

Book Review: Carissa Byrne Hessick, *Punishment Without Trial: Why Plea Bargaining is a Bad Deal*. New York: Abrams Press. 2021. ISBN-10: 1419750291 (Hardcover). 288 pages. \$11.11.

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In her book *Punishment Without Trial: Why Plea Bargaining is a Bad Deal*, Carissa Byrne Hessick uses multiple real life stories of individuals who have been subject to plea bargaining to show how plea bargaining is not as simple or helpful as the general public thinks. In fact, it seems to be borderline unconstitutional. Hessick uses the perspectives of the victims of the criminal justice system as well as the perspectives of those who work for the criminal justice system such as prosecutors, defense attorneys, and judges; as well as a few statistics thrown in to prove her case. What started off (in the United States) as a secretive and hush-hush practice has now become commonplace and even encouraged. Hessick aims to change that notion by explaining in depth all the abundant flaws that come with plea bargaining.

The first story is about Damian, and unfortunately stories like his are quite prominent in the United States. Damian was ultimately pressured by law enforcement to confess to a crime he did not commit, a homicide. Even though he was not “always on the right side of the law,” Damian knew nothing of a homicide (p. 1). Since he could not afford a lawyer, he was appointed one, and his lawyer encouraged him to plead guilty. He did and ended up serving over ten years in prison. Even when evidence came out that proved Damian was innocent, he was not able to use this evidence until *after* he was released. Though Damian was unlawfully

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imprisoned for over a decade, with his prior record and his attorney's poor track record, his guilty plea may have been his better option; since his crime was so serious, if he was wrongly found guilty, his sentence would have been even longer ("Nycla Justice Center Task Force", 2020). Defendants, whether they commit serious or non-serious crimes, should not be forced to plead guilty, but Hessick states that there are multiple reasons why they do.

One "legitimate" reason why a defendant would plea bargain is because they know they committed the crime they are accused of and would rather not waste their time with the courts. The defendant would rather forfeit their right to a trial because it "is not going to help him" in the long run; they know for sure they will end up being convicted if they went to trial which would therefore cause them to have a harsher punishment (p. 14).

Plea bargaining was not always so commonplace or even allowed. Historically speaking, it would be strange for an early American citizen to give up their recently given constitutional right to a trial in favor of a plea bargain. That is why "some judges were hesitant to accept guilty pleas"; they would even refuse to accept pleas "until defendants had time to reconsider" (p. 15). While plea bargaining today would grant a defendant much less prison time or even the opportunity to be subject to community supervision as opposed to incarceration, the same could not be said for defendants living in early America. In early American society, there were countless crimes that were labeled as felonies, and "death was the prescribed penalty for every felony" (Alschuler, 1979). Once judges were able to use more discretion, and once they realized how much time is saved by allowing a defendant to plead guilty, plea bargaining started happening slightly more frequently, but still quietly. Though plea bargaining has attracted controversy to this day, it has now become so widely used and accepted in that "since 1995 the guilty plea rate has remained above 90 percent" (p. 20).

It is strange how even though the American criminal justice system now has more resources than it did during its initial implementation, trials are rarely seen. Even though the amount of prosecutors and judges has heavily increased, the amount of trials has heavily decreased. It is unreasonable to truly believe that currently all cases can be handled through trials if plea bargaining were to be abolished. At this point in time it cannot be done. While the current amount of plea bargaining and the way it is used has gotten out of hand, even with its flaws, it is understandable why it has been implemented. On the surface, it saves time and is efficient. These reasons tell us why the plea bargaining

system has been implemented, but “they do not tell us why the system remains” (p. 29). Plea bargaining should not be the go-to option for all court cases.

Rationality is another reason why a defendant would plead guilty, even when they truly believe they are innocent. For example, “Harry and his partners were charged with fraud” (p. 35). They were threatened with over two hundred years of prison, but for the longest time, and even against their lawyers’ wishes, they continued to demand a trial because they believed they did not do anything wrong. Even though Harry’s lawyer believed he was innocent, he kept pressuring him to take a plea deal, and he eventually did when he was offered only two years in prison. Instead of potentially being convicted at a trial and being sentenced to decades of imprisonment, Harry settled for two years instead. That was the most “rational” choice; a deal “too good to pass up” (p. 36). While it is almost a no-brainer for someone convicted of a misdemeanor to plea bargain, there are much bigger consequences at stake for those accused of more serious crimes. For low-level offenders, they get to walk free instead of going to jail, or they may just pay a mere fine. For defendants accused of serious crimes, they are still subject to imprisonment, but for a shorter time. This is an even bigger predicament for those who believe that they are innocent but will still most likely be incarcerated whether they plea bargain or not. It will never be known “how many of the more than 96% of defendants who are convicted through pleas of guilt each year are actually innocent of the charged offenses”, but nevertheless, whether it is an exaggerated problem or a trivial problem, the issue of innocents voluntarily being punished is still a problem (Dervan & Edkins, 2013).

Given the discretion judges are allowed, one would think they would act constitutionally fair towards their defendants and treat them fairly, whether it is with leniency or harshness if the defendant is truly deserving of it. In other words, firm but fair. That is unfortunately not always the case. Hessick claims that some judges will “explicitly threaten defendants or defense attorneys to discourage them from going to trial” (p. 45). These “trial penalties” are when judges threaten to give attorneys and their defendants, if convicted, the maximum punishment they can if they choose to not plead (p. 45). Basically, some judges punish defendants for exercising their constitutional right to a trial. One study found “that people who went to trial received sentences that were, on average, three times longer than people who pleaded guilty” (p. 45). Some people claim that defendants are not being punished for exercising their right to go to trial, those who plea bargain are simply gaining a

benefit. How can that be true when it is known that judges will literally threaten their defendants and their attorneys otherwise? These judges are taking advantage of their authority.

A couple (not excusable but almost understandable) reasons why judges are known to be harsh toward their defendants is politics, or they simply do “what the prosecutors ask for” (p. 81). But, like stated earlier, judges are allowed discretion up to a certain point. Concerning politics, judges fear they may lose their jobs if they are not tough enough on crime. That is one reason why so many people are incarcerated or waiting in pre-trial detention. Many states in the United States elect their judges as opposed to appointing them. In states like Texas, where it is widely known that they are a tough on crime state, if a judge is perceived as to being soft on crime in any way, there is a high chance that the judge will be voted out the next election (Bright, 2000). Since the judge is elected, it is their duty to serve the people that elected them, but at the same time, judges should be reasonable. Judges have more credentials and a better understanding of the criminal justice system than a lot of the general public, so they should use the discretion that they are given by not punishing defendants unnecessarily. While judges listen to the recommendations of the prosecutors, it is ultimately the judges’ decision on how to punish the defendants.

Is it possible to consider plea bargaining as no more than a contract; “where the two parties negotiate over the terms in order to reach an outcome that benefits both sides” (p. 49)? Technically, both sides benefit from plea bargaining, and maybe a few defendants could possibly be able to negotiate, but the two parties will never be on equal footing, so the answer is no. There is not an equal amount of say in the negotiation. The defendant will *never* have the upper hand; they will either take the deal or put all of their faith into going through with a trial. There is also the issue of coercion, many of these plea bargains are coercive in nature. So, the act of plea bargaining can be argued as not voluntary, but coercive.

There is much more wrong with plea bargaining than simply pleading guilty to a crime to get a lesser sentence, there are other aspects that go along with plea bargaining that make it controversial. Many people plea bargain just so that they do not have to sit in jail, whether it is only for a few hours or for a few days. Nobody wants to spend a minute in jail (pre-trial detention) if there is an alternative. Whether the defendant is guilty or innocent, anyone would want to stay away from “unsanitary and unsafe jail facilities” (Lerman, Green, & Dominguez, 2022). That is how José’s story went. José was arrested for a minor offense while on supervised release, so it was “imperative that he not get convicted of a

new crime” (p. 61). José needed to be able to “plea to a noncriminal violation on his misdemeanor charge” so that he would not get in any more trouble with the law, but he could not get that deal for another two days because the assigned prosecutor for the case was not available at the time (p. 62). José refused to wait; he wanted to leave immediately even if that meant he could potentially get in more trouble later. Unfortunately, since he pleaded guilty to a misdemeanor charge instead of a violation, he was eventually caught and federally imprisoned for a year. Defendants will do anything to stay away from jail even if they are at risk to return to jail.

Plea bargaining aside, there should not be as many people not convicted of a crime forced into pre-trial detention. About half a million people merely accused of a crime, not convicted, sit in pre-trial detention on any given day in America (Gold, 2019). The majority of the detentions are absolutely unnecessary and seem more like punishment, but those who work within the criminal justice system “say that they are merely detaining these people, not punishing them” (p. 67). Citizens sitting in what is considered a jail cell based off accusations, especially if they are only accused of committing a minor crime, sure seems like punishment.

One potential criticism of plea bargaining is the disparities in the way defendants of color are treated compared to White defendants. While Hessick does not thoroughly discuss this issue in depth, it is certainly a topic that should be touched on. It is well known that “Black and Brown Americans are disproportionately affected by the criminal justice system” as a whole, but what about when it comes to plea bargaining specifically (p. 9)? One study suggests that black defendants get worse valued pleas than white defendants, especially black male defendants (Metcalf & Chiricos, 2018). Black defendants are also less likely to plead guilty and are more likely to go to trial; this may be due to their distrust of the system and would rather their outside peers sit on a jury trial (Frenzel & Ball, 2007). Plea bargaining is supposed to give defendants a “better deal”, but black defendants may still be getting worse deals than their white counterparts.

Along with pre-trial detention, there is the issue of bail. Numerous defendants agree on plea bargain arrangements because that is all they can afford and so that they do not have to sit in a jail cell. A large majority of incarcerated individuals in pre-trial detention are there essentially because they “are too poor to afford the fees of private bail sureties who could post bonds” (Duffy & Hynes, 2021). Pre-trial detention is one way the criminal justice systems punishes people simply

for being poor. It is understandable for the criminal justice system to want to keep defendants accused of serious violent crimes away from the community, but keeping low-level defendants locked up just because they are poor is unnecessary and unlawful; they pose no danger to the community. This is especially true for first time defendants. Also, what about those innocent defendants who do not want to plea bargain and wish to go to trial? If they are poor, they will either have to suffer with a guilty plea on their record, or they will have to sit in pre-trial detention until their trial date arrives. Those who are determined to prove their innocence with a trial, and end up winning their trial, ultimately still get punished in the long run. In a sense, even though they were found innocent, they still suffered jail time.

One could argue that the criminal justice system is all about money and profit. Defendants are heavily encouraged to plea bargain because it saves time, money, and other resources. Hessick spends time talking about Eh Wah's case. Eh Wah was a religious man caught up in a civil forfeiture case while traveling the road with his bandmates raising money for good causes. He was stopped by the police, the police searched his vehicle and found \$53,000 dollars (the money was legit; Eh Wah was acting as a manager for his bandmates) even though Eh Wah nervously said he had no money, they became extremely suspicious of Eh Wah, and arrested him. Even though there were multiple people that could vouch for Eh Wah's innocence, the officers declined to investigate further and sent Eh Wah back home while keeping all of his money. Fortunately, Eh Wah was able to contact someone to help him with his dilemma. It was a tough process- once the officers knew that Eh Wah was coming back for his money, they tried to intimidate him by issuing a felony warrant for his arrest, but Eh Wah and his attorney kept going. Unfortunately, the judge denied their motion and they were being forced to go to trial. After a reporter from the Washington Post wrote and published Eh Wah's story that exposed the officers' corruption, all charges were dropped, and Eh Wah got his money back.

Eh Wah's story is a prime example of civil forfeiture. Civil forfeiture is when the government seizes money that is supposedly involved in criminality and is taken away from the convicted (and accused) (Budasoff, 2019). It should only be taken from those convicted, but it happens to innocents all the time. Hessick claims that civil forfeiture "is related to plea bargaining" in that the same intimidation tactics are used amongst law enforcement and the workers in the courts (p. 98). Law enforcement can threaten to implement criminal charges if someone exercises their "right to challenge the government's seizure of their

property” while judges threaten to give a defendant the maximum punishment if they choose to exercise their right to a trial (p. 98). Civil forfeiture is also related to plea bargaining in that both are based on assumptions. Officers assume that someone is guilty of a crime and forcibly seize their money while defendants have to gamble whether proving their innocence is worth it instead of just settling for plea bargaining and allowing the judges to assume their guilt.

Redundant fees are another way help the criminal justice system profit. There are fees at practically every stage of the criminal justice process, and there are even more fees imposed when someone wants to exercise their constitutional right to a trial (Brown, 2019). Even when taking money from both innocent and guilty defendants, the courts can claim “that these charges are fees rather than fines” in order to keep their method constitutional (p. 101). Excessive fines are not allowed, but apparently excessive fees are.

Not only does plea bargaining save money for defendants, it also saves ample time. Just like how no one wants to sit in jail if they can help it, no one wants to sit in a courtroom if they can help it either. Court appearances are draining. Not only can they waste a defendant’s time, they can economically hurt defendants as well. Making time to go to multiple (or even one) court appearances can affect a defendant’s income and potentially get them fired from their job. They could be using those court appearance days to make more money. The court “process is the punishment” (p. 108). Many defendants live in areas where they rely on public transportation, and if they have to make multiple court appearances, that costs them a decent amount of money and many defendants have trouble affording those transportation costs. Going to court is such a hassle that even those accused of misdemeanors will plead guilty as soon as they can. Even if they were to lose at trial they would most likely not be subject to any jail time. These defendants plead guilty just so that they do not have to go back to court.

Defendants are not the only ones that “profit” from plea bargaining; prosecutors, defense attorneys, and judges do too. The workers in the criminal justice system like to use the same reasons they give defendants to plea bargain for themselves. Concerning time and resources, prosecutors encourage a lot of plea bargaining so that they can save up time and resources for other cases in order to land more convictions (Grunwald, 2021). The same general concept could be said for defense attorneys, specifically, public defenders. It is widely known that public defenders are overworked and underpaid, so they tend to use most of their resources (which is technically still not much) for their more serious

cases (Hanlon, 2018). This practically guarantees that all their defendants who commit low-level misdemeanor crimes will be subject to plea bargaining. Judges profit from plea bargaining because they will not have to suffer sitting through multiple long trials, even though that is the job they signed up for. Just like how defendants do what they can so that they do not have to return to court, judges do all they can, including encouraging and threatening, so that they do not have to sit through trials.

While plea bargaining “positively” affects the workers of the criminal justice system and the defendants, plea bargaining heavily affects victims negatively and is a disservice to them. Hessick brings up the topic of sex crimes, particularly in Cuyahoga County from the state of Ohio. A lot of the defendants accused of sex crimes were able to plead “down to far less serious charges, oftentimes having nothing to do with sex” (p. 159). Out of the abundance of cases that Hessick looked at, one cannot be sure of how many of those defendants are actually guilty, but the ones who indeed were guilty got off easy. Objectively, and through the victims’ eyes, the guilty defendants did not get the punishment they deserved; a lot of them were able to get out of registering as a sex offender, even though they committed horrible sex crimes. Not only does plea bargaining prevent a guilty defendant from receiving the punishment they truly deserve, it robs the victims their choice of testifying during a trial. Granted, not every victim wants to testify and share their victimization story, but for some, it would be a good opportunity to get some closure. Plea bargaining takes that choice away.

Defendants pleading to much less serious crimes in itself is a major issue. What if these defendants choose to commit more crimes in the future? If someone commits a serious crime, such as a sex crime, and they plea bargain to a much lower crime, if they commit another sex crime, their second sex crime would legally be considered their first one. They were not truly punished for their first crime, and because of that, they still may not be properly punished for their second crime. Hessick is not claiming that this happens to every sex offender or defendant who commits a serious crime, but it is definitely something to be studied more. Misdemeanors make up the majority of plea bargains, but not being properly punished for felonies (even if it is for a first offense) is problematic.

Potential jurors are also negatively (or positively, depending on what kind of juror you are) affected by plea bargaining. Community members are robbed the opportunity of serving on a jury. Juries have a lot of power in court cases. They are able to convict, indict, nullify, or acquit a

case if they deem it worthy. Plea bargaining prevents that from happening. This is especially important for communities who do not believe their criminal justice system acts ethically. If communities feel this way, they have substantial power in jury trials; they can fairly judge a defendant's case and punish them or spare them accordingly.

A lot of the issues surrounding plea bargaining have to do with the different sorts of corruption within the criminal justice system. While cleaning out the corruption would not be a good enough reason to completely abolish plea bargaining, it would certainly lead less people to settle with a plea bargain. It would also improve the criminal justice system as a whole. Police officers are the gatekeepers of the criminal justice system, so reform needs to start there. Just like with Eh Wah's story, police officers do not always act ethically. They do not read those accused the rights they are guaranteed, they perform illegal interrogations, they commit unlawful acts of civil forfeiture, they lie, they mess with evidence, and sometimes they use more force than needed. Judges also abuse their power. They threaten their defendants with trial penalties, and sometimes they give out harsher punishments than necessary. So, the act of plea bargaining in itself may not be as unconstitutional as it seems, it could possibly be the corruption and unethicity that surrounds it that makes it seem that way.

Hessick devotes a whole chapter to a few actors in the criminal justice system who have already started to change their court policies for the better. While it is not without its flaws, Hessick discusses the advantages of justice courts. Justice courts are more informal and only handle class B and class C misdemeanors. Being an informal court makes the trial process a lot less expensive. If a defendant loses their case at a justice court, they have the opportunity to try again at a district court. Compared to misdemeanors and felonies in district courts, statistically, justice courts have less guilty pleas, more dismissals, and a higher percentage of trials. Though 2.3 percent is still an objectively low statistic, it is still higher compared to the 0.09 percent (misdemeanor district court trials) and 1 percent (felony district court trial) district court trials.

In his court in West Virginia, federal judge Joseph Goodwin said, "he would no longer go along with the ordinary plea bargaining process" and decided to "stop accepting charge bargains" (p. 193). He did this, because like stated earlier, plea bargaining prevents the public from adequately fulfilling their role in trials. Fellow federal judge Emmet Sullivan also has made steps to better his court. There are many cases where prosecutors refuse or "forget" to hand over evidence to the defense that suggests they may not be guilty, but judge Sullivan has

demanded all of his prosecutors to hand all evidence over. If they are unsure, then they need to show Judge Sullivan himself before making an official decision.

In Virginia, prosecutor Parisa Dehghani-Tafti likes to focus on less serious crimes and has “campaigned on ending cash bail” (p. 203). The only circumstances where Dehghani-Tafti permits her prosecutors to ask for cash bail is if the defendant poses a danger or is a real certain flight risk. Even then, they still need to make their case to the judge and argue why it is necessary. She also refuses to criminalize marijuana and emphasizes the racial disparities as part of her reasoning. Contrary to how a lot of prosecutors are perceived to behave, Dehghani-Tafti does what she can to ensure “that her office does not convict innocent people” (p. 205). Like Dehghani-Tafti, the elected Boston prosecutor Rachael Rollins has chosen to seek bail less often along with dismissing low-level cases. Instead of completely eliminating plea bargaining, she also wants to add some more steps before a defendant immediately tries to plea bargain, like having “her office turn over more evidence before defendants plea bargain” (p. 208). She aims to not convict innocent people as well. Although these ladies’ reforms do not exactly produce more trials, they do make their court branch of the criminal justice system and plea bargaining system more fair, which is certainly a step in the right direction.

Hessick wraps the book up by including a follow up to Damian’s story. Hessick is surprised when Damian tells her at the end of their interview that he does not regret plea bargaining even though he was in an innocent man; his only regret was not getting a better deal. Understandably, Hessick is very shocked, but ultimately understands that sometimes plea bargaining is the only or best option and cannot fully be eliminated. But, just because plea bargaining will never go away, it does not “mean we should just accept it without complaint” and refuse to amend it for the better (p. 221).

Clearly, there are numerous flaws concerning the plea bargaining system, but not everyone has the same opinions Hessick does. While some scholars understand that plea bargaining is not a perfect system, they still very much support it and claim there are more pros than cons. The criminal justice system is all about profit, but plea bargaining does not just benefit the system, witnesses, victims, and jurors profit as well (Conklin, 2020). Victims do not have to see their victimizers potentially be acquitted, and they get to hear their victimizers publicly say that they are guilty of the crime; so they receive some closure (Conklin, 2020). Witnesses do not have to disrupt their life by taking the time to testify at

trial as well as deal with other court related obligations (Conklin, 2020). In severe cases, just like with victims, witnesses do not have to relive their horrible experiences.

At this time, it would be difficult to find a scholar who was not in favor of putting an emphasis on rehabilitating offenders. Those who support plea bargaining think it can help with that. Plea bargaining involves the defendant admitting that they committed a crime. When a defendant plea bargains and admits their guilt, they can “begin the process of reform, and bring closure to the community” (Bibas, 2003). Admitting one’s guilt is the right step into the rehabilitation process. Persistently claiming they are innocent and denying that their actions were wrong slows the process. This is particularly true concerning defendants who commit serious crimes.

Punishment Without Trial exposes the various problems associated with plea bargaining. Along with the overall problems, Hessick uses many stories from defendants and workers in the criminal justice system to provide more in depth perspectives of the plea bargaining system. Though Hessick would love to see a world where there is no plea bargaining and each person accused of a crime is constitutionally given a fair trial, she is still realistic in that that is impossible. In a perfect and ideal world, no innocent person would ever plead guilty, but, after discussing substantial flaws within the criminal justice system, it is inevitable (Bar-Gill & Aval, 2006). Hessick does, however, give good and logical ideas to make things more fair concerning not only the plea bargaining process, but the criminal justice process as a whole- using plea bargaining solely as a last resort, not allowing judges to punish defendants for exercising their constitutional right to a trial, lessening the amount of politics in the system, keeping the use of civil forfeiture (as well as all stages of policing) in check, not punishing people simply because they are poor (bail reform), and paying public defenders more. Hessick also suggests incorporating “less formal trials, elimination of pretrial detention in most cases, shorter sentences, and letting defendants skip pretrial conferences” “would reduce the pressure on defendants to plead guilty” (p. 193).

This book would be a great read for all criminal justice students as well as anyone interested in the field. The general public would benefit from reading it as well; the vocabulary used is easy to understand and the general public would gain a better understanding on the criminal justice system, particularly the court branch. Trials rarely happen and whenever they do, they are not like the high profile celebrity trials as seen on television. Anyone who reads *Punishment Without Trial* will have a

better understanding of the system, and will have enough knowledge to help change it for the better.

REFERENCES

- Alschuler, A. W. (1979). Plea bargaining and its history. *Law & Society Review*, 13, 211–282. <https://doi.org/10.2307/3053250>
- Bar-Gill, O., & Aval, O. G. (2006). Plea bargains only for the guilty. *Journal of Law and Economics*, 49(1), 353-364. <https://doi.org/10.1086/501084>
- Bibas, S. (2003). Harmonizing substantive-criminal-law values and criminal procedure: The case of Alford and nolo contendere pleas. *Cornell Law Review*, 88(5), 1361-1411. <https://doi.org/10.2139/ssrn.348681>
- Bright, S. B. (2000). Elected judges and the death penalty in Texas: why full habeas corpus review by independent federal judges is indispensable to protecting constitutional rights *Texas Law Review*, 78(7), 1805-1838.
- Brown, D. K. (2019). The case for trial fee: what money can buy in criminal process. *California Law Review*, 107(5), 1415-1454.
- Budasoff, C. A. (2019). Modern civil forfeiture is unconstitutional. *Texas Review of Law & Politics*, 23(3), 467-487.
- Conklin, M. (2020). In defense of plea bargaining: answering critics' objections. *Western State Law Review*, 47(1), 1-28.
- Dervan, L. E., & Edkins, V. A. (2013). The innocent defendant's dilemma: An innovative empirical study of plea bargaining's innocence problem. *Journal of Criminal Law & Criminology*, 103(1), 1-48. <https://doi.org/10.2139/ssrn.2071397>
- Duffy, J. F., & Hynes, R. M. (2021). Asymmetric subsidies and the bail crisis. *University of Chicago Law Review*, 88(6), 1285-1360.
- Frenzel, E. D., & Ball, J. D. (2007). Effects of individual characteristics on plea negotiations under sentencing guidelines. *Journal of Ethnicity in Criminal Justice*, 5(4), 59-82. https://doi.org/10.1300/j222v05n04_03
- Gold, R. M. (2019). Jail as injunction. *Georgetown Law Journal*, 107, 501–560.
- Grunwald, B. (2021). Distinguishing plea discounts and trial penalties. *Georgia State University Law Review*, 37(2), 261-304.
- Hanlon, S. F. (2018). Case refusal: A duty for a public defender and a remedy for all of a public defender's clients. *Indiana Law Review*, 51(1), 59-87.

Kennedy Suzette Ratcliff

- Lerman, A. E., Green, A. L., & Dominguez, P. (2022). Pleading for justice: Bullpen therapy, pre-trial detention, and plea bargains in American courts. *Crime and Delinquency*, 68(2), 159-182. <https://doi.org/10.1177/0011128721999339>
- Metcalf, C., & Chiricos, T. (2018). Race, plea, and charge reduction: An assessment of racial disparities in the plea process. *Justice Quarterly*, 35(2), 223-253. <https://doi.org/10.1080/07418825.2017.1304564>
- Nycla Justice Center Task Force: Solving the problem of innocent people pleading guilty. (2020). *Pace Law Review*, 40(2), 1-55. <https://doi.org/10.58948/2331-3528.2016>