



Maryland Comprehensive Assessment Program

Government

2022 Sample

Evidence-Based Argument Set (EBAS)



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A student is doing a report on the use of plea bargains in criminal trials. The compelling question is this:

For a defendant, do the advantages of plea bargaining outweigh the disadvantages?

The student has found the sources on the provided tabs. Use the sources to answer the questions.

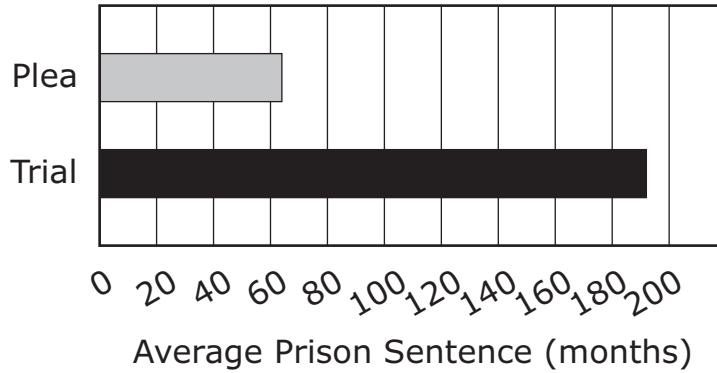
Background Information:

In a plea bargain, prosecutors promise a lesser penalty or reduced criminal charge in exchange for a defendant's guilty plea. The majority of criminal cases are resolved using a plea bargain.



Source A

**Average Sentence for
Federal Drug Defendants by
Plea/Trial (Fiscal Year, 2012)**



KEY

- 5 years, 4 months – 24,018
- 16 years – 747

Source: Human Rights Watch analysis of United States Sentencing Commission FY 2012 Individual Datafiles.



Source B

This 2010 interview was hosted by National Public Radio (NPR) host Neal Conan. The interviewees are Laurie Levenson, a former federal prosecutor who is currently a professor at Loyola Law School, and Barry Scheck, co-director of the Innocence Project¹ at the Benjamin N. Cardozo School of Law and former president of the National Association of Criminal Defense Lawyers. Conan is interviewing them about the plea bargain process.

Interview:

Conan: Can you give us an illustrative example of a case where you got an indictment, you think somebody is guilty and offer a plea instead of going to trial?

Professor Laurie Levenson: Oh, yes. It happens all the time. . . . Plea bargains sometimes come at the initiative of the defense, where they say, “Look. We, you know, we think that this would be a fair deal. We can individualize justice if you let us plea guilty.” Nobody wants to spend the time going to trial. They don’t want the judges to hear all the information. They don’t want to put the victims through it . . .

Barry Scheck: Very frequently, a defendant will take a look at the evidence. It’s overwhelming . . . And you can get a better deal than you would if you’re convicted after . . . So you take it. On the other hand, and this is what’s really troubling, is that there are lots of defendants who are facing . . . really severe mandatory minimums or really severe sanctions under the federal sentencing guidelines that will plead guilty to crimes that they didn’t commit. . . .

Conan: In other words, if they’re facing 18 counts² . . . that would put them in jail for a very, very long time, they might say, “I really don’t want to take my chances in front of a jury. Even though I think I’m innocent, I will take the lesser charge and do five to 15 [years]” or whatever it is.

—interview by Neal Conan, National Public Radio, 2010

¹Innocence Project—a nonprofit legal organization that works to help people wrongly convicted of a crime and promotes reforms to the criminal justice system

²counts—charges



Source C

**Advantages and Disadvantages
of Plea Bargaining**

Advantages
<ul style="list-style-type: none">• Criminal defendants may receive a lighter sentence and/or reduced charge for the crime.• Plea bargains save the courts time and money by avoiding trials.• Prosecutors can use plea bargains to encourage one defendant to testify against another defendant.

Disadvantages
<ul style="list-style-type: none">• Criminal defendants give up the opportunity to be found not guilty at trial.• Criminal defendants may feel pressured to accept a plea bargain if they are facing a harsh sentence.• Criminal defendants are giving up their right to appeal a guilty verdict.

Source: Adapted from Douglas A. Smith, "The Plea Bargaining Controversy," *Journal of Criminal Law and Criminology*, 1987



Source D

Carolyn E. Demarest was a New York Supreme Court Justice; the New York Supreme Court is the highest appellate court in New York state.

“Apart from the simple reality of too many cases for the limited resources available, there are substantial benefits to be derived from plea bargaining . . .

“Often a crime victim is very young or elderly, or otherwise infirm¹ and does not want to be subjected to the rigors of a trial . . . In such cases, acceptance of a plea to a lesser crime, with a less-than-maximum sentence, may be mercy not only for the accused but also for the accuser . . .

“In some cases, the judge and lawyers know of compelling evidence of guilt . . . but know the jury will have to decide the case without such evidence because it has been suppressed . . . under applicable rules of law. At times a witness . . . may be unreliable . . . which will render his or her testimony less credible before a jury. In those cases a plea will insure a conviction where a trial may result in acquittal.”

—Justice Carolyn E. Demarest, letter to the editor, the *New York Times*, 1994

¹infirm—not physically or mentally strong, especially through age or illness



1 Why was Source A **most likely** created?

- A to compare the outcomes of plea bargaining and jury trial
- B to illustrate that going to trial is the best option for a defendant
- C to show that plea bargaining is more expensive than jury trials
- D to support the argument that defendants receive harsh sentences

2 Source B contains an interview excerpt. Interviewer Neal Conan worked for National Public Radio for 36 years and had his own talk show during this time.

Why did Conan **most likely** choose the two people quoted in Source B for this particular interview on his talk show?

- A They show both sides of the argument about plea bargaining.
- B Conan wants to persuade his listeners to support plea bargaining.
- C Conan wants to persuade his listeners to stop supporting plea bargaining.
- D They hope to make society question the validity of plea bargaining.

3

“Criminal defendants may feel pressured to accept a plea bargain if they are facing a harsh sentence.” (Source C)

Which part of Source B **best** corroborates this claim from Source C?

- A “Plea bargains sometimes come at the initiative of the defense,”
- B ““We can individualize justice if you let us plea guilty.””
- C “They don’t want to put the victims through it.”
- D “[T]here are lots of defendants . . . that will plead guilty to crimes that they didn’t commit.”



4

Douglas A. Smith was an assistant professor at the University of Maryland, College Park, and taught students about many concepts, including criminal law. His journal article was used to create Source C.

Why did Smith **most likely** include the information used to create Source C in his journal article?

- A to show both sides of plea bargaining
- B to deter future lawyers from using plea bargaining
- C to ensure citizens know their options if accused of a crime
- D to review the reasons why one person would sue another

5

ECR

Assume that the information provided in the sources is credible. Complete this extended-response question:

For a defendant, do the advantages of plea bargaining outweigh the disadvantages?

- Develop a claim in response to the question.
- Cite evidence from the provided sources to support your claim.
- Use your knowledge of government in your response.

Write your answer on the lines on your Answer Sheet.



2022 Released Items ANSWER KEY

Government

Item Number	Key	Expectation
1	A	The student will evaluate the credibility of the sources by considering the authority, the origin, type, context, and corroborative value of each source.
2	A	The student will evaluate the credibility of the sources by considering the authority, the origin, type, context, and corroborative value of each source.
3	D	The student will evaluate the credibility of the sources by considering the authority, the origin, type, context, and corroborative value of each source.
4	A	The student will evaluate the credibility of the sources by considering the authority, the origin, type, context, and corroborative value of each source.
5	CR	The student will construct arguments using precise and knowledgeable claims, with evidence from multiple sources, while acknowledging counterclaims and evidentiary weaknesses.

= Written response.

5 Point Rubric for EBAS CR

Rubric

Score	Description
Level 5	<p>The response demonstrates substantial understanding of the content, question, and/or problem. The response is insightful and completely integrates knowledge to thoroughly answer the question.</p> <ul style="list-style-type: none"> • Develops a clear claim addressing the compelling question. • Supports claim with full synthesis, citing evidence from all appropriate sources and connection to claim is substantial. • Demonstrates comprehensive government knowledge. Minor misconceptions do not interfere with understanding.
Level 4	<p>The response shows significant understanding of the content, question, and/or problem. The response is thoughtful and integrates knowledge to fully answer the question.</p> <ul style="list-style-type: none"> • Develops an adequate claim addressing the compelling question. • Reflects thoughtful synthesis in supporting claim with evidence from several appropriate sources, but connection to claim may be unevenly developed. • Demonstrates appropriate government knowledge. Minor misconceptions do not interfere with understanding.
Level 3	<p>The response shows general understanding of the content, question, and/or problem. The response is adequate and integrates knowledge to fully answer the question.</p> <ul style="list-style-type: none"> • Develops a general claim addressing some of the compelling question. • Supports claim with some synthesis behind at least one source. • Demonstrates adequate government knowledge. May contain minor misconceptions interfering with understanding.
Level 2	<p>The response shows partial understanding of the content, question, and/or problem. The response presents incomplete knowledge and partially answers the question.</p> <ul style="list-style-type: none"> • Develops a partial claim that may or may not address the compelling question. • Claim reflects support from at least one source, but there is little to no synthesis behind any source. • Demonstrates partial government knowledge. May contain misconceptions that interfere with understanding.
Level 1	<p>The response shows minimal understanding of the content, question, and/or problem. The response is related to the question, but is inadequate.</p> <ul style="list-style-type: none"> • May develop a claim not related to the compelling question or lacks a claim. • References information from sources. • Demonstrates inadequate government knowledge that interferes with understanding.
Level 0	<p>The response is completely incorrect or irrelevant to the question.</p>