

Lesson Plan: The Benefits and Drawbacks of Plea Bargains

OVERVIEW

In this lesson, students will study the benefits and drawbacks of plea bargains, which determine the outcome of roughly 90 percent of criminal cases in the United States. As part of their investigation, students will watch excerpts from the POV documentary **Better This World**, which includes scenes of defendants Brad Crowder and David McKay deliberating over plea deals offered to them by the government. Students will determine the pros and cons of accepting these plea deals and consider what they might decide in the same circumstances. Students will then conclude what role they think plea bargains should play in the U.S. criminal justice system.

For more information on **Better This World** and plea bargaining, please see the [Resources](#) section of this lesson.

POV documentaries can be recorded off-the-air and used for educational purposes for up to one year from their initial broadcasts. In addition, POV offers a lending library of DVDs and VHS tapes that you can borrow anytime during the school year — FOR FREE! Get started by joining our [Community Network](#).

OBJECTIVES

By the end of this lesson, students will:

- Define plea bargaining.
- Discuss the pros and cons of several plea deal examples.
- Consider the benefits and drawbacks of plea bargaining, from the viewpoint of prosecutors, defendants, victims of crime and society.
- Explain what they would choose if offered certain plea deals.
- Conclude what role they think plea bargains should play in the U.S. justice system.

GRADE LEVELS

9-12

SUBJECT AREAS

Civics, Criminal Justice, Social Studies, Language Arts, Current Events

MATERIALS

- Internet access and equipment to show the class online video
- Handout: [Plea Bargaining: Benefits and Drawbacks](#) (PDF file)
- Handout: [Viewing Guide](#) (PDF file)

ESTIMATED TIME NEEDED

One 50-minute class period

FILM CLIP

Clip 1: “After the Arrest” (length 6:45)

The clip begins at 44:55 with police knocking on a door in the dark and shouting, “Police! Search warrant!” It ends at 51:40 with the on-screen text “He faces up to 30 years in prison.”

Clip 2: “McKay’s Plea Deal” (length 3:13)

The clip begins at 1:10:39 with the on-screen text, “Minneapolis, Minnesota: Day of Retrial.” It ends at 1:13:52 with a shot of David McKay in prison. (Just before that his attorney says, “I hope he stays positive.”)

ACTIVITY

1. Give each student a copy of the handout Plea Bargaining: Benefits and Drawbacks. Have each student work with a partner to read the information on the handout and respond to the questions.

2. Ask a few student pairs to share their responses with the class and explain their choices. Answers will vary, but benefits could include:

- Reduction of caseloads for **prosecutors**
- For **defendants**, saving on attorney fees associated with trials
- For **defendants**, receiving reduced sentences and reduced charges
- For **society**, keeping the court system running efficiently by not overwhelming it with trials
- For **prosecutors**, obtaining information about other illegal acts, leading to additional convictions
- For **victims of crime** and **society**, obtaining information from defendants about other illegal acts, potentially helping to solve more crimes

Drawbacks could include:

- **Prosecutors** sometimes strongly criticized by the public for initiating plea bargain deals
- **Defendants** pressured into waiving their constitutional right to trial
- **Defendants** risk going to prison for crimes they did not commit, or receiving lighter punishment than their crimes demand

- **Victims of crime** feel justice was not served in relation to what happened to them
- Criminal statistics may not reflect reality, which is misleading for **society**

3. Tell the students that they will watch excerpts from a film that shows the perspectives of two defendants as they evaluate the plea deals offered to them. Give each student a Viewing Guide and review the What Happened information provided at the beginning of the handout. Then, show Clip 1.

4. Guide students through the plea deals in the Crowder and McKay cases by discussing the information and questions on the handout. Show Clip 2 when indicated. Throughout the discussion, be sure to emphasize the benefits and drawbacks of each plea deal for each stakeholder.

5. Conclude the activity by having each student write a persuasive paragraph that addresses the question “What role do you think plea bargains should play in the U.S. justice system?”

EXTENSIONS AND ADAPTATIONS

1. Debate the pros and cons of plea bargaining. Have small student groups subdivide into two teams — one to argue the merits of plea bargaining, the other to argue against the practice. Teams should research their respective positions and then hold the debate. Recommended information sources include The Case Against Plea Bargaining (<http://www.cato.org/pubs/regulation/regv26n3/v26n3-7.pdf>), In Defense of Plea Bargaining (<http://www.cato.org/pubs/regulation/regv26n3/v26n3-8.pdf>) and Frontline: Frequently Asked Questions(about plea bargaining)(<http://www.pbs.org/wgbh/pages/frontline/shows/plea/faqs/>),

2. Investigate whether plea bargaining is constitutional. Review with the class the rights of defendants outlined in the Sixth Amendment of the U.S. Constitution. Then, have student groups read and summarize the court case decisions outlined in The Case Against Plea Bargaining (<http://www.cato.org/pubs/regulation/regv26n3/v26n3-7.pdf>), In Defense of Plea Bargaining (<http://www.cato.org/pubs/regulation/regv26n3/v26n3-8.pdf>) and the Encyclopedia of Everyday Law (<http://www.enotes.com/everyday-law-encyclopedia/plea-bargaining>). Students should then write persuasive essays expressing their viewpoints on the issue, using applicable case law to support their arguments.

3. Build student background knowledge on the steps involved in a criminal case. Have students use resources like FindLaw: Stages of a Criminal Case (http://criminal.findlaw.com/crimes/criminal_stages/) to do research and then create flow charts that illustrate the process. Finally, assign each student to explain the steps of the process to a partner.

4. Role-play the process of working out a plea deal. The University of Washington School of Law provides a number of [lesson plans](http://www.law.washington.edu/Clinics/Streetlaw/lessons.aspx) (<http://www.law.washington.edu/Clinics/Streetlaw/lessons.aspx>) with plea bargaining scenarios that include small student group negotiations.
5. Discuss the filmmakers' storytelling techniques in the video clips used in this lesson. What visual images, camera shots and music were used during the clips? What type of emotional response might those elements trigger from viewers? Whose perspectives were shown in the clips? Whose perspectives were missing, if any? What are your opinions of Crowder and McKay? How might production choices by the filmmakers have influenced your opinion? Have students summarize their analyses in writing.
6. Explore the online video, resources and lesson plans for other POV films that show the government's response to crimes committed in the name of protest:
- **If a Tree Falls: A Story of the Earth Liberation Front** (<http://www.pbs.org/pov/ifatreefalls/>) shows what happened when activists committed arson as a way to protest what various companies were doing to harm the environment.
 - **The Camden 28** (<http://www.pbs.org/pov/camden28/>) tells the story of activists who raided a draft board office to protest the Vietnam War.

RESOURCES

Background on *Better This World*

King Street Live. "Brandon Darby."

<http://kingstreetpatriots-live.org/videos/brandon-darby/>

The FBI informant shown in **Better This World** explains the evolution of his political beliefs and why he chose to work with law enforcement.

May, Michael. "The Infamous Austin Anarchists – In Their Own Words." *The Texas Observer*, March 14, 2011.

<http://www.texasobserver.org/cover-story/the-infamous-austin-anarchists%E2%80%94in-their-own-words>

Crowder and McKay describe the events shown in **Better This World** and explain how they feel about their actions now.

POV Background Information: Better This World

<http://www.pbs.org/pov/betterthisworld/>

The website for **Better This World** provides a summary of the types of protests that took place in connection with the Republican National Convention of 2008 and details how police responded. A definition of "domestic terrorism" is provided, along with descriptions of related policies and law enforcement practices intended to prevent it.

Plea Bargaining

Enotes. “Encyclopedia of Everyday Law.”

<http://www.enotes.com/everyday-law-encyclopedia/plea-bargaining>

This article defines plea bargaining, lists the judicial cases that justify its use and outlines the pros and cons of the practice.

FindLaw. “Plea Bargains.”

http://criminal.findlaw.com/crimes/criminal_stages/stages-plea-bargains/

This web page describes each aspect of the plea process, including the roles and obligations of the prosecuting attorney, defense counsel and judge.

FRONTLINE. “Frequently Asked Questions.”

<http://www.pbs.org/wgbh/pages/frontline/shows/plea/faqs/>

This FAQ outlines the pros and cons of plea bargains, explains certain procedures and summarizes some critiques of the practice.

Olin, Dirk. “The Way We Live Now: 09-29-02: CRASH COURSE; Plea Bargain.” *The New York Times*, September 29, 2002.

<http://www.nytimes.com/2002/09/29/magazine/the-way-we-live-now-9-29-02-crash-course-plea-bargain.html?src=pm>

This 2002 article recounts the history of plea bargaining and presents the arguments of those for and against the practice.

STANDARDS

Common Core State Standards for English Language Arts and Literacy in History/Social Studies, Science, and Technical Subjects

(http://www.corestandards.org/assets/CCSSI_ELA%20Standards.pdf)

SL, 9-10, 11-12.1 Initiate and participate effectively in a range of collaborative discussions (one-on-one, in groups and teacher-led) with diverse partners on [grade-appropriate] topics, text and issues, building on others’ ideas and expressing their own clearly and persuasively.

SL, 9-10.4 Present information, findings and supporting evidence clearly, concisely and logically, such that listeners can follow the line of reasoning and the organization, development, substance and style are appropriate to purpose, audience and task.

SL, 11-12.4 Present information, findings and supporting evidence, conveying a clear and distinct perspective, such that listeners can follow the line of reasoning, alternative or opposing perspectives are addressed and the organization, development, substance and style are appropriate to purpose, audience and a range of formal and informal tasks.

W.9-10, 11-12.1 Write arguments to support claims in an analysis of substantive topics or texts, using valid reasoning and relevant and sufficient evidence.

W.9-10, 11-12.2 Write informative/explanatory texts to examine and convey complex ideas, concepts and information clearly and accurately through the effective selection, organization and analysis of content.

W.9-10, 11-12.4 Produce clear and coherent writing in which the development, organization and style are appropriate to task, purpose and audience.

WHST. 9-10, 11-12.1 Write arguments focused on discipline-specific content.

WHST. 9-10, 11-12.4 Produce clear and coherent writing in which the development, organization and style are appropriate to task, purpose and audience.

Content Knowledge: (<http://www.mcrel.org/standards-benchmarks/>) a compilation of content standards and benchmarks for K-12 curriculum by McRel (Mid-continent Research for Education and Learning).

Civics, Standard 18: Understands the role and importance of law in the American constitutional system and issues regarding the judicial protection of individual rights.

Language Arts, Standard 1: Uses the general skills and strategies of the writing process.

Language Arts, Standard 2: Uses the stylistic and rhetorical aspects of writing.

Language Arts, Standard 9: Uses viewing skills and strategies to understand and interpret visual media.

ABOUT THE AUTHOR

Cari Ladd, M.Ed., is an educational writer with a background in secondary education and media development. Previously, she served as PBS Interactive's director of education, overseeing the development of curricular resources tied to PBS programs, the PBS TeacherSource website (now PBS Teachers) and online teacher professional development services. She has also taught in Maryland and northern Virginia.