



Plea Bargaining's Triumph: A History of Plea Bargaining in America

George Fisher

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Though originally an interloper in a system of justice mediated by courtroom battles, plea bargaining now dominates American criminal justice. This book traces the evolution of plea bargaining from its beginnings in the early nineteenth century to its present pervasive role.

Through the first three quarters of the nineteenth century, judges showed far less enthusiasm for plea bargaining than did prosecutors. After all, plea bargaining did not assure judges "victory"; judges did not suffer under the workload that prosecutors faced; and judges had principled objections to dickered justice and to sharing sentencing authority with prosecutors. The revolution in tort law, however, brought on a flood of complex civil cases, which persuaded judges of the wisdom of efficient settlement of criminal cases.

Having secured the patronage of both prosecutors and judges, plea bargaining quickly grew to be the dominant institution of American criminal procedure. Indeed, it is difficult to name a single innovation in criminal procedure during the last 150 years that has been incompatible with plea bargaining's progress and survived.

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