed a number of other dependent measures.² Students indicated how probable they thought it was that a jury would convict them if they went to trial by placing a check on a 20-point scale whose ends were labeled "Sure of acquittal" and "Sure of conviction." Students were also asked to indicate what they thought their attorney believed about them by placing a check on a 20-point scale whose ends were labeled "He is sure that I am innocent" and "He is sure that I am guilty." An identical scale assessed what students thought the judge would believe about them.

Manipulation checks. Included as a manipulation check were six 20-point scales dealing with the effects on their lives that students would expect 5 years after release from prison following an imprisonment of 10 to 15 years (or 1 to 2 years). These questions dealt with the amount of difficulty students would expect in gaining employment, the quality of the job, the quality of family life, where they would be in meeting preincarceration educational goals, whether they would be generally happy or unhappy, and whether they would be generally successful or unsuccessful. This was done to determine if the students in the two conditions actually differed in perceptions of the severity of the two possible sentences. Simple comprehension checks were used to determine whether students understood the number of charges against them and whether they were playing the role of an innocent or guilty defendant. After completing the dependent

¹ In Arizona, judges were elected to office until recently. Presently, voters are offered the opportunity to recall judges every 2 years.

² A pilot study, conducted to establish that the procedures were comprehensible to subjects, had shown that the ordering of the dependent measures did not produce differential results. Thus, in the present study they were not counterbalanced. The data from the pilot study were consistent with the results of the present study.

Table 1

Percentages of Innocent and Guilty Defendants Accepting the Plea Bargain as a Function of Charge and Severity Conditions, Experiment 1

Severity	Innocent defendants				Guilty defendants			
	High charge		Low charge		High charge		Low charge	
	%	<i>n</i>	%	<i>n</i>	%	<i>n</i>	%	<i>n</i>
High	33	18	12	17	100	19	82	17
Low	11	18	13	15	83	23	63	16

measures, the students were debriefed, thanked, and dismissed.

Results

Manipulation checks. The comprehension checks revealed that the students had understood both the number of charges against them and their role-playing assignment. A one-way multivariate analysis of variance using the MANOVA program (Clyde, 1969) was performed on the six quality-of-life dependent measures using severity as the independent variable. A highly significant multivariate main effect was obtained, $F(6, 135) = 3.48, p < .003$ (one subject was deleted from the analysis because of missing data). Inspection of the means and standardized discriminant function coefficients revealed that students viewed going to jail for 10 to 15 years as more detrimental to their lives than going to jail for 1 to 2 years.

Defendants' estimates of conviction and beliefs of others. Analyses of variance ($2 \times 2 \times 2$) were conducted on students' perceptions of how likely they were to be convicted, how sure the defense attorney was of their innocence or guilt, and how sure the judge would be of their innocence or guilt (three subjects were deleted because of missing data). For the likelihood-of-conviction variable, only a main effect for the innocent-guilty manipulation was obtained, $F(1, 132) = 10.37, p < .002$. Innocent defendants ($M = 10.3$) believed that they were less likely to be convicted than guilty defendants ($M = 12.9$). A similar main effect for the innocent-guilty manipulation was obtained for the variable of students' estimates of how sure the defense attorney was of their inno-

cence or guilt, $F(1, 132) = 64.52, p < .001$. Innocent defendants ($M = 6.7$) estimated that the attorney believed in their innocence, whereas guilty defendants ($M = 12.7$) estimated that the attorney believed in their guilt. Likewise, innocent defendants ($M = 9.4$) believed that the judge would be somewhat sure of their innocence, whereas guilty defendants ($M = 12.7$) believed that the judge would be sure of their guilt, $F(1, 132) = 35.17, p < .001$. A marginally significant main effect for charges was also obtained on this variable, $F(1, 132) = 3.65, p < .058$, revealing that defendants faced with four charges ($M = 11.6$) tended to believe that the judge viewed them as guilty when compared to the defendants faced with one charge ($M = 10.6$).

Plea bargain acceptance. A $2 \times 2 \times 2$ analysis of arc sine transformations of the proportions of defendants accepting the plea bargain was performed (Langer & Abelson, 1972). No interactions were revealed (all z s $< 1.39, ns$). A main effect for the number of charges was obtained ($z = 2.56, p < .01$), indicating that defendants were more likely to accept the plea bargain if the charges against them were numerous. A main effect for severity also was obtained ($z = 2.57, p < .01$), indicating that defendants were more likely to accept the plea bargain if the punishment was more severe. A highly significant main effect was obtained for the innocent-guilty manipulation ($z = 9.09, p < .001$). Only 18% of the innocent defendants accepted the plea bargain, whereas 83% of the guilty defendants accepted the plea bargain. Table 1 displays the proportions of defendants accepting the plea bargain in the various conditions.

Since it has been suggested by prosecutors and defense attorneys that 85% to 90% of defendants are actually guilty of at least one charge against them (Shaver, Note 2), it was deemed appropriate to analyze separately the plea bargaining responses of innocent and guilty defendants to determine more accurately the factors influencing plea bargaining in guilty defendants. A 2×2 analysis of arc sine transformations of the proportions of innocent defendants who plea bargained revealed no interaction or main effects (all z s < 1.19 , ns). For the guilty defendants, there was no interaction ($z = .76$, ns), but the main effects for charges and severity previously reported were present ($z = 2.73$, $p < .01$, for charges, and $z = 2.61$, $p < .01$, for severity). However, in the absence of a three-way interaction, these results revealing differences between innocent and guilty defendants for factors influencing plea bargaining acceptance must be interpreted with caution.

Discussion

The present data suggest that the innocence or guilt of a defendant is a very strong determinant of acceptance of a plea bargain. Almost all innocent defendants rejected a plea bargain, whereas guilty defendants were quite likely to accept a plea bargain. Other factors such as the severity of punishment and overcharging had little effect on innocent defendants, but both had quite strong effects when the defendant was guilty. Both a more severe sentence and a higher number of charges increased the probability that a guilty defendant would accept a plea bargain.

These results have implications for strategies that might be employed by a wily prosecutor who seeks to increase the probability of obtaining a plea bargain agreement from a defendant. A prosecutor is more likely to obtain a guilty plea if a defendant is charged with many crimes and/or if it is made clear that the defendant will receive the maximum penalty if convicted. Although the National Advisory Commission on Criminal Justice Standards and Goals (1973) does not condone overcharging, they recognized the practice as being common. But since the charge

and the punishment typically covary, it is not known whether prosecutors utilize the strategy implied by the severity main effect by announcing that the maximum penalty will be sought. Although the main effects were stronger for guilty defendants, the data suggest that use of both overcharging and announcing an intent to seek the maximum penalty might increase the number of innocent defendants who plea bargain.

Availability of information to defendants. Defendants' estimates of how likely they are to be convicted and their expectations concerning their defense attorneys' and the judges' beliefs in their innocence or guilt suggest that the information available to a defendant concerning her or his innocence or guilt results in differential expectancies of the information that others have or will have. Recently, Carroll (1978) extended into the social psychological literature the work of Tversky and Kahneman (1973) regarding the effects of the availability of information on a person's evaluations of the probabilities of events. Carroll found that asking subjects to imagine vividly the occurrence of an event increased the subjects' estimates of the probability that the event would occur. Carroll used the availability heuristic to explain his results and various attributional errors. In a plea bargaining situation, the defendant must estimate the likely perceptions of jurors regarding his or her guilt. The tendency of guilty defendants to estimate a higher probability of conviction than innocent defendants may be due to the high availability to themselves of information concerning their guilt. Although in the present study all subjects were given identical summaries of the evidence available, guilty defendants may have believed that further evidence would be uncovered insuring their conviction, whereas innocent defendants may have believed that their attorney would adduce a star witness or information that would clear them. This could occur in actual plea bargaining situations where there exist real differences in the availability of evidence pertaining to innocence or guilt. These information differences between innocent and guilty defendants could cause those evaluating a plea bargain, when testifying in their own behalf, to utilize

such popular fantasies as the ability of others to detect lying. Innocent defendants may believe that refusal of a plea bargain will be viewed as evidence of their innocence. Given that defendants differ in their assessment of probabilities of conviction, assessment of the plea bargain may be a rational process. Guilty defendants may be attempting to minimize costs, whereas many innocent defendants, not expecting conviction, have no perceived reason to accept a plea bargain. A more thorough examination of processes that generated these results must be attempted, but a prior question is the validity of the role-playing procedure for the study of plea bargaining.

Validity of role-playing procedures. Miller (1972) and others (Freedman, 1969; Willis & Willis, 1970) have advanced criticisms of role-playing methodologies. It could be argued that the present data were the result of demand characteristics, although it is unlikely that demand characteristics would have produced the main effects for charges and severity in the guilty-defendant condition only. Nonetheless, since the generalizations from a role-playing study are uncertain, a second study was conducted in an attempt to provide a controlled experimental demonstration of the reliability and validity of these results using involved participants (Cooper, 1976). Since the most striking finding of Experiment 1, the difference in plea bargaining rates for innocent versus guilty defendants, was also the most susceptible to demand characteristics, that variable was selected for manipulation in Experiment 2.

Experiment 2

Method

Overview. Introductory psychology students took a difficult exam after being given prior information by a confederate that most of the answers were "B" (guilty condition) or after being given no information (innocent condition). To be consistent with Experiment 1, only male students were used. Students were led to believe that they had scored extremely high on the test, arousing the experimenter's suspicion that the student had obtained prior information about the test. Students were told that they would have to appear before an ethics committee that would evaluate the situation and make a decision that might involve costly punish-

ment. Students were then given the opportunity to plea bargain (i.e., to confess and receive a lesser penalty). Eighteen students completed the experiment, with two innocent-condition students who had refused the plea bargain deleted from the analysis because of suspicion.

Ethical considerations. The procedure was designed to simulate the stress of a genuine plea bargaining experience, and deception was necessary. Hence, although charges and severity could have been manipulated, it was desirable to keep the number of participants to a minimum. For these same reasons, the experimenters felt an ethical obligation to inform the students participating that the experiment would involve stress. Therefore, students chose to participate in a two-part study. The first part of the experimental session purportedly dealt with an evaluation of the teaching effectiveness of the psychology department. The second, and purportedly unrelated, part of the experiment was to assess individuals' reactions to stress. Thus, students participating in the study knew that they would participate in an experiment that involved stress. Additionally, nine students were disqualified from participating on the basis of a stress inventory. Also, in fairness to students who received prior information but elected not to use it, the experiment was terminated prior to the stress stage for four students who failed to mark at least 11 "B" answers. An additional three guilty-condition students were excused after indicating prior to the experiment that they had heard about the test from the confederate.

*Procedure: The manipulation.*³ While seated in the hallway awaiting the experiment, the student was engaged in conversation by a confederate who explained that she or he was waiting for a friend in another experiment. To half of the students, randomly selected, the confederate spoke about nothing of consequence (innocent condition). To the other half, after eliciting from the student the identity of the study for which he was waiting, the confederate explained that she or he had another friend who had been in that particular study. The confederate told the student that it involved taking some kind of test, that the friend was disappointed in not having received the extra credit that was given to those who did well, and that the friend wished that he had known beforehand (since the experimenter had gone over the answers afterwards) that most of the answers were "B" (guilty condition). After talking with the student a few more minutes, the confederate left to go look for the friend.

The cover story. Moments later, the experimenter (who was blind to the experimental condition) appeared and took the student to the experimental room. The student then completed a scale dealing with "life events and stress," sup-

³ A complete script of the procedure is available from the first author.

posedly to allow the experimenter conducting the second experiment to set up his equipment properly. This scale was an adapted version of the Holmes and Rahe (1967) life stress inventory used to screen out individuals who might have had trouble dealing with the stress of the experiment.

The stated purpose of the first part of the experiment was to assist the department in evaluating different instructors and teaching strategies before revising the curriculum. The student would have only 15 minutes to take an extremely difficult 30-item multiple-choice test, for which the average score was 7-8 answers correct, and the highest score was 12. As an incentive, the student would be awarded an hour of experimental credit for obtaining 10 or more correct answers and might receive extra credit in his course, depending on his instructor. The experimenter informed the student that they would go over the test afterward and said that it was important that people taking the test did so with no special advantages. He asked the student to agree to tell no one about the test. Just prior to giving the test, the experimenter cautioned that it was important for the student not to have heard about the test from a friend or roommate. The test was constructed of extremely difficult items. Although "B" was never the correct answer, the alternatives were arranged such that "B" was often a plausible correct response.

The accusation. After allowing 15 minutes to complete the test, the experimenter returned to score it. He informed the student that he had 17 correct answers, which was possibly the highest score. He left the room for a moment to check the records and returned upset. He told the student that the highest previous score had been 12, and only 2 of over 100 students had done that well. Accordingly, he thought the student might have heard previously about the test. He did not know how to handle the situation and left to go get his advisor. Three minutes later, a second experimenter (also blind to the experimental manipulation) entered the room. In a friendly manner he introduced himself as the project supervisor and shook hands with the student. The supervisor appeared to examine the test responses and remarked that the student indeed had gotten 17 correct. He explained to the student that the experimenter had shown him the records for the experiment. He said that it did appear that the student might have had prior information about the test, since it was unlikely that anyone would obtain a score so far above the best.

The potential penalty and the plea bargain. The supervisor said that the department viewed using prior information in a study for personal gain the same way that it viewed using prior information on a class test, and it was treated identically. The supervisor would have to arrange a time when the student could meet with the department ethics committee. The first experimenter would be there to explain what he believed had occurred and to present the records as evidence. The student would

be allowed to present his version of what had happened. In a friendly manner, the supervisor explained that he believed the committee was fair and would arrive at the truth. He added that his advisor had served on the committee the year before, so he knew how they operated. If they found that the student did not have prior information, he would receive the extra experimental credit for having done well, and his instructor would be informed and might give the student extra credit as well. However, if the committee found that the student had heard about the test in advance, he would receive no credit at all. In fact, the committee would deduct one credit from those the student had. Further, the student's instructor would be required to lower the student's final grade one level. After reiterating the potential outcomes, the supervisor asked the student to wait for a moment.

After thinking, the supervisor noted that the student probably was not expecting so much to happen when he showed up for the study and that going before the committee would be an inconvenience to the student. Although he should not do so, the supervisor said that he would allow the student to forget about the committee and leave if the student would admit that he had prior information about the study. The student would not receive credit for his participation in the study. The options were reiterated, and the student was asked to decide immediately between going before the committee and accepting the supervisor's alternative. His response was the dependent variable for the study. If the student asked any questions or attempted any explanations, the experimenter reiterated the alternatives and requested the student's decision.

Debriefing. Once the student indicated which alternative he chose, the supervisor probed for suspicion. The supervisor then spent a lengthy period explaining the nature of the experiment, the reasons for the deception, and the importance of the question, following the procedure outlined by Mills (1976). Every effort was made to insure that subjects understood they were being taken into the supervisor's confidence and that they harbored no ill feelings toward the experiment or themselves. Guilty students were shown how they had been entrapped. At the end of the debriefing, the supervisor made his office number and telephone number available to the student and invited him to visit whenever he wished to do so. Further, the supervisor telephoned the student 3 to 7 days following the experiment to assess the student's feelings about the experiment and to answer any further questions. The supervisor also asked the students if he felt that the experiment should have been conducted.

Results and Discussion

Manipulation checks. As a manipulation check to determine whether the guilty-con-

dition students did utilize the prior information, a t test was performed comparing the number of "B" responses made by innocent versus guilty students. Innocent students made significantly fewer "B" responses ($M = 7.88$, $SD = 3.09$) than guilty students ($M = 14.38$, $SD = 3.20$), $t(14) = 4.13$, $p < .01$. Although there was no way to obtain an unbiased estimate of whether the supervisor could guess the experimental condition of the student, the procedures were structured to provide the student with no opportunities to disclose his innocence or guilt.

Plea bargain acceptance. Of the nonsuspicious 16 students who completed the experiment, 0 of 8 innocent students accepted the plea bargain, whereas 6 of 8 guilty students accepted the plea bargain. A Fisher's exact test performed on these data revealed that the probability of these results occurring because of chance was $p < .004$.

Credibility of design. Evidence for the believable and powerful nature of the experiment comes from observations of the students' behaviors in the experimental situation. Three students attempted to avoid making any decision by offering to retake another version of the test or asked the experimenter to change their answers. Eleven students asked for details on what types of questions the ethics committee would ask. One student asked if he could bring his roommate to swear that he had not told him about the test. One guilty student stated that a high school instructor had suggested one always should guess "B" when unsure of an answer, although the experimenter never mentioned "B" answers. While accepting the plea bargain, five of the guilty students denied actual guilt or foreknowledge of the test. Two guilty students said that they accepted the plea bargain because they believed that the committee would be biased against them. Three innocent students said that they did not believe the committee could decide they had prior knowledge just because they had done well. Of the two guilty students who refused the plea bargain, one had been arrested for a felony and had accepted a plea bargain for a misdemeanor, since the prosecutor had incontrovertible evidence against him. The other student was in the

experiment during the last week of the semester, when accepting the plea bargain would have resulted in an "incomplete" for the introductory course, since he would not have had enough experimental credit hours.

When contacted by telephone several days following the experiment, all students who had completed the experiment felt that it should have been conducted. Many reported that they appreciated the elaborate deception involved.

Information differences. In this study, the design minimized real information differences between conditions. Since the confederate told the defendant that she or he had heard about the test from a friend, there was a low probability that the experimenter could locate the confederate by systematically contacting the 100 students who purportedly had taken the test to determine if they knew the defendant. Additionally, the supervisor told the defendant that the only persons who would appear before the committee would be the experimenter and the defendant. Nonetheless, guilty defendants knew that there was a potential witness who could attest to their prior knowledge of the test. Also, guilty defendants may have believed that their overuse of "B" answers might incriminate them. This information available to guilty defendants, plus a belief by an innocent defendant that his personal testimony could convince the committee that he was unjustly accused and that doing well on a test was no crime, could have resulted in the obtained differences in accepting the plea bargain.

General Discussion

The results of Experiment 2 provide support for the data obtained using the role-playing procedure of Experiment 1. In the second study, defendants who were in fact innocent of a crime overwhelmingly refused the plea bargain, whereas most guilty defendants accepted it. Suspicion was low, indicating that students believed that they were experiencing a real life crisis and responded accordingly. Thus, these data provide powerful corroborating evidence for the results obtained in Experiment 1.

Validity of the Approach

Nonetheless, the topic of external validity should be addressed. Some support for the validity of the data from these studies is provided by Experiment 2, which modeled the real world in that there were genuine differences in the availability of evidence reflecting on the defendant's guilt. Additionally, the results of Experiment 1 indicating that overcharging and a severe sentence produce more acceptances of a plea bargain confirm the intent of prosecutors in their use of overcharging.

A further question concerns the number of innocent and guilty defendants in the real world. As noted previously, many prosecutors and defense attorneys estimate that 85% to 90% of defendants are guilty of at least one of the charges against them (Shaver, Note 2). Assuming that this is a reliable determination (and there is no independent evidence), an appropriate concern for social psychological research into plea bargaining processes would be the explication of factors that influence plea bargain acceptance by guilty defendants. Experiment 1 does provide information addressing this aspect, but future research could focus directly on this issue.

Also, it is possible that the defense attorney, and not the defendant, makes the real decision to accept a plea bargain. It can be argued that the information provided by a defense attorney shapes the decision of a defendant. Further research must focus on how much decisional freedom a defendant has, as well as the influence on a defense attorney's recommendations of such factors as overcharging, the severity of the penalty, the perceived strength of the prosecutor's evidence, and the nature of the plea bargain offered.

Finally, it should be noted that both studies utilized only male students. Research with female defendants could produce different results. However, since many criminal defendants are men, the results from the present studies remain applicable. Thus, although the external validity of these studies cannot be assessed independently, their combined results and their features that parallel those

found in the criminal justice system provide evidence for validity.

Suggested Directions for Research

Future research might focus on a number of other variables. For example, a belief that the judicial process is less than 100% accurate could attenuate differences between innocent and guilty defendants in the acceptance of plea bargains. A change in the hedonic value of the punishment could also affect plea bargaining. Both innocent and guilty defendants in Experiment 1 might have accepted plea bargains in greater proportions if the penalty had been life in prison versus a death sentence. In Experiment 2, innocent students might have plea bargained had the punishment for conviction been expulsion from school.

A defendant's background may also play a role in plea bargaining. Determination of the impact of a variety of situational and demographic variables on the plea bargaining process should be investigated in situ. Field interviews of defendants and their attorneys concerning actual plea bargaining episodes could provide valuable and necessary information on variables influencing the acceptance of a plea bargain. This information is needed to refine and validate laboratory modeling procedures.

Conclusions

Although the present studies do not form a definitive statement on plea bargaining, they serve to direct the attention of social psychologists to this crucial but neglected issue in discretionary law. Although limitations of the present approach are noted, these studies have modeled some of the important aspects of plea bargaining. The goals stated at the outset have been fulfilled: A procedure for examining the plea bargaining process, subject to further refinement and testing, was established; and factors capable of influencing the acceptance of a plea bargain were identified.

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