Speaker 1:

The Missouri State Journal, a weekly program, keeping you in touch with Missouri State University.

Emily Yeap:

Over 95% of criminal convictions in the U.S. come from guilty pleas. Most of these pleas are a result of plea bargaining. This occurs when prosecutors offer reduced sentences to defendants. In return, they waive their right to a trial.

Last week on the Missouri State Journal, psychologist [Dr. David Zimmerman](https://search.missouristate.edu/people/dzimmerman) talked about a recent collaborative research project he worked on about plea decision making during the pandemic.

Zimmerman, an associate professor of [psychology](https://psychology.missouristate.edu/) at Missouri State, is back with me again today to highlight some ways to address issues with plea deals.

Dr. David Zimmerman:

With regards to this research, the use of pre-trial detention needs to be very carefully considered and minimized, especially if you’re dealing with nonviolent potential offenders that we should try to avoid holding people in jail to await trial because that element could be coercive, and there have been some efforts to try to reform that particular element of the system that are promising.

Emily Yeap:

Zimmerman explains another way that may help to deal with coercion.

Dr. David Zimmerman:

I’m not exactly sure how this would be implemented, but relevant to the problem of being coerced into guilty pleas false, or otherwise, is just the difference between the threat and penalty of losing a trial, and the penalty offered in the plea agreement.

So, there’s this basic contrast affect there, where a threat of going to jail for 10, 15, 20 years, or time served right now maybe 6 months in prison, probation, or whatever it is, the difference between those two things is such that it’s pretty coercive and compelling to defendants to plead guilty. So, in some way, tying the potential sentence at trial to plea offers such that the gap between those two offers isn’t so big, might help.

Emily Yeap:

It’s also important to look at the problem of over-criminalization.

Dr. David Zimmerman:

A lot of these penalties associated with trials like mandatory minimums: if you have a certain minimum weigh of cocaine or crack-cocaine in your possession, required jail sentences if you’re carrying a weapon while selling controlled substances, those sorts of things. If we could try to mitigate that aspect of the system as well, which became exacerbated in the 1980s – you went from 80%, or so, of convictions being through guilty pleas, which is still a lot, right, to like 95%, or so, of convictions via guilty pleas between the 1980s and the present. In some form or fashion, decriminalizing various nonviolent drug offenses, reform in that respect, would help.

Emily Yeap:

Zimmerman believes more research on plea decision-making is needed.

Dr. David Zimmerman:

From the psych end, we’re really kind of in the infancy of developing theory and research on these topics, which, that was another thing that got me interested in the topic is I started off doing jury research, tons of jury research, a long history of it – not that much in psychology on plea decision-making despite the fact that most of all of your convictions are via guilty plea. So, there’s a real, I think, necessity for people to systematically look at these decisions using a variety of methodologies including experiments, which is what I tend to do.

Certainly for my part, I plan on continuing to do research on plea decision-making, I mean especially research addressing the innocence problem that seems to be a real thing with our system of pleas as the Supreme Court put it. Judge Jed Rakoff had written – and I saw him speak several years ago – that we have a system that essentially bludgeons defendants into pleading guilty. So, identifying those factors and using evidence-based arguments suggesting alternatives or ways to fix the problems, I think, is the way to go. So yeah, I plan on continuing to look at this and research, perhaps, examining how publicity interacts with this process. That's something that I've done research in the context of jury decision-making on. I don’t think, to date, anybody has looked at how media might impact the plea bargaining process. So, that’s a direction I'm interested in moving some point soon.

Emily Yeap:

That was Dr. David Zimmerman, associate Professor of psychology at Missouri State. I’m Emily Yeap for the Missouri State Journal.

Speaker 1:

For more information, contact the Office of Strategic Communication at 417-836-6397. The Missouri State Journal is available online at ksmu.org.