



Swing and a miss: Reflections on the “voluntariness” of pleas in juvenile court



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ABSTRACT

Plea bargaining is a common tool in the U.S. justice system. When used appropriately and with defendant protections ensured, it can help keep an overloaded system operating smoothly and improve timely administration of justice. Adolescent defendants, however, present a unique population who often face plea bargain decisions before they are considered an adult in most other relevant contexts (e.g., voting). Because of developmental and social dynamics, adolescents could be more susceptible to influence from others, thereby accepting a plea bargain they do not actually fully endorse. This susceptibility introduces interesting considerations about how adolescents participate in plea bargain decisions – particularly regarding the degree to which they make the decision voluntarily and independently. This article employs a social psychological perspective to review some of the primary dynamics that judges and other legal actors should be aware of in assessing plea bargains made by juveniles, with a particular focus on the issue of “voluntariness”. We conclude with nine recommendations for improving practice in adolescent plea bargain cases, as well as suggestions for future research on this relatively unexplored topic.

1. Introduction

Approximately 95–97% of adult convictions and juvenile adjudications result from guilty pleas (NeMoyer, Kelley, Zelle, & Goldstein, 2018; Redlich, Bibas, Edkins, & Madon, 2017). Yet, psychological research has not earnestly examined the dynamics of plea bargains and defendant knowledge of plea bargains until this past decade (Redlich, 2010; Redlich & Summers, 2012). Though most defendants plead guilty when offered a plea bargain, this decision is influenced by various social others (Redlich, Bibas, et al., 2017; Redlich, Wilford, & Bushway, 2017). Adolescents in particular might be influenced by others to accept plea bargains they do not endorse. A key component to the court assessing if a plea bargain should be accepted is determining that defendants made the decision voluntarily (*Brady v. United States*, 1970); therefore, adolescents need to make this decision independently and without coercion. As adolescents are more likely to be persuaded by social influence sources (e.g., meaningful authority figures, peers), they could also be more likely to involuntarily accept a plea than adult defendants.

Adolescents tend to have less mature decision-making abilities than

adults given they are cognitively and emotionally developing and that making high stakes legal decisions can be stressful under the best of circumstances (NeMoyer et al., 2018). In turn, this developmental stage could lead to a greater risk of involuntarily accepting a plea bargain than adults (Fountain, 2017). Accepting the plea is not necessarily the issue of concern. Rather, the potential issue lies in the extent to which adolescents make involuntary plea decisions, particularly under pressures to comply or conform with others. Therefore, the purpose of this review is to reflect on existing relevant literature incorporating a social psychological¹ lens to examine how various social others might affect the voluntariness of adolescent plea decisions.

For the purposes of this review, we define adolescence as ranging from age 10 to 18. Though recent literature defines adolescence as between ages 10 and 24 (Sawyer, Azzopardi, Wickremarathne, & Patton, 2018) and adolescence can be further broken down into early, middle, and late stages (e.g., Grisso et al., 2003), the U.S. criminal justice system typically treats people 18 and older as adults. Further, most participants in juvenile plea bargaining research fall within this age range and much of the overall plea dynamics are similar within this age range (see Redlich, Zottoli, & Daftary-Kapur, 2019 for a review of

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¹ Social psychology is a field inherently focused on understanding how people *think, feel, and behave* in the *presence of others* (Allport, 1998).

circumstances, knowledge, and rationales for juvenile plea decisions). Therefore, our application of social influence to adolescent plea bargaining generally applies to ages 10–18.

In presenting our review and integration, Sections 2 and 3 briefly review legal factors and adolescent development, respectively, to differentiate how adolescents are more vulnerable to involuntary plea decisions than adults. Section 4 examines how social factors might interact with those unique developmental contexts to influence the extent to which adolescents make *voluntary* plea decisions. Section 5 concludes by synthesizing the reviewed literature to suggest nine recommendations for future research, policy, and practice.

2. Juvenile plea bargaining and legal context

Adolescents are influenced by various factors when they decide whether to accept a plea bargain: legal factors (e.g., severity of the charges), developmental factors (e.g., cognitive abilities), and social factors (e.g., parent and guardian influence). Further, adolescents have certain legal rights, which could be compromised when socio-environmental factors create a coercive situation. The following section will review these legal rights and associated legal tensions that can influence adolescents' decisions to accept plea bargains.

2.1. Due process and juvenile rights

Due process requires defendants to make guilty pleas knowingly, voluntarily, and intelligently² among adult defendants (*Brady v. United States*, 1970). Defendants entering a guilty plea through a plea bargain, thereby waiving the right to trial and counsel, must legally meet the competency to stand trial standard and also must make this waiver decision knowingly, voluntarily, and intelligently (*Godínez v. Moran*, 1993). Further, a judge should not accept a guilty plea unless it has been entered knowingly, voluntarily, and intelligently (*Boykin v. Alabama*, 1969).

Counsel is tasked with effectively aiding defendants who are deciding whether to plead guilty. That is, defense attorneys must explain reasonable expectations for how the plea will ultimately impact the outcome of the case (*Lafler v. Cooper*, 2012; *Missouri v. Frye*, 2012; *Padilla v. Kentucky*, 2010). The Sixth Amendment and the 14th Amendment's due process clause guarantee this right to effective counsel (U.S. Const. Amend. XI, XIV).

Most legal protections extended to adult defendants also extend to juvenile defendants (*In re Gault*, 1967). Accused juvenile defendants are constitutionally protected in their right to a trial (U.S. Const. Amend. VI), thus they must also waive their rights to a trial when accepting a plea bargain. Counsel must affirm on record that a juvenile is knowingly, voluntarily, and intelligently waiving his or her rights before a judge can accept the plea (*Kaban & Quinlan*, 2004). The judge is then tasked with the final determination as to whether the case facts support the claim that the juvenile's plea was made knowingly and voluntarily (*Woolard, Henning, & Fountain*, 2016). In some jurisdictions, judges also must consult with the parent to determine whether the parent understands the rights the juvenile is waiving (*Hertz, Guggenheim, & Amsterdam*, 2019).

2.2. Legal tensions and context

Defendants consider legal factors when knowingly, voluntarily, and

² Knowingly, voluntarily, and intelligently refers to the standard that the defendant made the plea with awareness and understanding of the consequences, *without persuasion or coercion*, and with competence such that the defendant has sufficient opportunity to consult with a lawyer and a rational understanding of the process (*Brady v. United States*, 1970; *Godínez v. Moran*, 1993).

intelligently pleading guilty. Although defendants must navigate many legal tensions when deciding to accept a plea bargain, we limit our review to those that likely most commonly affect plea decisions, as these tensions present a context that is an important – but not the sole – focus of this paper. For example, adolescents reported a desire to reduce the severity of the charges or sentence as their primary motive for accepting a plea bargain, which is a similar motivation among adults (*Zottoli & Daftary-Kapur*, 2019). The desire to end the legal process is another common reason for adolescents to accept plea bargains, even more so than among adults (*Zottoli & Daftary-Kapur*, 2019). Evidence also plays a role, as adolescents who reported they would accept a plea bargain rated the evidence against them as higher in quality compared to those who would not accept a plea (*Viljoen, Klaver, & Roesch*, 2005) – a finding that echoes earlier research on adult defendants (*McAllister & Bregman*, 1986). Thus, juveniles consider many of the same legal factors (e.g., reducing charges) when making plea decisions as adults, though they do differ on some decisions with more immediate consequences (e.g., ending the legal process).

The amount of time to make a plea bargain is another legal tension influencing plea decisions. Though both adolescents and adults perceived less than a day to make plea decisions, adolescents overall were more likely to perceive short time periods and subsequent time pressure (*Zottoli, Daftary-Kapur, Winters, & Hogan*, 2016). Adolescents might have to make quick plea decisions because overworked defense counsel and prosecutors typically negotiate a plea the day of their court appearance (*Kaban & Quinlan*, 2004). Though adolescents do receive an opportunity to meet with their lawyer before making a plea decision, this meeting might happen just moments before the plea hearing, where the defense has to quickly explain the “deal” and plea process to the adolescent and parent (*Kaban & Quinlan*, 2004; *Woolard et al.*, 2016). Thus, real or perceived time pressures could be more influential for adolescents than adults given system design and that juvenile defense is generally considered a specialized area that tends to have fewer highly trained juvenile law practitioners available to do this work.

3. Juvenile plea bargaining and developmental considerations

In addition to legal factors, developmental factors warrant consideration when examining adolescents' capacity to plead voluntarily. Though not the central topic of this review, developmental factors have been the primary focus of the majority of the juvenile plea bargain literature to date. Further, development is necessarily and thoroughly intertwined with adolescents' environments and behavior. Thus, we offer a brief review of the application of developmental psychology to adolescent plea bargain decisions to frame the subsequent sections on social influence. First, we review the neurological development of the brain and its impacts on cognition and psychosocial maturation. Second, we review how these developmental differences shape legal knowledge and decisions.

3.1. Neurological and cognitive development

Although the size and organization of the brain is similar in adolescents and adults, the key difference is in the developmental maturity and associated abilities of the prefrontal cortex (*Hartley & Somerville*, 2015). The prefrontal cortex is responsible for complex deliberation and information integration, thus shaping “hot” and “cold” cognition processes that tend to change as we age. (*Hartley & Somerville*, 2015; *Metcalfe & Mischel*, 1999). Hot cognition represents reflexive and emotional thinking, whereas cold cognition represents slower, reflective logical thinking (*Metcalfe & Mischel*, 1999). Adolescents' cold cognition abilities peak at around age 16 or 17, but their hot cognition abilities do not fully develop until the middle or late 20s (*Prencipe et al.*, 2011). Adolescents who are older than 16 years of age might be able to negotiate situations with deliberate thinking, absent strong emotions (*Steinberg*, 2005), but they could have difficulty executing

cold cognition when decisions involve strong emotional factors (Prencipe et al., 2011).

Hot and cold cognition is not always a clear cut dichotomy, as situations typically requiring cold cognition sometimes evoke strong emotions (Steinberg & Icenogle, 2019). For example, some researchers argue adolescents have the ability to make independent abortion decisions because they have time to deliberate and consult with adults (e.g., Steinberg, Cauffman, Woolard, Graham, & Banich, 2009), whereas sometimes abortion decisions could evoke strong emotions that hinder deliberation (Steinberg & Icenogle, 2019). Adolescent plea bargaining is another such situation which does not always fit within the dichotomy of hot and cold cognition (Icenogle et al., 2019). The plea bargain process is often fast paced and emotional (Woolard et al., 2016) – a situation that more closely resembles hot cognition.

Similar to hot cognition, psychosocial maturity does not fully develop until the 20s (Icenogle et al., 2019). While psychosocial maturity is developing, adolescent decisions are especially influenced by feelings and social influences (Steinberg, 2004). Across three measured psychosocial factors (risk appraisal, future orientation, and resistance to peer influence), adolescents displayed less psychosocial maturity than adults (Grisso et al., 2003). Thus, adolescents might not have the ability to make competent legal decisions during emotionally arousing situations, especially if they are under a time constraint and social pressures not uncommon in juvenile court (Icenogle et al., 2019).

Finally, adolescents differ from adults in reward and risk seeking behavior due to prefrontal cortex development and differences in striatal signaling (Blakemore & Robbins, 2012; Hartley & Somerville, 2015). This asymmetrical development of the brains' reward systems leads to impulse and inhibitory control differences (Blakemore & Robbins, 2012). First, adolescents tend to have less future orientation, focusing more on short-term consequences over long-term consequences compared to adults (Steinberg, 2009). Second, although adolescents have a similar capacity to understand and evaluate risks, they are more receptive to rewards than adults (Steinberg, 2009). The likelihood to engage in risky decision-making does decrease with age (Gardner & Steinberg, 2005), developing fully into the early to mid-twenties (Steinberg & Icenogle, 2019).

There are tensions to not over- or under-state adolescents' abilities due to complexities in understanding adolescents' cognitive and psychosocial abilities. Some researchers argue it might be inappropriate for psychological research to guide law and policy positions about adolescents' psychological abilities because these abilities likely develop at different times and can be context-dependent (Fischer, Stein, & Heikkinen, 2009; Steinberg et al., 2009). For example, legal implications could differ depending on whether adolescents have to decide quickly, such as the difference between committing a spur of the moment crime and making a planned abortion decision. Still, most neurological and cognitive research suggests adolescents lack ability to engage in competent high stakes decision-making under time constraints, strong emotions, and biased social influences.

3.2. Legal knowledge and decisions

Developmental differences could underly legal comprehension and legal decisions. First, adolescents lack legal knowledge compared to adults. For example, adolescents knew fewer plea vocabulary words than adults; out of 19 plea vocabulary words, juveniles only correctly defined three (Redlich & Shteynberg, 2016). Adolescents younger than 15 scored similarly to those incompetent to stand trial and worse than older adolescents and adults on a competence to stand trial measure (Grisso et al., 2003). Defense attorneys, prosecutors, and judges also perceived that adolescents lacked understanding of the plea process compared to adults, though defense attorneys most accurately assessed adolescents' limited plea knowledge (Woestehoff, Redlich, Cathcart, & Quas, 2019). Second, these developmental differences can influence legal decisions. Adolescents waived their rights, confessed, (Grisso

et al., 2003) and pleaded guilty when innocent more than adults (Helm, Reyna, Franz, & Novick, 2018). Therefore, adolescents' legal understanding and decisions are more error prone than adults'.

Adolescents tendency to emphasize immediate consequences and discount future consequences affects their legal decision-making. Evidence suggests that adolescents lack understanding of the immediate and future consequences of pleading guilty (Steinberg, 2009; Feld, 2013) and make short-sighted decisions to waive their *Miranda* rights or confess during an interrogation (McMullen, 2005; Feld, 2006). Adolescents could also emphasize immediate consequences when making plea decisions by overweighing their desire to end the legal process without consideration of long-term consequences (Feld, 2013; Zottoli & Daftary-Kapur, 2019).

To summarize, adolescents are still developing neurologically, and their underdeveloped hot cognition could make them more susceptible to decision-making deficits during the emotionally-charged, time sensitive context of plea bargain decision-making. Adolescents are also more likely to emphasize immediate rewards and discount future consequences than adults. These developmental differences manifest in legal knowledge and decision-making deficits, particularly as it relates to knowing, voluntary, and intelligent decisions. This unique cognitive and developmental stage presents a situation where adolescents might make involuntary plea decisions, particularly when considering social influence.

4. Juvenile plea bargaining and social influence

Social psychology – particularly as it informs dynamics and nuances of social influence – tends to be an understudied perspective on the intersection between the legal environment and adolescent development, and thus is the major focus of this review, integration, and subsequent recommendations. Adolescents' psychosocial development makes them especially influenced by social variables (Steinberg, 2004, 2009), which is an important consideration as about half of sampled juvenile defendants reported knowing how their attorney and parents wanted them to plead and about a quarter of juvenile defendants reported knowing how their peers wanted them to plead during an adjudicatory hearing (Viljoen et al., 2005). Social influence theory is one social psychological theory that can help explain and predict adolescent plea bargain decision-making. This section will first review social influence theory, and then apply this theory to various social actors who could influence the voluntariness of adolescent plea bargain decisions.

4.1. Social influence theory

Social influence refers to when explicit or perceived social forces from others change people's own behavior and cognitions (Cialdini & Goldstein, 2004; Hogg, 2010). When faced with external pressures from others, people can be compelled to comply or conform to others' desires. Compliance and conformity principles predict adolescents would be susceptible to social others (e.g., attorneys, parents, peers) when deciding whether to accept a plea bargain.

Compliance refers to when people concede to either an explicit or implied request from others, even though their beliefs might not align with the request (Cialdini & Goldstein, 2004). People are motivated to comply in accordance with authority figures, in particular (Cialdini & Goldstein, 2004). For example, defendants might comply with their attorney's (i.e., an authority figure) advice on whether to accept a plea bargain (Henderson & Levett, 2019). Conformity, however, refers to when people change their beliefs and behavior to match others (Cialdini & Goldstein, 2004).

The goals of accuracy and affiliation underlie people's motivations to comply and conform to others (Cialdini & Goldstein, 2004). People are often motivated to be accurate to gain approval of others, where accuracy is defined as the most effective and rewarding decision. People are also motivated to affiliate with others, such that people desire to

create and maintain social relationships (Cialdini & Goldstein, 2004). Within the context of plea bargaining, defendants might strive for accurate decisions through maximizing outcomes (e.g., reducing sentence severity) or achieving justice (i.e., pleading in accordance with the ground truth; Henderson & Levett, 2019). Adolescents could be more susceptible to social influences, such as conformity and compliance, and more likely to comply with authority figures than adults because their cognitive abilities are not yet fully developed (Drizin & Leo, 2004; Grisso et al., 2003).

Conformity and compliance could be relevant for making decisions to follow the advice of meaningful others. For example, because people are motivated to be affiliated with others (Cialdini & Goldstein, 2004), adolescents might be more likely to comply with parents and guardians or peers than defense counsel. Alternatively, tendencies to yield to authority could lead adolescents to comply with advice from parents and guardians or counsel over peers. Because adolescent decisions are largely affected by social influences (Steinberg, 2004, 2009), we expand in the next section on various social others who might affect adolescent plea bargain decisions; specifically, we present attorneys, parents and guardians, peers, collateral staff and police, and judicial actors.

4.2. Attorney influence

The social influence principles of conformity and compliance apply to decisions to follow attorney advice (Henderson & Levett, 2018). As attorneys are tasked with advising defendants about the best legal course of action, it often is in adolescents' best interest to comply with their defense attorney's advice. Prosecutors could also influence youth by offering tempting deals, such as avoiding transfer to adult court (Woolard et al., 2016), which draws upon adolescents' tendencies to both comply with authority and focus on short-term rewards.

Attorney recommendations influenced college participants' plea decisions (Henderson & Levett, 2018), and could influence adolescents' plea decisions. Juveniles who planned to plead guilty (without a plea bargain offer) during an adjudicatory hearing were more likely to receive attorney advice to plead guilty than those who planned to plead not guilty (Viljoen et al., 2005). Based on this empirical research and adolescents' susceptibility to comply with adult authority figures, it is likely attorneys are also influential when adolescents make plea decisions.

Levels of trust could moderate the extent to which attorneys affect adolescent legal decisions, though the literature on the direction of this effect is mixed. For example, some adolescents expressed high levels of disappointment and distrust in lawyers (Catton, 1978; Walker, 1971). However, other adolescents reported they would disclose information to their attorneys (Grisso et al., 2003; Peterson-Badali & Abramovitch, 1992), which could be an indication of trust. Compliance with the law and legal actors is also dependent on the extent to which adolescents perceive the law, procedures, and legal actors as fair (Penner, Viljoen, Douglas, & Roesch, 2014). Thus, adolescents who trust and believe their lawyers to be fair could be more likely to comply with their advice.

Not all attorneys give sound advice, however. Though the law tasks defense attorneys with advocating for their juvenile defendants' best interests, high pressure lawyering, high caseloads, and frequent meetings with parents could undermine their advocacy. First, adolescents who reported high pressure lawyering (e.g., befriending, deceiving, or threatening) were more likely to falsely plead guilty compared to those who did not report high pressure lawyering (Malloy, Shulman, & Cauffman, 2014). Second, attorneys with high caseloads might lack time to give sound advice, sometimes even persuading youth to accept a plea to save time and reduce their caseload (Fountain & Woolard, 2017; Woolard et al., 2016). Finally, attorneys sometimes meet with parents more frequently than their juvenile clients (Zottoli et al., 2016). Adult defendants reported more frequent meetings with their lawyers than adolescent defendants, which could be explained by this tendency for attorneys to more frequently meet with parents (Zottoli et al., 2016).

Therefore, adolescents could be at risk for receiving sub-optimal representation and advocacy, perhaps more so than adults, increasing the likelihood of involuntarily pleading.

4.3. Parent and guardian influence

Parents and guardians are involved in adolescent plea bargain decisions because an arresting officer is required to notify a parent or guardian of the offense after the juvenile is detained (18 U.S.C. § 5033). Similar to attorneys, conformity and compliance principles could be relevant when adolescents are deciding whether to follow parental advice. The motivation to be affiliated with others coupled with adolescents' susceptibility to comply with authority (Cialdini & Goldstein, 2004) could be a combination that leads adolescents to make decisions to be consistent with parent and guardian advice over their own desires (i.e., pleading involuntarily).

Though parental and adolescent legal interests are not strictly opposed, adolescent and parental goals could differ (Hertz et al., 2019). For example, parents might resent their child for court involvement (Hertz et al., 2019) or might persuade their child to plead guilty to avoid the time and costs associated with prolonged system involvement (Woolard et al., 2016). Parents and guardians without adequate legal knowledge, even if well-intended, could provide harmful advice (Woolard et al., 2016). Thus, whether adolescents comply with their parent's or guardian's advice affects the extent to which plea bargain decisions are voluntary because it could compromise whether adolescents made the decision independently (Fountain, 2017).

Some research suggests that parents influenced juveniles' guilty plea decisions, absent of a plea bargain (Viljoen et al., 2005). Almost half of juvenile defendants planning to plead guilty (46.71%) reported knowing how their parents wanted them to plead. Of those who reported knowing their parents' wishes, 61.97% reported their parents wanted them to plead guilty. Across age groups, adolescents were more likely to plan to plead guilty (vs. not guilty) when their parents advised them to plead guilty (Viljoen et al., 2005). Parents might also influence adolescent plea bargain decisions. For example, one juvenile stated "my mom made the decision [for me]. I wasn't part of the process at all" when indicating the primary reason for accepting a plea bargain (Zottoli & Daftary-Kapur, 2019, p. 175).

Parents and guardians could also influence juveniles' plea bargain decisions through other legal actors. For example, some judges base their approvals of a juvenile defendant's plea upon parental approval (Fountain, 2017). Thus, some attorneys might feel obligated to gain parental approval. This combination of attorneys frequently meeting with parents, seeking to gain parental approval, and parents influencing juveniles' decisions could unintentionally create a coercive situation for some youth (Fountain, 2017).

There are recommendations in the field for more parental involvement in juvenile cases, which might at first seem inconsistent given the suggestion that parents and guardians could purposefully or unintentionally coerce adolescents to make involuntary decisions. Parental involvement during the juvenile justice process has many inherent positive effects, including buffering against negative peer influence and depression symptoms while increasing positive behavior and academic performance (Agudelo, 2013; Monahan, Goldweber, & Cauffman, 2011; Vera Institute of Justice, 2014). Further, parental involvement can be of particular importance when adolescents are placed in a detention center (Shanahan & diZerega, 2016). However, some parental involvement can be detrimental during the court process. For example, uninformed or misinformed parents and guardians could influence adolescents to make ill-advised decisions (Justice for Families & DataCenter, 2012). Therefore, while it remains important for parents and guardians to be involved throughout the juvenile justice process, poor parental advice during the plea bargain process could potentially be problematic for the courts due to the possibility for coercion and violation of the voluntariness legal standard.

4.4. Peer influence

Because people are motivated to be affiliated with or accepted by others (Cialdini & Goldstein, 2004), peer groups can be relevant in a plea decision context. Adolescents tend to be more influenced by peers than adults (Steinberg, 2009), so juveniles might be likely to conform or comply with their peers' wishes. For example, experimental research indicated adolescents (vs. adults) engaged in more risk-taking when influenced by peers (Gardner & Steinberg, 2005). The ability to withstand peer influence does largely increase between ages 14–18 (Steinberg & Monahan, 2007), so peer social influence likely decreases with age.

Peers could influence legal decision-making in two ways. First, adolescents could have a stronger desire to protect their friends than adults (Malloy et al., 2014). Among adolescents who falsely confessed, most reported a desire to protect a friend (Malloy et al., 2014). Compared to adults, adolescents could be more willing to falsely plead guilty to protect a friend, though this has yet to be empirically examined. Second, peer advice could directly influence adolescent plea decisions. Among a sample of juveniles ($N = 40$) who knew their peers' wishes about whether to plead guilty, 32% reported their peers wanted them to plead guilty (Viljoen et al., 2005). Among this sample, adolescents were more likely to plan to plead guilty (vs. not guilty) when their peers advised them to plead guilty, though this effect was only significant for defendants aged 15–17 (Viljoen et al., 2005).

4.5. Collateral staff and police influence

The first decision point from which a juvenile's case proceeds often begins with an intake officer, as the intake officer makes recommendations to the prosecutor whether to dismiss, proceed informally, or advance the case (Woolard et al., 2016). Given the pivotal gate-keeping role of collateral staff (e.g., law enforcement, probation officers, detention staff, etc.), these staff are typically trained to inform youth they cannot offer legal advice to aid in decision-making; however, it is not uncommon for staff to offer general guidelines or informal counseling that could influence legal decisions (S. Marsh, personal communication, May 13, 2019). For example, there are instances where youth have been convinced to "take a deal" to receive intervention services and resources that otherwise would not be available but for their system involvement (e.g., counseling, treatment, housing, etc.). Adolescents might also be willing to comply with collateral staff advice generally, as they could be viewed as authority figures. Thus, it is likely collateral staff influence juvenile plea bargain decisions, but this claim has yet to be empirically examined and remains an important area for future research.

Police officers could also influence decisions to accept a plea indirectly through the interrogation process. Most adolescents reported high-pressure interrogation techniques, which were associated with both true and false admissions of guilt (Malloy et al., 2014). Specifically, 42% of false confessors reported a false guilty plea, whereas 63.6% of true confessors reported a true guilty plea (Malloy et al., 2014). Confessing guilt during an interrogation increased the likelihood of pleading guilty among adult defendants (Albonetti, 1990), though to the best of our knowledge no research directly addresses whether interrogations ultimately influence plea bargain decisions differently in adolescents than adults. Still, pleading guilty has many similarities to interrogations. For example, both can involve an immediate decision and pressure from authority figures (Feld, 2017; Malloy et al., 2014). As youth are more susceptible to high pressure interrogation tactics and to comply with authority figures than adults, they could be more susceptible to falsely or involuntarily pleading guilty, particularly after falsely confessing.

4.6. Assessing "voluntariness" from the bench

Judicial interaction with and questioning of an adolescent defendant about the nature of how a plea agreement was reached is intended to provide assurance that due process rights have been met and that justice is indeed being served. For example, the presiding judge might inquire about the juvenile's comprehension of the possible sentencing outcomes (Hertz et al., 2019). Judges might also question juveniles to determine whether they were coerced to plead guilty (Woolard et al., 2016).

However, the nature of this questioning and interaction from the bench also provides a potential opportunity to unintentionally and unknowingly bias assessment of issues such as whether a plea is really "voluntary". For example, a judicial officer unaware of potential extra-legal factors (e.g., parental influence) in a juvenile plea bargain might not question the degree to which a parent or guardian was involved in the decision. Further, even the most well-meaning judges could inadvertently signal through their questioning approach the answer they desire the juvenile to provide. Under the theory that few if any would want a juvenile to be forced to take a plea, there could be assumptions that a plea hearing would not even be occurring if the juvenile was not steering the decision to proceed; thus, judges could inadvertently weigh questions to confirm the assumption (i.e., confirmation bias; Hill, Memon, & McGeorge, 2008). Indeed, judges often ask leading questions and use legal jargon during the plea colloquy (Woolard et al., 2016). Further, many judges' tendency to use close ended questions when assessing a plea agreement could lead juveniles to indicate they are making contributions voluntarily when indeed they might not. For example, the question, "Did you talk with your attorney about your decision?" is going to provide substantially different insight into the plea agreement process than the question, "Who made the final decision about taking this plea?"

To summarize, adolescents are uniquely influenced by social others, though understanding social influence and other social psychological processes in a high-stakes legal decision-making context has received relatively limited attention compared to legal and developmental/cognitive analyses. As adolescents need guidance through the plea bargain process due to their cognitive development and knowledge of the legal system, competent oversight is critical. We do not suggest justice professionals or meaningful others in the life of a juvenile intend harm; rather, we believe the majority desire to do the best they can for children. However, defense attorneys might be overworked, engage in high pressure lawyering, or defer to parental approval when advocating for their clients. Further, prosecutors could be offering tempting deals. Adolescents might also be inadvertently swayed by parents and guardians, peers, collateral staff, and police in their plea bargain decisions. Even though judges are tasked with determining the voluntariness of adolescent pleas, they too might base their decisions on parental approval or inadequately probe for voluntariness. Therefore, adolescents' decisions might be excessively influenced by myriad others in potentially conflicting roles instead of in collaboration with effective counsel, which casts doubt on the extent to which these decisions are actually made voluntarily as intended in the spirit of the *Brady* standard.

5. Discussion

The interaction between the legal environment, adolescents' cognitive/developmental abilities, and social influence could introduce doubt regarding whether adolescent plea bargain decisions are made knowingly, intelligently, and voluntarily under the *Brady* standard. If juveniles accept a plea bargain without sufficient knowledge and understanding, this decision could violate the requirement that pleas are entered knowingly and intelligently. If juveniles accept a plea bargain through direct or indirect persuasion or coercion from parents or guardians, or others, this decision could violate the requirement that pleas are entered voluntarily. Considering these possible violations, we

provide the following recommendations for courts hearing juvenile pleas and suggestions for future research. These recommendations, presented in no particular order of importance, take into consideration that juveniles are less psychosocially developed compared to adults, as well as the possibility that various social others could compromise the voluntariness of plea decisions.

5.1. Ensure adequate time to make plea decisions

Adolescents between the ages of 16 and 18 years have similar cold cognitive abilities for logical deliberation as adults (Icenogle et al., 2019). However, emotionally arousing contexts and time constraints compromise adolescents' ability to make competent decisions, leading them to rely more on error-prone hot cognition (Figner, Mackinlay, Wilkening, & Weber, 2009; Icenogle et al., 2019). For example, they might be more likely to take risks or prioritize immediate consequences and discount future consequences than adults (Figner et al., 2009; Steinberg, 2009)

Adolescents sometimes have less than an hour to make plea decisions (Zottoli et al., 2016) while others pressure them, leading to high cognitive load and emotional arousal. For example, adolescents in this context might overweigh the immediate rewards of ending the legal process by avoiding trial (i.e., an adjudicatory hearing) and guaranteeing a lesser disposition or charge, and thus be more likely to accept a plea bargain than adults. Taking into account these differences between juveniles and adults and the short amount of time to make these decisions, juveniles need adequate time to decide whether to accept a plea bargain after carefully considering all outcomes in collaboration with effective legal counsel.

The question of exactly how much time is sufficient for juvenile defendants to make high stakes legal decisions remains to be empirically examined. Though there are identified issues with the time constraint most juveniles currently experience when making plea decisions, too much additional time could be detrimental, particularly for juveniles who are detained prior to adjudication. For example, juveniles placed in detention centers pre-adjudication had negative outcomes on their mental health and future earnings, and were more likely to recidivate (Holman & Ziedenberg, 2006). Further, juveniles incarcerated in adult facilities had negative effects on their psychosocial development and mental health, and were also more likely to recidivate (Lambie & Randell, 2013). The Juvenile Detention Alternatives Initiative, whose goal is to reduce detention of youth, suggests expediting case processing (Holman & Ziedenberg, 2006). Therefore, the courts need to ensure adolescents have enough time to protect against the risks of making plea decisions under time constraints, while also limiting the time for youth who are detained. Future research should examine to what extent the juvenile justice system can expedite case processing while still protecting against time pressures.

5.2. Ensure effective legal counsel is available

Ensuring adequate time for legal counsel to meet with juveniles is not sufficient in and of itself; lawyers also need to be effective at counseling juveniles (Tobey, Grisso, & Schwartz, 2000). The 14th Amendment's due process clause guarantees the right to effective counsel (U.S. Const. Amend. XI, XIV), which also was extended to juveniles during *Gault* (1967). Echoing the recommendations of other researchers (e.g., Woolard et al., 2016), we recommend ensuring effective legal counsel is available to adolescents making plea decisions to address four issues: time constraints, public defense, waiving counsel, and lack of counsel.

First, adolescents could have to make plea bargain decisions quickly (Daftary-Kapur & Zottoli, 2014; Icenogle et al., 2019). In general, having to make quick decisions amplifies the emotional context of a situation, which can impair decisions (Hein et al., 2015; Steinberg, 2005). However, adolescents are more likely to engage in mature

decision-making when they have an objective, adult consultant (Grisso et al., 2003; Steinberg et al., 2009). As adolescents are more likely than adults to make legal decisions compliant with authority figures (Grisso et al., 2003), it is essential for adolescents to receive not only adequate, but also qualified, effective, and objective legal counsel to guide them through the legal process.

Second, public and private counsel could differ in effectiveness. Many programs providing representation for court-involved youth suffer from overworked defense counsel and lack resources (Bright, 2010). The literature is mixed on the differences in outcomes between public and private defenders, however. Some research found adolescents represented by private defense had better outcomes than public defense (e.g., Carrington & Moyer, 1990; Clarke & Koch, 1980), whereas other research found worse outcomes (e.g., Guevara, Spohn, & Herz, 2004; Guevara, Herz, & Spohn, 2008). Future research could examine differences in adolescent plea bargain decisions between those with public and private counsel.

Third, adolescents frequently waive their right to counsel (Miller-Wilson & Puritz, 2003). Defendants who are younger and of low socioeconomic status tend to be more likely to waive this right (Viljoen et al., 2005). Some counties in the U.S., such as Cambria County in Pennsylvania, do not allow juveniles to waive rights to counsel to avoid issues related to lack of counsel (Miller-Wilson & Puritz, 2003). Therefore, courts could consider removing juveniles' right to waive counsel or mandate counsel in all juvenile cases to ensure youth receive effective counsel when making plea decisions.

Finally, potential issues remain for youth who do not receive counsel, as a large percentage of adolescents are not represented (National Juvenile Defender Center, 2015). There are some jurisdictions where adolescents must make a plea decision at their first court appearance, even without receiving advice from counsel (Woolard et al., 2016). The effects on counsel presence are mixed, however. Adolescents without counsel might be unduly influenced by prosecutors and judges who are trying to reduce their high case load, and they also might lack an understanding of the consequences of pleading guilty (Miller-Wilson & Puritz, 2003). However, other research found adolescents received harsher dispositions when appearing in court accompanied by counsel than without (Guevara et al., 2008). Whether it is in the best interest of youth to retain counsel to avoid the possibility of involuntarily pleading, while possibly being at risk of receiving a harsher disposition, remains to be empirically examined. Still, we recommend all juveniles are provided and/or receive effective counsel in each and every case.

5.3. Increase contact with effective legal counsel

In addition to increasing the time to make a plea decision and providing effective counsel, juveniles also need frequent contact with their lawyers before making a plea decision. Juveniles who plead guilty reported infrequent contact with lawyers (Daftary-Kapur & Zottoli, 2014), and less frequent meetings with their lawyers than adult defendants (Zottoli et al., 2016). Further, lawyers could be meeting with parents more frequently than their juvenile clients (Zottoli et al., 2016). As attorneys who are seeking parental approval could create a coercive situation for youth (Fountain, 2017), and juveniles lack legal knowledge and the capacity to plead guilty competently (Daftary-Kapur & Zottoli, 2014; Redlich & Shteynberg, 2016), increased contact with legal counsel could benefit juveniles if the legal counsel is offering meaningful and objective advice.

5.4. Increase legal knowledge among adolescents and their guardians

Adolescents and their guardians need more comprehensive legal knowledge to navigate the plea process. Adolescents knew fewer plea bargain vocabulary words (Redlich & Shteynberg, 2016) and were less legally competent than adults (Grisso et al., 2003). Legal actors also

perceived adolescents to understand and participate in the plea process less than adults (Woestehoff et al., 2019). Still, even adults did not pass measures of plea bargain comprehension (i.e., scored less than 60% on questions about the plea process; Redlich & Summers, 2012). For juveniles to make the most informed plea decisions, they must have sufficient knowledge about the plea process. Additionally, parents and guardians could have considerable influence on adolescents and other legal actors (e.g., attorneys) while adolescents navigate the plea process. Parents and guardians thus need sufficient knowledge if they are directly or indirectly influencing their children during the plea process.

One way to increase legal knowledge is to add client education to the defense's responsibilities. However, legal counsel is often overworked, especially public defenders. A more manageable option could be for the juvenile justice system to create educational materials (e.g., uniform fact sheets, educational videos, etc.) for parents or guardians and children to review when prosecutors offer a plea bargain. For example, the Juvenile Justice 101 program distributed resource booklets with an overview of juvenile court processes and recruited other parents who experienced juvenile court proceedings as peer support (Walker et al., 2015). Materials could be adapted from Juvenile Justice 101 or a similar program to specifically cover the plea bargain process. It is important to note Walker et al. (2015) found parents' perceived self-efficacy in court navigation improved only when resource booklets were paired with peer support. Future research should examine alternate methods to improve self-efficacy in the event peer support is unavailable, as well as whether this perceived self-efficacy translates to tangible differences in knowledge and juvenile justice system navigation.

Another example of a popular intervention to ensure adolescents are prepared and knowledgeable about legal processes is the University of Nevada, Las Vegas's Kids' Court program. This program is comprised of two sessions that teach youth and caregivers about pretrial and trial processes, communication techniques, and methods to reduce anxiety while testifying (University of Nevada, Las Vegas William S. Boyd School of Law, n.d.). Materials from this empirically supported program (Nathanson & Saywitz, 2015; Peterson, Reutz, Hazen, Habib, & Williams, 2020) could be adapted specifically to the plea bargain process so adolescents are prepared with knowledge about the plea process and consequences of pleading guilty or not guilty.

5.5. Clarification on parental role during legal proceedings

Currently, there are no explicit standard guidelines for parents when their children make plea bargain decisions. Whether parents should influence the legal counsel and the plea process could be debated. One recommendation is for the American Bar Association's Model Rules for Professional Conduct to include a mandate for lawyers to consult with parents or guardians (who do not have conflicts of interest) during juvenile cases (Katner, 2010). However, there is concern that if adolescents are vulnerable to their parents' recommendations, and if attorneys have stakes in gaining parental approval, then this situation could be coercive and undermine whether adolescents are making a voluntary decision (Fountain, 2017). Whether parents should influence their child's plea process requires further research to clarify, though current research suggests parents could influence their child to involuntarily accept a plea.

5.6. Enhancing judicial, counsel, and police education

Judges have unparalleled authority, and obligation, to ensure justice is served for all that come before the court. When assessing the degree to which legal protections for juveniles are met in a plea bargain situation, judges must be aware of the potential influences that produced the plea in a unique context: *adolescence*. The dynamics of power differentials, conformity pressures, peer influences, brain development, confirmation bias, trauma and adversity, and other processes are

critical considerations in understanding adolescent decision-making in these types of cases given they involve a particularly vulnerable population. Enhancing judicial education around these issues, specifically in the context of ensuring pleas are entered knowingly, voluntarily, and intelligently, is critical to the effective administration of justice. Further, specific education on how to question juveniles about the plea process is important to avoid unintended bias and inadvertent assumptions of voluntariness.

Similarly, such education could benefit legal counsel and police officers interacting with youth. Counsel and police officers could benefit from specialized training on questioning juvenile defendants in light of their developmental stage (Malloy et al., 2014). Counsel and police could also benefit from education about adolescents' tendency to comply with authority figures. Prosecutors, specifically, might benefit from education about adolescents' propensity for risk taking, their brain development, and their tendency to comply with authority to avoid offering a coercive plea bargain. Future research could further examine whether educating police and counsel affects adolescents' decisions to voluntarily accept a plea, as well as their individual social influence effects on plea decisions.

5.7. Examine the effects of social actors

External social pressures can lead to an emotionally charged legal context and impaired decision-making in adolescents compared to adults (Icenogle et al., 2019). Because research on guilty pleas is relatively new, there are many opportunities for future research to examine how juveniles make these consequential decisions in response to various social actors. For example, there is a large gap in the literature regarding the influence of collateral staff on juvenile plea bargain decisions. Additionally, both attorney advice and parental advice predict whether a juvenile would accept a plea bargain (Viljoen et al., 2005), but there is a need for future research to experimentally examine the causal effects of attorney and parent or guardian advice on juvenile plea bargain decisions. Finally, there is a need to further elucidate whether police directly, or indirectly, influence the voluntariness of adolescent plea decisions through the interrogation process.

Future research should also examine the dynamics and degree of variance in the voluntariness of juvenile plea bargain decisions. There is some evidence that parents are not aware of their role in the juvenile plea bargain process, as 63% of sampled parents reported they would try to change their child's mind during the plea bargain process (Fountain & Woolard, 2019). Still, there is a lack of published empirical research examining the effects of parents and guardians on plea bargain decisions. Future research could examine whether adolescents perceive parental involvement as coercive and whether parents should be more or less involved in their child's plea bargain decisions. Similarly, future research could examine judges' perceptions and decision-making on accepting a juvenile's plea when parents or guardians influenced the decision.

5.8. Utilize experimental vignettes

Future research could utilize some of the innovative work with vignettes on examining plea bargain decision-making. Though vignettes might lack ecological validity, they can identify causal factors that influence adolescent plea decisions. For example, Garnier-Dykstra and Wilson (2019) used vignettes to frame pleas as a gain (i.e., a better consequence than trial), a loss (i.e., a consequence that could be avoided at trial if found not guilty), or neutral. Pleas framed as gains increased plea rates for the innocent and decreased plea rates for the guilty. Though some existing research on juvenile pleas utilized vignettes (Grisso et al., 2003; Redlich & Shteynberg, 2016; Peterson-Badali & Abramovitch, 1993), future research could also expand these vignette-based scenarios to further elucidate the effects of framing on adolescents, as well as how social influence could affect framing (e.g.,

whether an authority or peer frames the plea).

Most psychological research examining adult plea bargaining decisions uses the *shadow of the trial model*. This model predicts that defendants will accept a plea bargain if prosecutors offer a sentence that is less than the expected sentence from a trial after considering conviction probability and sentence severity (Bibas, 2004; Mnookin & Kornhauser, 1979; Redlich, Wilford, et al., 2017). Some researchers criticized its basis on rational choice and simplicity (Bibas, 2004; Redlich, Wilford, et al., 2017). Because adolescents' decision-making is more susceptible to deviating from rationality compared to adults, future research could also utilize vignette scenarios to examine the extent to which adolescents follow or deviate from the shadow of the trial model.

5.9. Examine demographic differences

Another area of future research could be to examine whether demographic differences influence adolescent plea decisions. First, there could be differences within different stages of adolescence. For example, Grisso and colleagues (2003) found differences in competency assessments between younger and older adolescents. There could be similar differences in the capacity to understand the plea bargain process between younger and older adolescents. Future research can further parse out other areas of juvenile plea decisions that might differ between early, middle, and late adolescence (e.g., peer influence). Second, there could be differences in plea decisions between races and ethnicities. For example, minority adolescents historically receive disproportionate confinement and more punitive dispositions (see Woolard et al., 2016), and Black and Latino adult defendants are less likely to plead guilty compared to Whites (Metcalf & Chiricos, 2018; Testa & Johnson, 2020). Future research could examine whether these differences exist among youth, as well as how race and ethnicity could affect the degree to which adolescents make voluntary plea decisions.

6. Conclusion

Plea agreements are a common, yet not uncontroversial strategy, in the U.S. justice system. The use of pleas in juvenile cases is particularly nuanced given the intersect between developmental stage, complex legal process, and well-established dynamics surrounding the concepts of social influence outlined previously. Although we do not advise against the use of plea agreements in juvenile cases, as they certainly can provide an avenue to more timely and effective justice, we do suggest that the unique period of development and susceptibility to external influences require legal actors to engage in robust/extra precautions around assessing (or assuming) voluntariness. Court procedures designed with juveniles' development in mind could ultimately increase the likelihood juveniles will both understand and comply with sanctions (Woolard et al., 2016). Additional research into these mechanisms and potential approaches to ensuring *appropriate and effective* voluntariness with juvenile defendants in this psychosociolegal context will be critical, as will ongoing education on this important issue affecting some of our more vulnerable populations that come in contact with courts.

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