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The Coercion of the Trial Penalty

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The Coercion of the Trial Penalty

Prosecutors, defendants, and defense attorneys must make decisions as to whether to accept a plea offer or proceed to trial every day. Approximately 95% of state and federal convictions result from guilty pleas (Redlich et al., 2017; Thaxton, 2013; Gazal-Ayal & Tor, 2012; Redlich & Shteynberg, 2016; Edkins, 2011; Weatherly & Kehn, 2013; Helm et al., 2018; Gregory et al., 1978). Some estimate this number to be as high as 97% to 99% (Redlich & Bonventre, 2015; Helm et al., 2018). It is also estimated that every two seconds a defendant pleads guilty (Redlich & Bonventre, 2015). In 1980, 19% of federal criminal cases went to trial, but by 2010 this number was at less than 3% (Redlich & Shteynberg, 2016). In theory, plea deals are enticing as they put into place safeguards for defendants rather than the uncertainty that comes with going to trial. Therefore, plea bargains give defendants the opportunity to choose between the certainty of a specific amount of time in jail, probation, or a lesser charge rather than take their case to trial with unknown outcomes. On the other hand, by accepting a plea deal, defendants waive their right to silence, the prosecution proving their guilt, and the opportunity to confront their accusers, among other rights (Redlich & Bonventre, 2015; Redlich et al., 2017; Joselow, 2019). Nevertheless, a defendant who chooses to go to trial has been shown to receive on average about nine times more severe of a sentence than guilty plea sentences (McCoy, 2005). This trial penalty most defendants who choose to go to trial face can make even the innocent feel coerced to take plea deals. This study seeks to investigate whether participants asked to assume either guilt or innocence will feel the trial penalty is coercive and unjust.

Literature Review

Rise of Plea Bargains

Plea negotiations, as described by McCarthy and Lindquist (1985), involve the exchange of guilty pleas in return for real or imagined concessions. Gazal-Ayal and Tor (2012) describe plea bargains simply as when the prosecutors offer defendants a reduction in criminal charges, sentence recommendations, or sentence concessions in return for a guilty plea. Additionally, Joselow (2019) states the process of plea bargaining is where prosecutors induce defendants to confess guilt in court, in exchange for a more favorable outcome than the defendant would likely receive following a post-trial finding of guilt. Although the Constitution of the United States grants citizens the right to a trial by jury, plea bargaining allows for the defendant's case to completely bypass the jury system (Bordens & Bassett, 1985). Plea bargains began as an alternative to trials in the 19th century for a number of reasons that are still true today. Dervan and Edkins (2013) document that the first plea bargains began to show up in appellate courts around the American Civil War era, but most were deemed as unconstitutional. Although the Civil War was near the middle to end of the 19th century, by 1916 the number of federal convictions resulting from pleas had risen to 72%. Even though plea bargains were a common practice well into the 20th century the United States Supreme Court did not address plea bargaining until 1970. In *Brady v. Unites States* (1970) the Supreme Court recognized that a "guilty plea is a grave and solemn act to be accepted only with care and discernment" (*Brady v. United States, 1970,* p. 748). Furthermore, as guilty pleas involve a defendant's waiver of constitutional rights, a defendant must enter a guilty plea knowingly, intelligently, and voluntarily (see *Brady v. United States,* 1970). In 1971, the Supreme Court defended the practice of plea bargaining in *Santobello v. New York.* The Court decided plea bargaining was essential to

the administration of justice, when properly administered (Thaxton, 2013). Unfortunately after its formal endorsement, the Supreme Court has been careful in implementing regulations to the process. For example, in *Bordenkircher v. Hayes* (1978) prosecutorial threats were endorsed when defendants refused to accept a plea offer. Dervan and Edkins (2013) note that in *Bordenkircher* the Court decided that as long as the defendant is free to accept or reject a plea bargain, it will be unlikely that an innocent defendant will be driven to falsely claim guilt.

Reasons to Choose a Plea Bargain

Although the amount of plea bargaining in the federal and state courts has increased astoundingly throughout the 19th, 20th, and now 21st centuries, the reasons that plea bargaining began are comparable to why it is popular today (Redlich et al., 2017). In colonial America, jury trials provided democratic representation and a means for ensuring public legitimacy (Johnson, 2019). Redlich et al. (2017) note that both the reason for the start of the plea bargains in the 19th century as well as its continuing popularity today is due to both prosecutors and defending attorneys' preference to reduce the time and expense of a trial. Additionally, prosecutors benefit from the plea bargaining practice because the expense of the trial is avoided and convictions are obtained quicker (Bordens & Bassett, 1985). Prosecutors are also more likely to offer a plea bargain when their perception of the evidence is weak, but recommend a plea offer when their perception of the evidence is strong (Pezdek & O'Brien, 2014). Therefore, a prosecutor's recommendation relies heavily on their perceived strength of the evidence against the defendant. In certain cases, prosecutors may use plea bargaining as a means to strengthen their cases against codefendants, by offering a plea agreement in exchange for testimony against a defendant's co-conspirator (Thaxton, 2013).

Comparatively, defense attorneys have a complicated role pertaining to plea bargains. Helm et al. (2018) discusses the challenges faced by defense attorneys in this position as it sometimes becomes unclear whether they should advise the clients on the decision or present the relevant information to the client and allow the defendant to make the decision themselves. Previous research has shown that the probability of conviction, potential sentences, and defendant preference may influence a defense attorney's plea advice (Helm et al., 2018). Furthermore, Helm et al. (2018) performed a study with 189 criminal defense attorneys to assess the way that attorneys view their role in the plea-bargaining system. They found that of the 166 participants in the final sample, 163 stated they had experience advising clients on whether to accept plea bargains.

Additionally, plea bargains assist in managing the caseloads that often overwhelm attorneys as well as the judges who preside over these cases (Johnson, 2019; Redlich et al., 2017; McCarthy & Lindquist, 1985; Thaxton, 2013). McCarthy and Lindquist (1985) also attribute a reduction of external scrutiny as a motive in pursuing a plea bargain. Avoiding a trial may assist in mitigating external scrutiny of, for example, law enforcement practices that might be criticized more harshly through a public trial. Although those employed by the court have their reasons to pursue plea bargains as discussed above, defendants' decisions whether to plea come with more serious and possibly collateral consequences.

Defendants choose to accept a plea bargain for more reasons than simply to reduce or avoid jail time. Redlich et al. (2017) reported that the three most commonly negotiated elements during a plea bargain are sentence length, charge severity, and case facts. Furthermore, studies have shown that there is a significant relationship between pleading guilty and mitigation of sentence severity. Unfortunately, this is not a guarantee. Defendants who plead guilty to a lesser

charge may receive a sentence less than, equal to, or possibly greater than that normally imposed for a conviction of the original charge (McCarthy & Lindquist, 1985). Helm et al. (2018) noted that defendants are influenced by risk preferences, probabilities of conviction, and potential sentences when deciding whether to accept or reject a plea deal. Reduced charges, for example from a felony to a misdemeanor, may also diminish the stigma attached to the conviction. In the most extreme of cases, plea bargains can be a way to avoid the death penalty as a result of trial (Helm et al., 2018).

Additional studies have also compared offense types and found mitigation for certain offenses. For example, McCarthy and Lindquist (1985) reported on a study where defendants involved in robbery cases but not in burglary, assault, or larceny cases avoided a trial tax. Additionally, robbery defendants were more likely to escape jail time when taking a plea deal, compared to homicide defendants who chose to proceed to trial more often. Comparatively, Weatherly and Kehn (2013) found through a probability-discounting task that murder was discounted more steeply than the plea bargain of embezzlement. Research has also shown that having a prior record, which can be an indicator of experience in the criminal justice system, may be a resource in mitigating sentence severity (McCarthy & Lindquist, 1985.)

Disparities with Plea Bargains

Demographic Disparities

Furthermore, to discuss why defendants choose to accept plea bargains, we must discuss factors that affect defendants such as their race, age, gender, education, and socioeconomic status. In terms of education level and socioeconomic status, Redlich and Bonventre (2015) noted that more than 80% of felony defendants are indigent. Additionally, they report that 47% of jail inmates do not have a high school degree or GED compared to only 18% of the general

population who have not finished high school. Furthermore, in juvenile detention settings 20% to 70% of youth have learning disabilities compared with 5% of the general population (Redlich & Bonventre, 2015). Redlich and Bonventre (2015) also report that although about 95% of a sample of defendants who plead guilty were considered competent, a surprising two thirds were accurate on less than 60% of questions concerning plea comprehension.

The Bureau of Justice Statistics (2010) reported that 71% of felony defendants in the United States identified as minorities in 2006. As far as those defendants who either decide to plead guilty or proceed with trial, Redlich et al. (2017) reports that African American and Hispanic defendants have been found less likely to plead guilty than White defendants. Although, this is not due to the fact that minority defendants are offered plea deals less frequently compared to White defendants. In fact, a study showed that 22% of White defendants were offered plea deals with incarceration time compared to 46% of African American defendants and 32% of Latino defendants (Redlich et al., 2017). Additionally, a study performed by Edkins (2011) showed that defense attorneys were three times more likely to advise African American defendants compared to European American defendants to accept plea deals which included jail time.

As far as gender disparities, little research has been done on incarcerated women as it is a vastly under researched group. One study of 527 women in a Holloway prison in England, showed that 106 of these women claimed to be innocent and 53% had pled guilty (Jones, 2011). Of the 53% who pled guilty but claimed to have committed no offense, their reasons included police advice or pressure, it was their word against the police, they wanted to avoid being remanded in custody, or they wanted to avoid a harsher sentence. Jones (2011) performed their own study on 50 sentenced adult women in an English prison which found that women are more

compliant to the suggestions of police and prosecutors due to a variety of pressures ranging from coercion to threats to family responsibilities.

Further studies have been done to show the disparities between juveniles and adults involved in the plea bargaining process. Unfortunately, research has demonstrated that juveniles are less active participants in legal cases and possess inadequate legal knowledge and understanding (Redlich & Shteynberg, 2016). This lack of understanding has also been shown in research regarding juveniles' understanding of *Miranda* rights and other interrogation-related matters. Furthermore, a study found that even juvenile court judges and attorneys believed that fewer than half of their defendants understood most or all of the plea colloquy. Additionally, Redlich and Shteynberg (2016) report on a study which found that with increasing age, willingness of a group of 1,400 community- and justice-involved juveniles and adults to accept a hypothetical plea offer decreased. In this study, 11-15 year olds accepted the plea offer about 70-74% of the time compared to adults who only accepted the plea offer about 50% of the time. In this study youths focused on the length of time associated with the plea whereas adults' reasoning reflected attempts to weight the odds at trial. Additionally in a lab setting, it has been shown that age does not affect a defendant's willingness to plead guilty when asked to assume guilt but that juveniles are twice as likely to plead guilty compared to adults when asked to assume innocence.

Innocence Effect

A major criticism of the plea bargaining system has been the rate at which innocent defendants agree to a plea bargain due to the fear of trial and the possible consequences that accompany it. Helm et al. (2018) suggest that some commentators feel it may not be a problem that innocent defendants plead guilty as innocent defendants should also be able to obtain the

benefits from pleading guilty. Of the studies researching this topic, it has been found that mock innocent defendants are much less likely to plead guilty than mock guilty defendants, but in a laboratory setting innocents may still plead guilty as much as 56% of time (Tor et al., 2010; Redlich & Shteynberg, 2016). One of the first studies focusing on the innocence effect was performed by Gregory et al. (1978) and found that only eighteen percent of subjects asked to play innocent defendants accepted the plea bargain, while 83% of the "guilty" defendants accepted. Dervan and Edkins (2013) argue that the assumption that plea bargaining leads to large numbers of innocent defendants pleading guilty is troubling as it prevents an accurate assessment of what should be done in response to the possible injustice.

Alternatively, Helm et al. (2018) acknowledges that the current practice of plea bargaining is both operating in a way to give defendants a reduced sentence by confessing to a crime they have or have not actually committed and to encourage or coerce innocent defendants into this plea deal. Empirical evidence has shown that there is an "innocence effect" in plea bargaining, where culpability exerts a strong influence on a defendants' willingness to accept a plea offer (Gazal-Ayal & Tor, 2012). A study, reported by Helm et al. (2018), found that from a group of youth and adults who pleaded to felonies in New York City about a quarter of each group who pled guilty claimed to be completely innocent (27% of youths and 19% of adults). Additionally, the study found that 20% of youths and 41% of adults who pled guilty in this study claimed to at least not be guilty of the crime they were charged with. As far as those who have been confirmed as innocent, the National Registry of Exonerations in 2017 showed that 18% of exonerations had previously involved guilty pleas. Nonetheless, Dervan and Edkins (2013) argue that exoneration can by problematic due to its focus on felony cases, innocent defendants who plead guilty may have little incentive or insufficient time to pursue exoneration, and those who

plead guilty may be prohibited from challenging their convictions. Therefore, it may be more helpful to rely on information produced through psychological studies focused on plea bargaining and decision making. For example, a study by Helm et al. (2018) showed that from a final sample of 166 attorneys, 148 stated they had been involved in a case where a client plead guilty despite maintaining their innocence.

Although guilty pleas can be seen as a type of confession, the natures of an interrogation and the plea process are inherently different. Redlich et al. (2017) describe the interrogation process as isolating, guilt-presumptive, and psychologically manipulative. In contrast, Jones and Penrod (2018) note similar risk factors which can increase the likelihood that a defendant will falsely confess. Furthermore, confession evidence can be one of the most persuasive types of evidence presented to juries, even if they may be coerced. Unfortunately most suspects tend to waive their rights to representation, and therefore lack support during the interrogation (Redlich et al., 2017). Defendants who have participated in especially lengthy interrogations, six hours, have even seen confession as their only way out. Furthermore, mock jurors have been shown to be able to better evaluate the quality of an interrogation when provided with instructions on false confession risk factors (Jones & Penrod, 2018). Therefore, understanding why innocent defendants agree to plea deals is an important phenomena due to the plea bargain's popularity.

Shadow of the Trial?

The plea bargaining practice is conducted within the theory of the shadow of the trial. Bushway and Redlich (2012) define the "shadow of the trial" theory as predicting decision-making premised on the perceived outcome at trial, primarily based on the strength of the evidence. Therefore, this theory states that the plea discount will be larger when the possibility of conviction is lower, and vise-a-versa when the probability of conviction is higher. Shadow of the

trial assumes that a defendants' culpability will not have bearing on plea-bargaining behavior beyond the probability of conviction (Gazal-Ayal & Tor 2012).Unfortunately, shadow of the trial literature shows that a defendant would be as likely to accept a plea bargain if they were innocent rather than guilty. Therefore, a defendant's actual innocence seems to have no direct influence on the plea bargaining process. Additionally a few other points to consider when working within the shadow-of-the-trial theory, defendants' decisions may be too erratic to predict their bargaining strategies as defendants are irrational, may not make calculated decisions, and may lack adequate legal representation. Furthermore, there may be structural impediments such as ineffective lawyering, agency costs, bail and pretrial detention, and psychological biases such as overconfidence and risk preferences that may be ignored in this theory (Bushway & Redlich, 2012). In addition, extra-legal factors such as race of the defendant have been shown to influence the acceptance of a plea as well as whether the prosecutor dismisses the charges. Therefore, alternative theories may be needed to account for the additional influences to plea bargains.

To account for these added circumstances that the shadow-of-the-trial does not consider a different theory may be more practical. Some have argued for the model of a plea bargaining process which considers the various psychological processes that research has shown prevent humans from being completely rational actors (Edkins, 2011). Alternatively, a more common description of the plea bargain framework involves recognition of a court community or organization that comes together around a set of norms and expectations (Bushway & Redlich, 2012). This more institutional focus then is used to explain reasons that plea outcomes may vary across courts. Thus, this theory focuses on explaining how different courts with different norms about the outcome at trial may have different plea outcomes.

Coercion and Fairness in Plea Bargains

Although there may be disparities across demographic groups, the innocent and guilty and the general setting in which plea bargains are conducted compared to a trial, the plea bargaining practice will most likely remain commonplace for the foreseeable future. Helm et al. (2018) note that the current plea bargaining practice has become more of a tactical decision rather than a moral decision as a way to admit guilt. Furthermore, prosecutors' questioning relies on psychological coercion and social influence techniques in an attempt to obtain a guilty plea. For example, defendants who agree to a plea may be misled on the strength of the evidence against them giving them a false sense of what may occur at trial (Joselow, 2019). Plea bargains provide a safeguard for defendants as well as reduce the caseload on a mostly overloaded court system. This pressure felt by both parties to reach a plea agreement may encourage prosecutors to "overcharge" at the beginning of a case to coerce a defendant into accepting a plea offer (Thaxton, 2013).

Unfortunately, defense attorneys are not constitutionally required to inform the defendant of collateral consequences that could potentially occur from a criminal conviction (Redlich & Bonventre, 2015). Collateral consequences that may influence a defendant's choice to plead guilty are the effect a conviction can have on child custody, access to food stamps, public housing, student loans, and the right to vote. Recently, Redlich et al. (2017) reported that the American Bar Association categorized more than 47,000 collateral consequences offenders could face.

Additionally, some have raised the question as to whether the practice of plea bargains is fair to the parties involved and whether reform may be necessary. Studies have shown that even the public's understanding of the coercive nature of promises in plea bargaining have led many to view plea bargaining with suspicion and distaste (Joselow, 2019). In a United States sample

examining public opinions, 82% of respondents disapproved of plea-bargaining (Khogali et al., 2018). Similarly, 79% of a Canadian sample disapproved of the practice of plea bargaining. This could be due to the lack of transparency, the perception that plea bargains are too lenient or too harsh for defendants, or that plea bargains fail to provide fair outcomes for victims. The public's perception of the possible lack of transparency speaks to the need to find whether defendants feel coerced by the fear of the trial penalty.

The Current Study

Previous studies have investigated whether innocent defendants are less likely to accept a plea bargain (Tor et al., 2010; Redlich & Shteynberg, 2016; Gregory et al., 1978) or which specific demographic factors may lead to some defendants accepting a plea bargain over others (Edkins, 2011; Redlich et al., 2017; Jones, 2011). Recent research focusing on whether the practice of plea bargaining may be coercive investigates public perceptions (Joselow, 2019; Khogali et al., 2018) or prosecutorial efforts to coerce the defendants (Thaxton, 2013). This study investigates whether defendants feel coerced to accept a plea bargain to avoid an increased sentence they may face at trial, the trial penalty. To date, there has been little empirical work exploring the trial penalty and its possible coercive nature.

Methods

Research Design

The possible coercion of the trial penalty was tested with a 2 (assumption of guilt: guilty v. innocent) x 5 (possible sentence at trial: 2, 5, 10, 15, and 20 years) factor design. The independent variable, the assumption of guilt, was a between-subjects variable while the possible sentence the participant could face at trial was a within-subjects variable. Additionally, a power analysis was run to determine the appropriate amount of participants needed for this study. The

power analysis determined 128 total participants are needed to produce significant results for this study.

Materials

Vignette

Two versions of the vignette were written which asked participants to either assume the role of someone who committed a crime or someone who was wrongly accused. The vignette described an armed robbery of a jewelry store, loosely based on vignettes from Redlich and Shteynberg (2016) and Edkins (2011). For the guilty vignette we chose eyewitness evidence and the gun that was used as evidence which could possibly be used against the defendant. Alternatively, the innocent vignette told the participant they live alone and were "at home playing video games" at the time of the robbery. The innocent condition also contained eyewitness evidence, but no gun was recovered by the police.

Both conditions told participants that they would be offered a plea deal of two years. This length of time came from a metaanalysis performed by McCoy (2005) which found the average prison sentence length for guilty pleas of serious felony cases was 23.6 months, almost two years. Additionally, both conditions notified the participants if they chose to go to trial they could serve up to, in a randomized order, either 2, 5, 10, 15, or 20 years of jail time. These times were chosen as the United States Sentencing Commission (2015) reported 111 months is the average prison sentence for robbery, which is a little over nine years. Therefore, we chose times which may realistically be given as plea options for the crime of armed robbery.

Manipulation Checks

Manipulation check questions were included after the vignette in the study to ensure the participant understood the vignette and understood whether they are supposed to assume guilt or innocence. These questions include “you were asked to pretend you were guilty of the crime” and “the plea deal you were offered was 2 years of jail time”. These questions were modeled after the manipulation check questions included in Redlich and Shteynberg (2016).

Coercion and Fairness

To begin the coercion and fairness questions we asked participants whether they will accept or decline the plea deal and why they made this decision. We then asked a few questions modeled after Bordens and Bassett (1985) such as “how firm were you in your decision to either accept or decline the plea deal?” and “how severe do you feel the possible outcome of trial is compared to the plea bargain?” on an 11-point scale (0=not at all and 10=very). The survey then asked participants to reflect on how the jail sentence, if they choose to go to trial, would affect their life after serving their sentence. This included collateral consequences such as gaining employment, education, general success as well as family life and overall happiness post-confinement (Gregory et al., 1978).

Finally, coercion and fairness questions were adapted from two separate studies. The first, a study by Bergk et al. (2010), focused on coercive interventions in psychiatry. Questions incorporated from Bergk et al. (2010) include “I felt there would be restrictions to my autonomy” and “I felt there would be restrictions to my interpersonal contacts”. Additionally, fairness questions were based on a study performed by VanYperen et al. (2000) testing employees’ destructive behavioral intentions resulting from their perceived injustice. For example, the original question from VanYperen et al. (2000) asked “the rewards you receive are not proportional to your investments”. Alternatively, the survey question for this study read “I felt

the possible jail time if I chose trial is not proportionate with the crime". All coercion and fairness questions are asked according to an 11-point scale (0=not at all and 10=very).

Demographic Questions

The survey concluded with demographic questions asking the participants' age, race, and gender.

Procedure

Participants were recruited from the prolific website. They were presented with a brief description of the requirements to participate in the study, specifically they must be able to read English and be over the age of 18. Every participant was informed they will receive $1.50 for their participation in our 15-minute study. Additionally, funding for this project is provided by the Doctoral Student Research Grant Program. Upon clicking the link to open the survey after participants read the brief description, the consent form was presented. Participants must either accept or decline to proceed after the consent form. If they declined, the survey automatically closed and took the participant back to the prolific website. If the participant accepted, the survey continued to the questions. The survey concluded with a short debrief describing the purpose and importance of the study.

Results

Manipulation Check

Upon completion of the data collection, 143 participants' responses were recorded. A frequency analysis was run to determine the frequency of participants answering the manipulation checks correctly. This analysis showed that 25.9% of respondents answered all three manipulation check questions correctly, 67.8% answered two of the manipulation check questions correctly, and only 6.3% of respondents answered only one manipulation question

correctly. These nine respondents' answers that comprised the 6.3% of the latter group were not analyzed due to their apparent lack of understanding of the vignette. Therefore, 134 respondents' answers were analyzed, still producing a number above the 128 respondents needed to produce significant results based on the power analysis run before beginning data collection.

Demographics

Of the 134 participants, 65 were between 18 and 24 years old, 47 were between 25 and 34 years old, 14 were between 35 and 44 years old, and seven were between 45 and 54 years old, as shown in Figure 1. One participant declined to indicate their age. Additionally, 67 identified as male, 64 identified as female, and two identified as other. Again, one participant declined to put an answer for their gender. Furthermore, as Figure 2 and 3 show, the participants were comprised of mostly Caucasian participants (70.9%), while 27.9% consisted of other racial groups including Asian, Black, and Latinx. Two participants did not put an answer for which racial group they identify with.

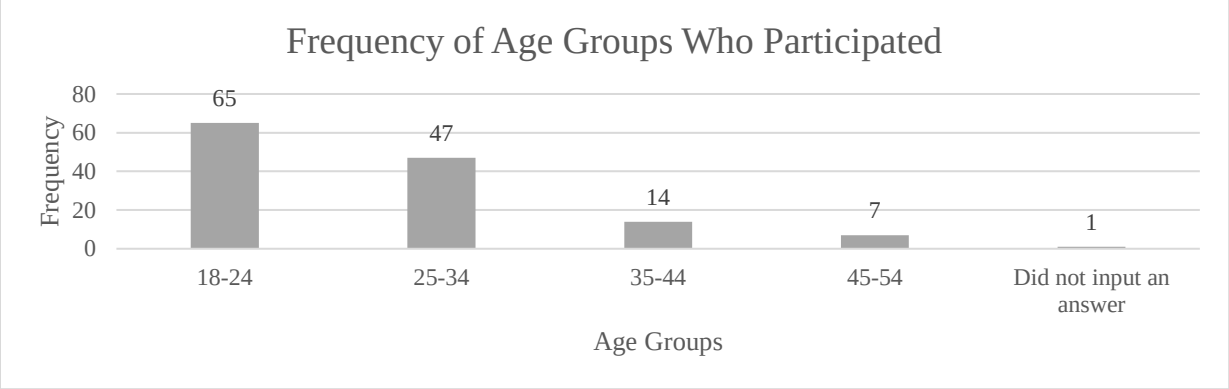

Figure 1. Frequency of those who participated in the survey broken down into age groups.

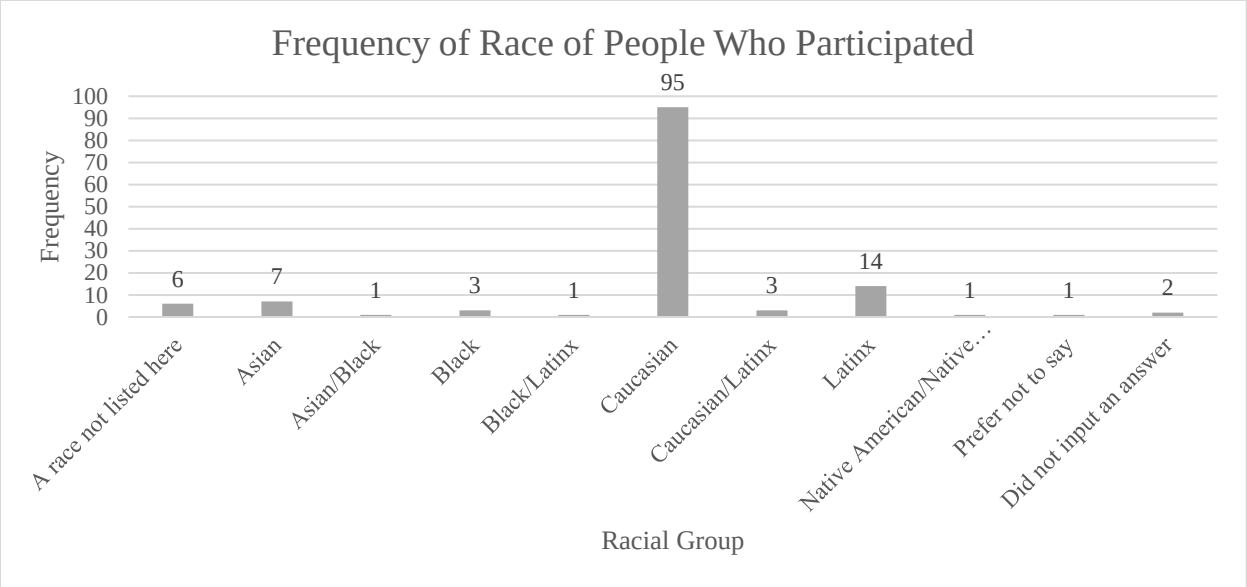

Figure 2. Frequency of those who participated in the survey broken down into racial groups.

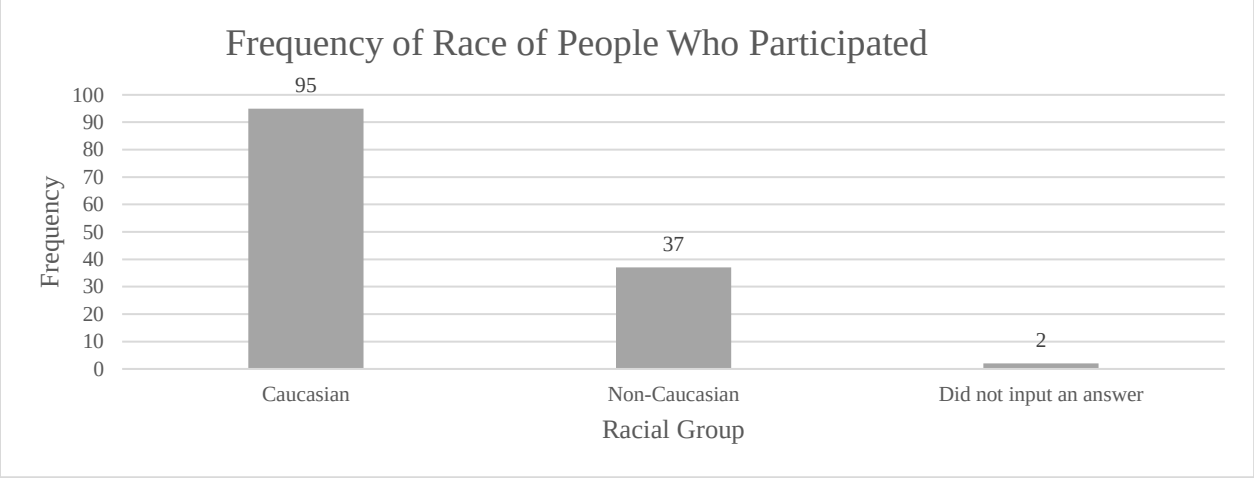

Figure 3. Frequency of those who participated in the survey broken down into Caucasian and Non-Caucasian groups.

Order Effects

Because our study included a repeated measure with five levels (sentence exposure at trial), we ran five regression analyses to explore the relationship between the position of the question and the likelihood of accepting a plea. We found no systematic pattern of influence, with a significant result only for the 20 years condition, $F(1,142) = 14.05$, $p < .01$. Therefore, because an order effect was only found for the 20 year condition, we continued with the mixed

design analysis with confidence that any result could be attributed to the manipulation and not to systematic order effects.

Accept Plea Bargain

We conducted a mixed-design ANOVA with guilt status as the between-subjects variable and sentence exposure as the within-subjects variable. The results revealed a significant main effect of severity of sentence exposure at trial, $F(4,564) = 46.51$, $p < .01$, $\eta_p^2 = .25$, such that as the severity of the potential sentence at trial increased, the likelihood of accepting a plea also increased. There was also a significant main effect of guilt status, $F(1,141) = 19.66$, $p < .01$, $\eta_p^2 = .12$, such that participants in the guilty condition were significantly more likely to accept a plea than those in the innocent condition. See Table 1 for the percentages of participants who accepted a plea in the innocent and guilty conditions, at five levels of sentence exposure at trial.

Length of Sentence	Guilty Average %	Innocent Average %
2 years	M = 8.5	M = 1.4
5 years	M = 21.1	M = 6.9
10 years	M = 47.9	M = 20.8
15 years	M = 54.9	M = 25.0
20 years	M = 60.6	M = 26.4

Table 1. Percentage of participants in the guilty and innocent conditions who accepted pleas when faced with five levels of sentence exposure at trial.

There was also a significant interaction between severity of trial sentence and guilt status, $F(4,564) = 5.26$, $p < .01$, $\eta_p^2 = .04$. This result showed that as the severity of potential trial sentence grew more severe, although both innocence and guilty people were more likely to

accept a plea, those in the guilty condition were even more likely to accept it than those in the innocent one as the severity increased. See Figure 4 below for interaction effect.

Figure 4. Percentage of participants who accepted pleas in innocent and guilty conditions, at five levels of sentence exposure at trial.

Upon initial analysis, no demographic categories were significantly related to whether the participant accepted the plea bargain. A Tukey HSD *post hoc* test showed that the difference between females and males for whether they chose to accept the plea bargain was significant Ψ = -.19, p = .012.

Open-Ended Questions

Participants answered two free-response questions during this survey after deciding whether they would accept or decline the plea based on the initial vignette. To analyze these free-response questions, participants' responses were categorized according to their content and theme. The first question asked participants to explain why they chose to accept, decline, or were unsure of whether to accept or decline the plea deal. Participants responses may have included

more than reason in this list. The categories for this question can be seen-related below in Table 2 and Table 3.

Accept Plea	**Frequency**
2 years is better than the time I could face if I went to trial	6
I committed the crime	6
Think I would be declared Guilty/Chance of Conviction would probably be high	5
No eyewitness testimony to prove I was at home/no alibi	3
Eyewitness account would prove I'm guilty	2
No other suspect	2
Bad liar/could face worse punishment for lying on the stand	2
They could find additional evidence pointing to me	2
There was a silent alarm	1
High chance of max time at trial	1
The evidence points to me	1
I feel responsible for what I did	1
Don't trust the law to prove my innocence	1
Sum	**33**

Table 2. Arguments made by participants to accept the plea bargain.

Decline Plea	**Frequency**
Not enough evidence/Very little evidence/Evidence is weak	52
Did not commit the crime/Should not have to admit to something I didn't do	39
Eyewitness testimony is unreliable	20
Innocent until proven guilty/Can't prove guilt beyond a reasonable doubt	14
Plea deal is same number of years as possibility at trial/Close to number of years at trial	12
Think I would be declared not guilty/Chance of conviction would probably be low	11
Want to present case facts at trial to convince jury	10
Other evidence (ex. Mobile phone data, gaming console) could probably prove I was innocent	10
Have the chance to walk away free at trial	9
Grainy security footage is not solid evidence	7
Stain on record if I'm guilty (harder to find a job afterwards, no chance of having verdict overturned in future, lose time)	7
No evidence connecting me to the weapon	5
Nothing was stolen, the crime was not actually committed (For Guilty Condition)	5
Trust the court to prove my innocence	5
Fingerprints do not trace back to me	3
Think I can prove I'm innocent	3
The real criminals are still out there	3
No DNA evidence	2
I did not hurt anyone (For Guilty Condition)	2
Clean record if I'm innocent (may get compensation from the State)	1
Police did a bad job at collecting evidence	1

Sum	**221**

Table 3. Arguments made by participants to decline the plea bargain.

The most common arguments for those who decided to accept the plea was that the plea bargain was better than the possible time that the person could face at trial. Furthermore, participants chose to accept the plea because they had committed the crime (specific to guilty condition), thought they would probably be convicted at trial, and/or because they did not have an alibi. On the other hand, the most frequent argument made by those who decided to decline the plea bargain was that there was little evidence/weak evidence to prove their involvement. Other common reasons included that they did not commit the crime (specific to the innocent condition), eyewitness testimony is unreliable, and/or they did not think the prosecution could prove their involvement beyond a reasonable doubt.

The second free-response question participants answered asked them to describe specific factors of the story, or vignette that affected their decision. Participants most often made arguments such as the eyewitness evidence could be strong, and that they are guilty when favoring accepting the plea deal. Comparatively, participants who favored denying the plea deal most often reasoned that the evidence in the vignette was weak or lacking, that eyewitness testimony is unreliable, and/or that they were innocent. The results of how participants answered this question can be found below in Tables 4 and 5.

Accept Plea	**Frequency**
Eyewitness evidence can be strong evidence	8
I am guilty	4
Plea Deal is only 2 years/ Do not want to serve longer time	3
Further evidence could come up during the investigation	3
Had the chance to escape and that wasn't right	1
Because there is a secret alarm, could there be a secret camera too	1
the gun was found in the trash can where the robber left it	1
Possibility of fingerprints on the gun	1
It's my word against the jury	1
I entered the building with a gun	1

No evidence that I didn't do it	1
Jail time will help me think about what I want to do in life	1
Sum	**26**

Table 4. Arguments made by participants to accept the plea bargain.

Deny Plea	**Frequency**
Not enough evidence/Evidence is not strong	49
Eyewitness testimony not reliable/Only 1 eyewitness	42
I am innocent/shouldn't have to admit something I didn't do	27
Video footage was grainy	20
Other evidence would prove I'm innocent (such as videogame history, I did not enter the store, footage to show my innocence)	17
No linking back to the gun/fingerprints on the gun	16
Plea deal is same as possible time in prison/	8
No fingerprints	7
Can't prove beyond a reasonable doubt that I was involved	6
Robbery was only an attempt	6
I would walk away free	5
Consequences of being in prison for 2 years	4
High chance I would be found NG	2
Have faith in justice system	2
I could convince the jury I'm innocent	1
No evidence of guilty behavior for following days	1
No DNA	1
The person who committed the crime is still out there/they need to take responsibility for this	1
Alibi cannot be confirmed	1
Can be with my family	1
Sum	**217**

Table 5. Arguments made by participants to decline the plea bargain.

Perceptions of Fairness and Injustice

A variety of fairness and injustice questions were asked immediately following the vignette. An independent samples t-test was run to compare the means of these questions with the between-subjects variable of guilt and innocence. This t-test showed that those in the innocent condition (M = 9.88, SE = .22) reported that they were firmer in their decision to either accept or decline the plea deal than those in the guilty condition (M = 7.99, SE = .3). This difference, -1.89, BCa 95% CI [-2.63 , -1.16], was significant, $t(132) = -5.08$, $p < .01$. This t-test

also showed that those in the innocent condition (M = 3.98, SE = .29) reported that they believed it was less likely a jury would convict them of armed robbery in the first degree if they chose to go to trial than those in the guilty condition (M = 5.19, SE = .33). This difference, 1.21, BCa 95% CI [.34 , 2.08], was significant, $t(131) = 2.75$, $p < .01$.

Additionally, those in the innocent condition (M = 3.8, SE = .33) felt less strongly that they would have to obey the suggestion of the defense attorney than those in the guilty condition (M = 5.63, SE = .36). This difference, 1.83, BCa 95% CI [.88 , 2.78], was significant, $t(132) = 3.79$, $p < .01$. Those in the innocent condition (M = 8.29, SE = .28) also felt there would be more restrictions to their human dignity than those in the guilty condition (M = 7.03, SE = .35). This difference, -1.26, BCa 95% CI [-2.14 , -.38], was significant, $t(132) = -2.82$, $p < .01$. Finally, those in the innocent condition (M = 3.79, SE = .33) also felt the plea deal offered by their attorney was more unfair than those in the guilty condition (M = 6.63, SE = .35). This difference, 2.84, BCa 95% CI [1.9 , 3.79], was significant, $t(132) = 5.97$, $p < .01$. See Table 6 below for the average responses to these questions by participant in innocent and guilty conditions.

Question	**Guilty (Average %)**	**Innocent (Average %)**
How firm were you in your decision to either accept or decline the plea deal?*	7.99	9.88
How likely do you think a jury would be to convict you of armed robbery in the first degree if you chose to go to trial?*	5.19	3.98
How severe do you feel the possible outcome of trial is compared to the plea bargain?	7.22	6.64
Now, reflect on how the jail sentence, if you chose to go to trial, would effect your life after serving your sentence. - Gaining employment	9.87	9.52
Now, reflect on how the jail sentence, if you chose to go to trial, would effect your life after serving your sentence. - Quality of job	9.65	9.29
Now, reflect on how the jail sentence, if you chose to go to trial, would effect your life after serving your sentence. - Quality of family life	8.34	7.55
Now, reflect on how the jail sentence, if you chose to go to trial, would effect your life after serving your sentence. - Preconfinement educational goals	8.26	7.86
Now, reflect on how the jail sentence, if you chose to go to trial, would effect your life after serving your sentence. - Happiness	9.09	8.95
Now, reflect on how the jail sentence, if you chose to go to trial, would effect your life after serving your sentence. - General success	9.53	9.08

I felt I would have to obey the suggestion of the defense attorney.*	5.63	3.80
I felt there would be restrictions to my human dignity.*	7.03	8.29
I felt there would be restrictions to my autonomy.	7.37	8.06
I felt the situation was shameful.	7.78	8.06
I felt there would be restrictions to my interpersonal contacts.	8.04	8.06
I feel the possible jail time if I chose trial is not proportionate with the crime.*	7.01	6.24
I felt my wishes as a defendant would not be taken into account.	6.40	6.68
The plea deal offered by my attorney was fair.	6.63	3.79

*These differences were significant at the p<.05 level.

Table 6. Average responses to fairness and injustice related questions on an 11-point scale (0=not at all and 10=very) for guilty and innocent participants immediately after the vignette.

An independent samples t-test was run to compare the means of four fairness and injustice questions at each year presentation with the between-subjects variable of guilt and innocence. This t-test showed that those in the innocent condition (M = 8.09, SE = .3) reported that there would be restrictions to their human dignity greater than those in the guilty condition (M = 6.54, SE = .36) when both the plea bargain and the possible time they could face at trial was 2 years. This difference, -1.55, BCa 95% CI [-2.49 , -.61], was significant, $t(132) = -3.26$, $p < .01$. Similarly, those in the innocent condition (M = 7.88, SE = .32) reported a greater feeling that there would be restrictions to their autonomy compared to the guilty condition (M = 6.88, SE = .38) when both the plea bargain and the possible time they could face at trial was 2 years. This difference, -1.0, BCa 95% CI [-1.98 , -.01], was significant, $t(131) = -2.0$, $p = .05$. See Table 7 and Figure 5 below for the average responses to these questions by participant in innocent and guilty conditions.

Exposure to Length of Sentencing at Trial	**Trial Penalty Fairness and Injustice Questions**	**Guilty (Average %)**	**Innocent (Average %)**
2 years	Restrictions to human dignity	6.45	8.15
	Restrictions to autonomy	6.76	7.92
	Restrictions to interpersonal contacts	6.99	7.85
	Exposure at trial not proportionate with crime	5.73	5.94
5 years	Restrictions to human dignity	7.66	8.53
	Restrictions to autonomy	7.92	8.49
	Restrictions to interpersonal contacts	8.17	8.54

	Exposure at trial not proportionate with crime	6.93	6.17
10 years	Restrictions to human dignity	8.32	8.96
	Restrictions to autonomy	8.49	8.65
	Restrictions to interpersonal contacts	8.59	8.71
	Exposure at trial not proportionate with crime	7.65	7.22
15 years	Restrictions to human dignity	8.32	9.18
	Restrictions to autonomy	8.61	8.85
	Restrictions to interpersonal contacts	8.90	8.99
	Exposure at trial not proportionate with crime	8.17	8.04
20 years	Restrictions to human dignity	8.76	9.14
	Restrictions to autonomy	8.93	9.03
	Restrictions to interpersonal contacts	8.96	9.01
	Exposure at trial not proportionate with crime	8.31	7.69

Table 7. Average responses to fairness-related questions on an 11-point scale (0=not at all and 10=very) for guilty and innocent participants at five levels of sentence exposure at trial

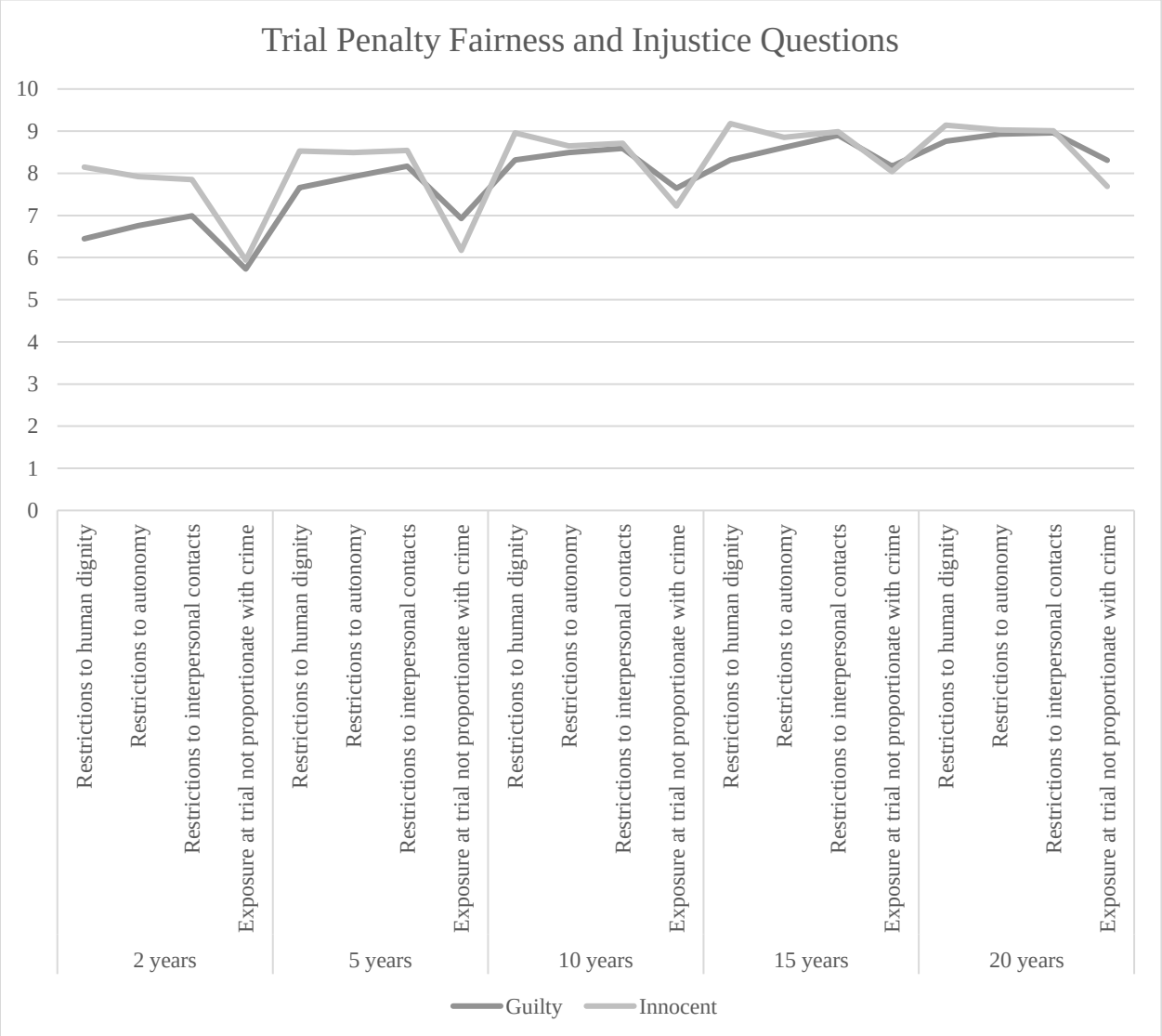

Figure 5. Means for four injustice and fairness questions over different sentence exposure conditions.

Additionally, a general linear model analysis was run to assess how participants' answered varied on the above fairness and injustice questions, based on which year they were presented at the outset. See Appendix for the results of these analyses.

Discussion

In the present study, we analyzed feelings of coercion and injustice associated with the trial penalty, which to our knowledge has yet to be done. We were also interested in examining how differences between the possible time at trial and the plea bargain could affect plea decision, as well as feelings of coercion and injustice. Overall, we found that as the trial penalty increases, participants were more likely to accept the plea bargain, and even more likely when those participants were in the guilty condition.

Accepting or Declining the Plea Deal

In general, we found that both guilt status as well as severity of sentence exposure at trial effected the likelihood of accepting a plea. Those in the guilty condition were more likely to accept the plea at all sentence exposures at trial, with the biggest difference being at 20 years which was the maximum sentence exposure tested in this study. At 20 years, those in the innocent condition were 26.4% likely to accept the plea, while those in the guilty condition were 60.6% likely to accept the plea. Comparatively, those in the innocent condition as well as two years sentence exposure at trial were 1.4% likely to accept the plea, while those in the guilty condition were 8.5% likely to accept the plea.

Furthermore, we assessed how participants determined whether to accept or decline the plea deal through free-response questions. Overall, these questions showed more arguments to decline the plea deal than to accept, as more participants decided to ultimately decline the first

plea deal offered. Unsurprisingly for both questions, most people, when deciding to decline the plea deal, expressed that there was too little evidence, or the evidence presented in the vignette was weak. Specifically, participants brought up that eyewitness testimony is unreliable most, followed by the grainy security footage, and that there were no viable fingerprints found for both questions. Participants tended to refer to fingerprints as both fingerprints that could be pulled off the gun as well as could be found at the scene, which is why this category is split. Participants also expressed that they should deny the plea deal because they were innocent and should not admit to something they did not do. Sentiments such as this included "I don't think I would live with my true self" and "I would fight against this injustice", both expressed by innocent participants choosing to decline the plea deal. Other notable sentiments expressed by participants denying the plea deal included that the robbery was only an attempt (specific to guilty condition), the consequences of going to prison such as not being able to find a job following their release, and that they have faith in the justice system to prove their innocence (specific to innocent condition).

In contrast, there was less variability in responses of those choosing to accept the plea. Some participants pointed to the eyewitness testimony as possible strong evidence to implicate them when asked about specific factors in the story that affected their decision. One of the most common answers participants wrote when answering why they chose their plea decision was that two years was better than the time they could face at trial. Participants who chose to accept the plea expressed that they did so because they were guilty, a common response for both questions. Other notable responses were that they did not have an alibi, there were no other suspects, and that further evidence to implicate them could be found.

Fairness and Injustice

Overall, those in the innocent condition were significantly more firm in their decision to either accept or decline the plea deal.

Understandably, those in the guilty condition were significantly more likely to think a jury would convict them of armed robbery in the first degree if they chose to go to trial. Although not a statistically significant result, those in the guilty condition felt the possible outcome of trial compared to the plea bargain was slightly more severe than those in the innocent condition.

Perceived effects that serving jail time would have on a participant's life was similar in both categories regarding gaining employment, quality of job, quality of family life, pre-confinement educational goals, and general success. Although not significant, the biggest difference in means were specifically in quality of family life, with those in the guilty condition feeling their jail time would affect their quality of family life by almost a whole scale point, followed by general success at about half a scale point both on an 11-point likert scale. Additionally, when initially asked fairness and injustice questions based on the vignette trial penalty at the outset, those in the innocent condition felt less strongly that they would have to obey the suggestion of the defense attorney. Furthermore, those in the innocent condition felt there would be more restrictions to their human dignity than those in the guilty condition. Finally, the last statistically significant result in these first questions following the vignette was those in the innocent condition felt the plea deal offered was more unfair than those in the guilty condition. Although not statistically significant, those in the innocent condition felt the situation was slightly more shameful, and that their wishes as a Defendant would not be taken into account more than those in the guilty condition. These results seem to suggest that those in the

innocent condition felt that this situation was slightly more unfair and they were somewhat more out of control than those in the guilty condition.

These differences were magnified when examined at different sentence exposures at trial. Although not all statistically significant, a pattern emerged within the four injustice and fairness questions asked at each sentence exposure. As the increase in trial penalty, the sentence exposure at trial increases from 2 to 20, the difference in feelings of injustice and fairness between the two guilty and innocent conditions generally decrease. Specifically, most differences in these four questions decreased, despite the question regarding human dignity, at 10 years possibility jail time if they choose to go to trial.

This trend was somewhat replicated when these questions were analyzed based on which sentence exposure participants were shown in the vignette. Generally, those presented with 2, 5, and 10 years in the vignette showed the greatest difference when then asked about 15 or 20 year sentence exposures. These differences were most evident in the questions regarding restrictions human dignity and autonomy, similar to the results mentioned above. Comparatively, those shown 15 and 20 year sentence exposures in the vignette rarely produced significant results when then asked injustice and fairness questions regarding lesser sentence exposures. These results seem to indicate that past the 10 year sentence exposure, specifically the 15 and 20 year sentence exposures, the possibility of jail time at trial seems to be seen generally as the same. This is due to both guilty and innocent participants do not differ in their responses at these time frames and participants shown these times at the outset seemed to view all sentence exposures as having the same general injustice and fairness.

Conclusions and Limitations

To our knowledge, the present study is the first to examine feelings of coercion and injustice associated with the trial penalty. However, this study does present with some limitations. Firstly, data collection was done through prolific. On one hand, this allowed for a more diverse data collection than could be accomplished when using student populations. Ultimately, prolific participants are not faced with the reality of the situation that the vignette portrays. Although, we asked these participants to assume the position of someone faced with these charges, using participants who are charged with armed robbery and facing plea deals would be a better data collection route for the future.

Additionally, the demographic makeup of this respondent group does not accurately represent the demographic makeup of those likely facing plea deals. This group of participants included 71% Caucasian participants, 10% Latinx participants, and 2% Black participants. According to Federal Bureau of Prisons, those incarcerated in the United States identify as 27% White Non-Hispanic, 38% Black, 31% Hispanic, 3% Native American, and 1% Asian. Furthermore, 49% of the participants who participated in this study were between the ages of 18 and 24, 35% were between the ages of 25 and 34, and 16% were between 35 and 54. The Federal Bureau of Prisons cites that just over half, 51%, of those incarcerated are between the ages of 31 and 45. Finally, 93% of those incarcerated identify as male according to the Federal Bureau of Prisons and 7% identify as female. Comparatively, we have almost exactly a 50/50 split of females and males who participated in our survey. Therefore, the demographic makeup of those who responded on prolific is vastly different than those who are in the United States prison system.

Overall, generalizability of this study should be taken into account upon reading these results. This study is a promising start to assessing how plea bargains, and subsequently the trial

penalty, can be unjust and unfair even to those who are innocent. As shown in this study, the coercive nature of the trial penalty can entice the innocent as well as those who are guilty to relinquish their rights of a fair trial for a lesser sentence which can be served beginning immediately. Furthermore, it seems past a certain point, possibly a difference between plea bargain and sentence exposure of about 10 years, feelings of injustice and unfairness somewhat neutralize between those who are guilty and those who are innocent. Although those who are innocent seem to still accept the plea bargain less often than those who are guilty, feelings of injustice and unfairness seem to be greater when the difference between the plea bargain and sentence exposure are less. Further research should be done to verify these results with a more generalizable population.

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Appendix

Additionally, a general linear model analysis was run to assess how participants' answered varied on the above fairness and injustice questions, based on which year they were presented at the outset. This found a few statistically significant results, and a LSD *post hoc* test was used to analyze the directionality of the results. Participants shown five years as a possibility if they choose to go to trial in the vignette, felt there would be greater restrictions to their human dignity once presented with the possibility of 20 years at trial compared to those initially shown the possibility of 20 years at trial, 2.32, BCa 95% CI [1.02 , 3.61], p <.01. This sentiment was similar to those who were presented with 2 years of jail time if they chose to go to trial, 1.51, BCa 95% CI [.2 , 2.82], p = .02, and those presented ten years at the outset, 1.73, BCa 95% CI [.43 , 3.02], p = .01. Those presented five years at the outset felt that there would be greater restrictions to their human dignity once presented with the possibility of 20 years compared to those initially shown 15 years, 1.43, BCa 95% CI [.05 , 2.81], p = .04.

Participants shown two years of jail time as a possibility if they choose to go trial, felt there would be greater restrictions to their human dignity once presented with the possibility of 15 years at trial compared to those initially shown the possibility of 15 years at trial, 2.35, BCa 95% CI [1.02 , 3.69], p < .01. This sentiment was echoed for those initially shown five years of jail time as the possibility if they chose to go to trial, 2.82, BCa 95% CI [1.50 , 4.15], p < .01, as well as those initially shown ten years, 2.19, BCa 95% CI [.87 , 3.52], p < .01. Those initially shown 20 years also felt that there would be greater restrictions to their human dignity once presented with the possibility of 15 years at trial compared to those initially shown the possibility of 15 years, 1.62, BCa 95% CI [.3 , 2.93], p = .02.

Furthermore, participants shown five years of jail time as a possibility if they choose to go trial, felt there would be greater restrictions to their human dignity once presented with the possibility of ten years at trial compared to those initially shown the possibility of ten years at trial, 1.63, BCa 95% CI [.42 , 2.84], p = .01. Similarly those shown five years of jail time as a possibility if they choose to go trial, felt there would be greater restrictions to their human dignity once presented with the possibility of ten years at trial compared to those initially shown the possibility of 20 years at trial, 1.45, BCa 95% CI [.26 , 2.65], p = .02. Finally, those shown five years of jail time as a possibility if they choose to go trial, felt there would be greater restrictions to their human dignity once presented with the possibility of two years at trial compared to those initially shown the possibility of 15 years at trial, 1.76, BCa 95% CI [.13 , 3.39], p = .04.

In regard to feelings of restriction to their autonomy, participants shown two years of jail time as a possibility if they choose to go trial, felt there would be greater restrictions to their autonomy once presented with the possibility of 20 years at trial compared to those initially shown the possibility of 20 years at trial, 1.82, BCa 95% CI [.64 , 3], p < .01. Similarly, those initially shown five years of jail time as a possibility if they choose to go trial, 2.32, BCa 95% CI [1.15 , 3.49], as well as those initially shown ten years of jail time as the possibility if they chose to go to trial, 1.62, BCa 95% CI [.45 , 2.79], p = .01, felt there would be greater restrictions to their autonomy when presented with the possibility of 20 years of jail time if they chose to go to trial. Those shown five years of jail time as a possibility if they choose to go trial, felt there would be greater restrictions to their autonomy once presented with the possibility of 20 years at trial compared to those initially shown the possibility of 15 years at trial, 1.36, BCa 95% CI [.12 , 2.61], p = .03.

Additionally, participants shown two years of jail time as a possibility if they choose to go trial, felt there would be greater restrictions to their autonomy once presented with the possibility of 15 years at trial compared to those initially shown the possibility of 15 years at trial, 1.94, BCa 95% CI [.67 , 3.21], $p < .01$. This sentiment was echoed for those initially shown five years of jail time as the possibility if they chose to go to trial, 2.45, BCa 95% CI [1.19 , 3.71], $p < .01$, as well as those initially shown ten years, 1.78, BCa 95% CI [.53 , 3.04], $p = .01$. Those shown five years of jail time as a possibility if they choose to go trial, felt there would be greater restrictions to their autonomy once presented with the possibility of 15 years at trial compared to those initially shown the possibility of 20 years at trial, 1.67, BCa 95% CI [.49 , 2.85], $p = .01$.

Participants shown two years of jail time as a possibility if they choose to go trial, felt there would be greater restrictions to their autonomy once presented with the possibility of ten years at trial compared to those initially shown the possibility of ten years at trial, 1.26, BCa 95% CI [.06 , 2.47], $p = .04$. This feeling was similar to those initially presented five years, 1.81, BCa 95% CI [.63 , 3.0], $p < .01$. Those initially shown five years of jail time as a possibility if they choose to go trial, also felt there would be greater restrictions to their autonomy once presented with the possibility of ten years at trial compared to those initially shown the possibility of 20 years at trial, 1.60, BCa 95% CI [.42 , 2.78], $p = .01$.

In regard to whether participants felt there would restrictions to their interpersonal contacts, participants shown two years of jail time as a possibility if they choose to go trial, felt there would be greater restrictions to their interpersonal contacts once presented with the possibility of 20 years at trial compared to those initially shown the possibility of 20 years at trial, 1.29, BCa 95% CI [.01 , 2.56], $p < .05$. This was similar to those initially presented with

five years, 2.14, BCa 95% CI [.88 , 3.4], $p < .01$, initially shown ten years, 1.32, BCa 95% CI [.06 , 2.59], $p = .04$, and initially shown 15 years, 1.34, BCa 95% CI [.01 , 2.68], $p < .05$.

In addition, participants shown five years of jail time as a possibility if they choose to go trial, felt there would be greater restrictions to their interpersonal contacts once presented with the possibility of 15 years at trial compared to those initially shown the possibility of 15 years at trial, 1.36, BCa 95% CI [.07 , 2.64], $p = .04$. Participants initially shown two years of jail time as a possibility if they choose to go trial, 1.34, BCa 95% CI [.12 , 2.56], $p = .03$, and those initially shown five years of jail time as a possibility if they choose to go trial, 1.56, BCa 95% CI [.35 , 2.76], $p = .01$, felt there would be greater restrictions to their interpersonal contacts once presented with the possibility of ten years at trial compared to those initially shown the possibility of ten years at trial.

In regard to whether participants felt that the possible jail time was proportionate to the crime, participants shown two years of jail time as a possibility if they choose to go trial, felt the possible jail time was less proportionate to the crime once presented with the possibility of 15 years at trial compared to those initially shown the possibility of 15 years at trial, 1.73, BCa 95% CI [.09 , 3.38], $p = .04$. Participants shown two years of jail time as a possibility if they choose to go trial, felt the possible jail time was less proportionate to the crime once presented with the possibility of ten years at trial compared to those initially shown the possibility of ten years at trial, 1.76, BCa 95% CI [.15 , 3.37], $p = .03$. Additionally, participants shown two years of jail time as a possibility if they choose to go trial, felt the possible jail time was less proportionate to the crime once presented with the possibility of ten years at trial compared to those initially shown the possibility of 15 years at trial, 1.95, BCa 95% CI [.25 , 3.64], $p = .03$. Finally, participants shown ten years of jail time as a possibility if they choose to go trial, felt the

possible jail time was less proportionate to the crime once presented with the possibility of five years at trial compared to those initially shown the possibility of 15 years at trial, 1.90, BCa 95% CI [.28 , 3.51], p = .02.