EMPIRICAL STUDIES OF THE EFFECTS OF LEGAL REFORMS ON THE CRIMINAL JUSTICE SYSTEM IN CHINA

Yuhao Wu

A DISSERTATION

in

Criminology

Presented to the Faculties of the University of Pennsylvania

in

Partial Fulfillment of the Requirements for the

Degree of Doctor of Philosophy

2020

Supervisor of Dissertation

Charles Loeffler
Associate Professor
Department of Criminology
University of Pennsylvania

Graduate Group Chairperson

Charles Loeffler
Associate Professor
Department of Criminology
University of Pennsylvania

Dissertation Committee

Charles Loeffler	Associate Professor of Criminology
Greg Ridgeway	Associate Professor of Criminology and Statistics
Jacques deLisle	Stephen A. Cozen Professor of Law & Professor of Political Science

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ACKNOWLEDGMENT

I thank my advisors Charles Loeffler, Greg Ridgeway and Jacques deLisle for their invaluable guidance. They help me grow as a researcher. I learn from them how to be an inspiring teacher and an encouraging mentor. Thank you to all the faculty in the Department of Criminology, Aaron Chalfin, John Macdonald, Aurélie Ouss, Maria Cuellar, Adrian Raine, and Richard Berk as well as Knakiya Hagans, Ciara Roberts and Caroline Gonzalez for their support during my time at Penn.

I am grateful to my friends at Penn Criminology for their help and support: Jacob Kaplan, Li Sian Goh, Asminet Ling, Monica Mielke, and Viet Nguyen.

I thank my parents Xuejun Wu and Hong Mao as well as my parents in law Guangxiang Li and Huiqing Gao for their support and love. Without their help, I could not complete this degree.

Finally, I owe my special gratitude to Ming Li, my loving wife for going through the whole journey with me. I am grateful for her unconditional support for the past ten years. I thank, Jingchu Wu, my son for giving me a joyful experience of being a father!

ABSTRACT

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Yuhao Wu

Charles E. Loeffler

Several legal reforms have been carried out in the Chinese criminal justice system in the recent years. These legal reforms aim to optimize the allocation of legal resources and improve the judicial fairness of the criminal justice. This dissertation includes three papers that examine the role of these legal reforms in shaping the criminal justice system in China. The first paper assesses the influence of China's speedy trial and plea bargaining pilot program on the criminal justice system from a program evaluation perspective. Using a difference-in-differences design, the results suggest that these programs help to shorten the criminal disposition time in the pilot city. However, there is little evidence to support the proposition that speedy trials and plea bargaining result in leniency for defendants. The second paper answers the question of what factors affect plea versus trial decisions in China and whether the decision of pleading guilty brings real benefits to those who use it. The results show that more serious crimes and more dangerous defendants are less likely to be disposed of through a plea bargain (as opposed to going to trial). In addition, using a propensity score weighting technique to control for potential confounding variables, this study finds that defendants who pleaded guilty are more likely to receive positive case outcomes regarding pretrial detention and probation

decision. The third paper aims to study the effect of a new legal reform – "lawyers for all" – on case outcomes and the quality of legal aid service in the Chinese criminal justice system. This study finds that although this program increased the rate of indigent defendants being represented by a court-appointed lawyer from less than 10% to near 50%, overall case outcomes did not change. Specifically, the positive effect of court-appointed attorneys on sentencing outcomes disappeared after the LFA program was carried out. One possible explanation is that more inexperienced appointed lawyers compromised the overall quality of legal aid services.

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CHAPTER 1: GENERAL INTRODUCTION

China has experienced unprecedented legal developments over the last four decades. Before the Chinese economic reform started in 1978, there were few laws or trained legal professionals in China. Today, legal developments in China have attracted the attention of the global community: thousands of laws and regulations have been passed and implemented in China, along with a series of legal institutions established. Now China has the second-largest number of lawyers in the world. In the criminal justice system, certain global norms, such as the due process, the presumption of innocence, and exclusionary rules against illegal evidence, have been also institutionalized in Chinese written legislation (Liu & Halliday, 2009; Potter, 1999; Jr., 2010).

At the same time, however, there is a concern that that China still faces serious challenges incorporating the value of rule of law in its legal system (Li & Ma, 2010; Liebman, 2009; Li A. H., 2016). Specifically, China has a reputation for its unbalanced justice system that favors the police and prosecutors. In practice, the existence of the "iron triangle", which refers to the coalition of the police, the prosecution, and the judges in the Chinese criminal justice system, tends to ignore the right of defendants ((Biddulph, Nesossi, & Trevaskes, 2017; Liang, He, & Lu, 2014).

Realizing these problems, China has carried out several legal reforms in recent years that have allegedly been aimed at promoting the agenda of law-based governance [*yifazhiguo*] (Biddulph, Nesossi, & Trevaskes, 2017; Li A. H., 2016). Notably, two

important documents were released, illustrating that the new leadership gave legal reforms a high priority on the national agenda. In November 2013, the Third Plenary Session of the 18th Central Committee of the Communist Party of China (CPC) pointed out that in the future China would accelerate the development of a just, efficient and authoritative socialist judicial system to safeguard the people's rights and interests (China, CPC, 2014). Driven by this broader vision, the Fourth Plenary Session of the 18th Central Committee of the CPC released the Decision of the CPC Central Committee on Major Issues Pertaining to Comprehensively Promoting the Rule of Law [*yifa zhiguo*]. This document further clarified that a number of reforms concerning criminal legislation and institutions need to be carried out in the following years (China, CPC, 2014).

In the criminal justice system, legal reforms were implemented in two separate areas: serious crimes and minor crimes. In China, a crime is considered minor if its possible punishment is less than three years' imprisonment. In addition, the facts of the case must be straightforward and clear, and there is no dispute over the facts, the law, or the evidence. In contrast, a crime is serious or complex if the accused is subject to a sanction of more than three years imprisonment or facts are in dispute. As I note below, the recent legal reforms aim to allocate resources more rationally so as to handle simple or straightforward cases expeditiously and to have enough resources to deal with complex and serious cases. Therefore, in each category of crimes, different policy goals were emphasized (Biddulph, Nesossi, & Trevaskes, 2017).

As noted, the Chinese criminal justice system has long been criticized as favoring the police and prosecutors. Criminal proceedings in China were characterized by a strong emphasis on the investigative stage, with the aim of extracting confessions from the

suspects. Guided by the criminal justice policy of leniency to those who confess and severity to those who resist [t*anbai congkuan, kangju congyan*], many defendants were encouraged or even forced to confess at a very early stage of a criminal process. This characteristic of the justice system is believed to be a main cause of miscarriages of justice (Biddulph, Nesossi, & Trevaskes, 2017; Li, 2015; Lu & Kelly, 2008; Yan, 2013).

In an effort to improve the judicial fairness of the criminal justice system and to prevent miscarriages of justice, a trial-centeredness reform [*yi shenpan wei zhongxin de susong zhidu gaige*] was carried out in China in 2014. The core idea of this reform was to shift the focus of "decision-making" from the stage of investigation to trial. Particularly, it emphasized that in complicated cases, the judge should invest enough time in a court hearing to conduct a fact-finding investigation rather than relying heavily on dossiers to determine the facts of a case (Shen, 2015; Zhang, 2015; Biddulph, Nesossi, & Trevaskes, 2017). Additionally, the central government designed several supporting programs to ensure the implementation of trial centeredness reform. For example, one program, which is the scope of third paper in this dissertation, is "the lawyers for all" program. This program aims to give criminal defense lawyers an important role and make the trial more adversarial.

On the other hand, the criminal justice system in China also encountered increasing caseload pressures. This issue has been especially prominent for minor cases. First, China abolished its re-education through labor system on December 23, 2013. This system used to utilize administrative detention to punish people who committed minor crimes. After this system was abolished, a portion of these people were prosecuted within the criminal justice system, leading to a significant increase of cases handled by courts.

Second, recent legal reforms also accelerated the professionalism of judiciary in China. One of these measures was the internal reallocation of personnel roles within the courts [*yuanezhigaige*]. This program set a mandatory quota of legal staff to be selected as judges to adjudicate cases while assigning the administrative work to other personnel (Li A. H., 2016). As some scholars suggested, after this program was carried out, the number of legal staff with the title of judges decreased significantly, and thus the number of cases handled by each judge increased drastically (Feng, 2015). Finally, the trial-centerness reform also required that the criminal justice system have sufficient resources to handle complicated and serious cases, consequently limiting resources available to deal with minor crimes.

Realizing that the lack of a simplified procedure for resolving uncontested cases became an obstacle to optimizing China's criminal justice system, recent legal reforms started to take measures to expedite the handling of minor crimes. Two new case dispositions have been established in the criminal justice system to address this need: the speedy trial [*xingshi sucai*] and the Chinese version of plea bargaining [*renzui renfa congkuan*]. The former program allowed defendants who were supposed to be sentenced to less than one year to plead guilty in exchange for a shortened criminal process. The latter program provided defendants who pleaded guilty to not only receive a shortened criminal process, but also to negotiate with the prosecutor for a lighter sentence.

In summary, several substantial legal reforms for handling serious crimes and minor crimes have been carried out in the Chinese criminal justice systems. While it may seem that reforms in separate areas attempt to achieve different policy goals, it is noteworthy that there is one common policy goal for all these legal reforms: optimizing

the allocation of legal resources in China to allow the state to deal with crime more efficiently. This highly instrumentalist vision is the framework for understanding many empirical findings in this dissertation.

In China, more than 1.5 million criminal cases are tried every year (China Law Society, 2018). Therefore, the legal reforms mentioned above would affect a considerable number of people. Although considerable research has been devoted to describing and theoretically analyzing the recent legal reforms that occurred in the Chinese criminal justice system, much less attention has been paid to the empirical study of how the legal reform *actually affects* the criminal justice system. Many questions, including how the legal reforms exert influence on court behavior, the defendants, and other participants in the criminal process remain unanswered.

Therefore, this dissertation is an empirical legal study that aims to use a social science-oriented approach to examine how these legal reforms really work (Eisenberg, 2011). Moreover, one feature of the way that China started legal reforms would be helpful to develop a valid empirical study: the experimentation conducted by the policymakers. Before a legal reform was expanded nationwide, courts or any other legal institutions in specific areas were usually selected to take actions that, at times, contradicted national rules or laws. These areas were usually called pilot areas [*shidiandiqu*] (Liebman, 2009). The experience of how the legal reform was implemented in pilot areas would provide evidence that may be used to formulate national laws or regulations. Therefore, under the assumption that the selection of pilot areas was an external intervention, the comparison of some features of the criminal justice system

between pilot areas and other comparable areas both before and after the legal reform would help to persuasively examine the real effect that the legal reform had.

Moreover, two characteristics of these legal reforms help inform why the dissertation may have policy implications both in and outside of China. On the one hand, like other public policies, these legal reforms attempt to achieve certain policy goals. For example, in this dissertation, I study the effect of the plea bargaining program and the "lawyers for all program" on case outcomes. According to official documents, both programs claimed to make criminal procedures more adversarial and bring true benefits to defendants (China, Ministry of Justice of People's Republic of China, 2019; China, The Supreme People's Court, 2016). However, it is worthwhile to note that the implementation of law in practice is different from the establishment of formal law on the books (Jr., 2010; Liu & Halliday, 2009). In reality, whether these policy goals were truly achieved remains questionable. Therefore, the empirical findings in this dissertation would be of great importance to policy-makers in China to decide whether this reform was a success.

On the other hand, although China claims to create a unique legal system, many legal reforms occurring in China have resulted from mixing foreign models with local systems (Liebman, 2009). In fact, most of the reform programs being carried out in China are very similar to policy changes that happened in the U.S. a few decades ago. Thus, the conclusions derived from the study on the Chinese legal system may still have some meaningful insights for policymakers outside of China. For example, the first two papers of this dissertation proposal attempt to examine the effect of China's plea bargaining

program on the criminal justice system. Plea bargaining is a central feature of the U.S. criminal justice. However, even in the U.S., whether this system is desirable remains controversial among scholars, practitioners, and policymakers. Although there exist unique characteristics that set the Chinese version of plea bargaining apart from the plea bargaining in Anglo-American courts, the general idea that a defendant agrees to plead guilty in exchange for some concession from the prosecutor is the same. Therefore, the policy implications of the study on the plea bargaining system in China may still be helpful for policymakers outside of China. In the third paper, I studied the "lawyers for all" program in China. The main feature of this program was to expand legal provisions to indigent defendants. Analogously, during the 1960s and 1970s, the U.S. Supreme Court broadened the right to counsel by ruling that federal and state jurisdictions should provide counsel for those who were indigent.[1] Although there is considerable literature on the effect of lawyers on case outcomes, few studies have addressed the counterfactual question of whether these lawyers made a difference, especially in felony cases. Therefore, using a policy change in China, my study could provide new insights into understanding the role of criminal defense for scholars outside of China.

This dissertation includes three papers that examine the role of legal reforms in shaping the criminal justice system in China. The first two papers center on the plea bargaining system in China. In the first paper, I study the influence of China's speedy trial and plea bargaining pilot program on the criminal justice system from a program evaluation perspective. This paper uses a natural experiment to examine how the two

[1] These cases include *Gideon v. Wainwright* 372 U.S. 335 (1963), *In re Gault* 387 U.S. 1, 20 (1967) and *Argersinger v. Hamlin*, 407 U.S. 25 (1972), Section 140 [Mandatory Defence]

phases of the plea bargaining program influenced local court behavior. The second paper focuses on decision-making in the criminal justice system and its effect on case outcomes. This paper identifies factors that affect plea versus trial decisions in China and addresses whether the decision of pleading guilty brings real benefits to those who use it. The third paper studies a new legal reform – "lawyers for all" – in criminal cases where all defendants who entered the ordinary procedure were assigned a lawyer by the government. This paper examines how the introduction of mandatory legal representation in a criminal case affected case outcomes and the quality of legal aid service.

1.1 Paper 1 Summary

The first paper in this dissertation assesses the effect of the Chinese version of speedy trial and plea bargaining programs on the criminal justice system. Plea bargaining is known as a process in which a defendant agrees to plead guilty in exchange for some concession from the prosecutor. Although it has been widely used in criminal cases in the U.S. since the late nineteenth century (Alschuler, 1979; Vogel, 1999), whether this system is desirable remains controversial among scholars, practitioners, and policymakers. Some support the plea bargain system because it helps lighten the caseload for prosecutors and provides defendants with a good opportunity for receiving a lighter sentence (Bowers, 2008; Easterbrook, 1983; Guidorizzi, 1998; Fisher, 2000). Others hold that a criminal justice system's reliance on negotiated guilty pleas is fundamentally flawed since plea bargaining may inappropriately expand the power of prosecutors, compromise the constitutional rights of defendants, and lead to wrongful convictions (Alschuler, 1968; Parnas & Atkis, 1978; Schulhofer, 1992; Schehr, 2015) .

In contrast to practice in the United States, plea bargaining did not exist in the Chinese criminal justice system until recently. Driven by motivations such as expediting the dispositional process of "simple" cases and enabling the court to invest more time in complicated cases as well as providing the defendants an extra opportunity to receive lenient sentencing, China applied a two-year pilot program in eighteen pilot cites in September 2016. This program was described as "imposing lenient punishments on those pleading guilty and accepting punishment" [*renzui renfa congkuan*] in the Chinese official document (China, The Supreme People's Court, 2016).

Historically, the plan of introducing the Chinese version of plea bargaining can be traced back to 2014 when the Supreme People's Court and the Supreme People's Procuratorate started a "speedy trial" program which allowed defendants who were supposed to be sentenced to less than one year to plead guilty in exchange for a shortened criminal process. This program was piloted in eighteen pilot cities, while the criminal justice system in other cities remained unchanged. The apparent success of the speedy trial program directly gave rise to the plea bargaining program, in which defendants in the same pilot cities who pled guilty could not only receive a shortened criminal process but also negotiate with the prosecutor for a lighter sentence.

This paper examines the effects of both the speedy trial and plea bargaining programs on the criminal justice system using a natural experiment approach. Specifically, I compare the cases tried by courts in a pilot city, Xiamen, to those tried by courts in a comparable control city, Quanzhou. Both cities are located in southeastern Fujian province and border each other. The spatial adjacency implies these two cities

have similar demographic, political and economic attributes. While Quanzhou is similar to Xiamen, it did not experience the same legal reform for a time period.

This study focuses on a sample of 19,955 DUI cases from a five-year period spanning the introduction of the two programs. Among these DUI cases, 5,870 cases were adjudicated in the pilot city, Xiamen, and the remaining 14,085 cases were adjudicated in the control city, Quanzhou. I conduct several difference-in-differences models to study the effects of the speedy trial and the plea bargaining programs on a series of dependent variables including case disposition time, jail sentence, probation decision, and victim compensation.

Results show that these two programs helped to shorten the criminal disposition time in the pilot city. However, there is little evidence to support the proposition that speedy trials and plea bargaining resulted in leniency for defendants as measured by probation decisions and served sentence. Finally, empirical results show that victims were less likely to be compensated after these two programs were carried out.

1.2 Paper 2 Summary

The second paper assesses plea decision-making in China and its effect on case outcomes. Previous studies show that legal actors' decision making in the criminal justice system is supposed to be guided by several focal concerns such as the severity of the crime, the blameworthiness of the defendant, and other practical considerations (Kutateladze & Lawson, 2018; Steffensmeier, 1980; Steffensmeier, Ulmer, & Kramer, 1998). A wealth of literature, mostly using data from U.S. courts, has confirmed that many factors play a role in the decision-making process about which cases are disposed

by guilty plea versus proceeding to trial. These factors include legal factors such as crime severity, and prior criminal record, as well as extralegal factors such as the gender and race of the defendant (Boylan, 2012; Dervan & Edkins, 2013; Meyer & Gray, 1997).

One common reason for most defendants to plead guilty is to avoid the "trial penalty". Defendants expect that pleas could lead to a more positive outcome in case dispositions—as they would be getting a "bargain" (Bushway, Redlich, & Norris, 2014; Bushway & Redlich, 2012). However, several empirical studies indicate that pleading guilty is not always the better choice (Albonetti, 1998; Brereton & Casper, 1981-1982; Bushway & Redlich, 2012; Uhlman & Walker, 1979). In other words, whether defendants who pleaded guilty receive true benefits remains contradictory.

In contrast to the U.S., the opportunity for defendants to plead guilty and thereby avoid a full trial was alien to the Chinese criminal justice system for decades. The inquisitorial culture and socialist law tradition derived from the Chinese criminal justice system both conceive that the truth in a case cannot be bargained with or compromised. Nevertheless, due to the increasing caseload, recent reforms in China have introduced a new system to expedite the dispositional process of "simple" cases, called *renzui renfa congkuan* [Imposing Lenient Punishments on Those Pleading Guilty and Accepting Punishments], in several pilot cities. This program has been cited by some scholars as the Chinese version of plea bargaining (Gu, 2016; Jia, 2018). Two features make this program comparable to the conventional plea bargaining system in Anglo-American courts. First, this program acknowledged that the defendant and the prosecutor can negotiate as two parties on the sentence, which is expressed as *kongbian xieshang* in Chinese (China, The Supre People's Court, 2018). In other words, the "bargain" process

has been acknowledged. Second, the regulations also provided that defendants who plead guilty and reach an agreement with the prosecutor may receive lenient sentencing (China, The Supreme People's Court, 2016). Therefore, a process in which a guilty plea could result in some concession from the prosecutor also exists in the Chinese context (Zhu, 2016).

This paper examines what factors influence the plea versus trial decision and whether the decision of pleading guilty results in positive case outcomes for defendants in the Chinese context. To do so, this study uses data on 6,826 DUI cases tried by courts located in six cities where the *renzui renfa* program was carried out. Among the cases, defendants in 1,388 cases pleaded guilty and the remaining 5,438 defendants did not plead guilty.

First, logistic regression is used to assess the effect of legal and extralegal factors on the decision of plea versus trial. Results show that defendants without a prior criminal record, having a lower level of blood alcohol concentrations (BACs), or having confessed were more likely to plead guilty. In addition, defendants who failed to compensate the victims were more likely to enter a guilty plea. Finally, extralegal factors such as gender and ethnicity do not significantly affect the decision to plead guilty.

Second, to assess whether the decision of pleading guilty truly brings benefits, I use a propensity score weighting technique to control for potential confounding variables. This method helps to compare a group of defendants who pleaded guilty to a group of defendants who were disposed of through full trial but had very similar characteristics. Generally, results support the conclusion that a guilty plea could lead to more positive case outcomes. Defendants who pleaded guilty were more likely to be released before the

trial and be granted probation. One exception is that defendants who pleaded guilty did not have a reduced fine than those who did not.

1.3 Paper 3 Summary

The third paper in this dissertation assesses whether a program expanding the provision of legal aid in China resulted in better case outcomes. In the U.S. context, although the access to an attorney in the criminal proceedings became a defined right, whether this right has provided positive case outcomes for defendants remains an open question. Previous studies have yielded mixed results on whether the efforts of attorneys effectively result in better case outcomes. Some studies show that attorneys could make a difference in criminal proceedings (Feeney & Jackson, 1991; Worden, Morgan, Shteynberg, & Davies, 2018), while others suggest that the effectiveness of providing counsel in criminal proceedings is highly questionable (Clarke & Koch, 1980; Stapleton & Teitelbaum, 1972).

The criminal justice system in China is significantly different from that in the United States. Considering its civil law and socialist law tradition, lawyers in China are believed to be far less adversarial than lawyers in U.S. courts. However, a policy change, similar to one that occurred in American courts more than half a century ago[2], was implemented in the Chinese criminal justice system recently. In October 2017, the Supreme Court in China decided to carry out a pilot program named "Lawyers for All" (LFA). This program required the state to provide a lawyer to indigent defendants, either

[2] In *Gideon v. Wainwright* 372 U.S. 335 (1963), the Supreme Court held that states were required to follow the sixth amendment and to afford the full right to counsel to felony defendants. Later, decisions in *In re Gault* 387 U.S. 1, 20 (1967) and *Argersinger v. Hamlin*, 407 U.S. 25 (1972) further extended the right to counsel to juvenile cases and to misdemeanour cases in which the defendant was given a custody sentence.

representing them or giving them suggestions depending on the case type. Similar to the decision in *Gideon v. Wainwright* (1963), the LFA program in China was a national decision imposing a universal requirement on local courts. While some of the local courts already had programs to afford the right to counsel to indigent defendants, most courts did not have such a system before the LFA program was carried out.

Using China's policy change as a context, this study examines whether a sudden expansion in the provision of lawyers to indigent defendants resulted in better case outcomes and whether outcomes differed between court-appointed lawyers and privately hired lawyers. This study focuses on Guangdong province, where almost two-thirds of defendants did not have a lawyer before the LFA program. The data in this study is a sample of 4,133 defendants charged with robbery, a common felony crime committed by indigent defendants.

First, this study uses a before-and-after analysis to assess the LFA program's effect on case outcomes. Results show that although the rate of defendants represented by a court-appointed lawyer increased from less than 10% percent to more than 50% after the LFA program was carried out, this did not change overall case outcomes regarding the pretrial decision, conviction decision, or mean sentence length.

Second, this study applies several models to explore why this null effect occurred. Using a propensity score weighting technique, this study examines each type of lawyers' effect on case outcomes. Results show that being represented by an appointed lawyer did not have a significant effect on pretrial decisions and conviction decisions. This explains why introducing more appointed lawyers would not make a difference in these case outcomes. In addition, using a difference-in-differences analysis, the results show that the

LFA program had a negative effect on the performance of court-appointed lawyers: court-appointed lawyers were able to help defendants receive a more lenient sentencing outcome compared to defendants without a lawyer, but this effect disappeared after the LFA program was implemented. One possible explanation is that the increasing number of inexperienced appointed lawyers in the criminal justice system decreased quality of legal aid services.

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CHAPTER 2：ON THE EFFECT OF THE CHINESE VERSION OF SPEEDY TRIAL AND PLEA BARGAINING PILOT PROGRAMS: OBSERVATION FROM DUI CASES IN FUJIAN PROVINCE

Abstract

Plea Bargaining is a central feature of the American criminal justice system. However, it did not exist in China until recently. In order to deal with caseload pressures and optimize legal resources, China started its own version of speedy trial and plea bargaining programs in 2014 and then expanded these two programs to national practice in 2018. Using a unique natural experiment conducted by the Supreme People's Court and the Supreme People's Procuratorate in China, I applied a difference-in-differences design to evaluate the reforms using data on 19,955 DUI cases tried in a pilot city and a control city located in Fujian Province, China. My results show that these programs help to shorten the criminal disposition time in the pilot city. However, there is little evidence to support the proposition that speedy trials and plea bargaining result in leniency for defendants as measured by probation decisions as well as sentences that defendants served in jail. Finally, empirical results show that victims are less likely to be compensated after these two programs were carried out.

Keywords: Case Disposition; Sentencing; Victim Compensation

2.1 Introduction

Plea bargaining, a process in which a defendant agrees to plead guilty in exchange for some concession from the prosecutor, is a central feature of American criminal justice. Some civil law countries, such as Germany, Italy, Argentina and France, have also adopted various forms of plea bargaining, which are not the same as but more or less are influenced by the American model (Langer, 2004; Rauxloh, 2011; Soubise, 2018)[3]. However, whether this system is desirable remains controversial among scholars, practitioners, and policymakers. Some take the plea bargain system as it is because it helps lighten the caseload for prosecutors and provides defendants with a good opportunity for receiving a lighter sentence (Bowers, 2008; Easterbrook, 1983; Guidorizzi, 1998; Fisher, 2000). Others hold that a criminal justice system's reliance on negotiated guilty pleas is fundamentally mistaken since plea bargaining may inappropriately expand the power of prosecutors, compromise the constitutional rights of defendants, and lead to wrongful convictions (Alschuler, 1968; Parnas & Atkis, 1978; Schulhofer, 1992; Schehr, 2015) .

In contrast to practice in the United States, plea bargaining did not exist in the Chinese criminal justice system until recently. However, driven by the motivations such as expediting the dispositional process of "simple" cases and enabling the court to invest more time in complicated cases as well as providing the defendants an extra opportunity

[3] For example, in Germany, although there is no common law instrument of plea bargaining in the strict sense, informal negotiations, which center on the exchange of a confession for a sentence concession, play an increasing role in the criminal process. In addition, in 2013, the Second Senate of the Federal Constitutional Court in Germany admitted the legality of negotiations outside the trial hearing (Rauxloh, Plea bargaining in germany doctoring the symptoms without looking at the root causes, 2014).

to receive lenient sentencing, in September 2016, China applied a two-year pilot program in eighteen pilot cites, which was expressed as “imposing lenient punishments on those pleading guilty and accepting punishment” [*renzui renfa congkuan*] in the Chinese official document (China, The Supreme People's Court, 2016).

It is admitted that the “imposing lenient punishments on those pleading guilty and accepting punishment” program has several unique characteristics that set the Chinese version of plea bargaining apart from the plea bargaining in Anglo-American Courts. For example, defendants cannot bargain with the prosecutor for lesser charges or having some charges dropped. Also, the law claimed that the defendant still has the right of presumption of innocence, while the proof standard cannot be lowered (Gu, 2016; Sun, 2018; Zuo, 2017). However, there are two features that make this program, at least in written laws, comparable to the plea bargaining system in Western countries. First, this program firstly acknowledged that the defendant and the prosecutor can negotiate as two parties on the sentence, which is expressed as *kongbian xieshang* in Chinese (The Supre Court of People's Republic of China, 2018). Second, the regulations also provided that defendants who plead guilty and reach an agreement with the prosecutor may receive lenient sentencing (China, The Supreme People's Court, 2016). These features, while could be problematically implemented in practice, help to make the Chinese version of plea bargaining closer to the general idea of the plea bargaining in Anglo-American Courts in that a defendant agrees to plead guilty in exchange for some concession from the prosecutor (Zhu, 2016). Therefore, the policy implications of the study on the plea

bargaining system in China may be helpful for policymakers both in and outside of China.

Historically, the plan of introducing the Chinese version of plea bargaining can be traced back to 2014 when the Supreme People's Court and the Supreme People's Procuratorate started to subject eighteen pilot cities to a "speedy trial" program which allowed defendants who were supposed to be sentenced to less than one year to plead guilty in exchange for a shortened criminal process, but leaving the criminal justice system in other cities unchanged. The apparent success of the speedy trial program directly gave rise to the plea bargaining program, in which not only could the defendants in the same pilot cities who pleaded guilty received a shortened criminal process, but also they were allowed to negotiate with the prosecutor for a lighter sentence.

While official documents claim that the Chinese version of speedy trial and plea bargaining could grant defendants more bargaining power in the criminal justice system and result in lighter sentencing outcome, it is worthwhile to note that the implementation of law in practice is different from the establishment of formal law on the books. Due to traditional, social and political constraints, this gap in the Chinese criminal justice system could be even wider (Jr., 2010; Liu & Halliday, 2009). Therefore, how these two programs were truly implemented in practice remains questionable.

This study aims to examine the effects of speedy trial and plea bargaining program on a sample of DUI cases—one of the most common crime types eligible for the pilots and one for which determinants of expected sentencing outcomes can be observed in the published sentencing decision. Specifically, I conducted a difference-in-differences

design to study all the DUI cases from a five year period spanning the introduction of the two programs in one pilot city in Fujian province, Xiamen, and its control city, Quanzhou, which is adjacent to the pilot city and has very similar demographic, political and economic attributes. my results show that these two programs help to shorten the criminal disposition time in the pilot city. However, there is little evidence to support the proposition that speedy trials and plea bargaining result in leniency for defendants as measured by probation decisions and served sentence. Finally, empirical results show that victims are less likely to be compensated after these two programs were carried out.

This remaining article has six parts: Part 2 describes the history and policy goals of the Chinese version of plea bargaining. Part 3 reviews the prior literature on plea bargaining, both in the U.S. and the Chinese context. Part 4 presents the research setting, data and measurement. Part 5 describes the methodology. Part 6 presents empirical evidence on the effects of the recent speedy trial and plea bargaining program on various aspects of the criminal justice system. Part 7 reviews the findings and the limitations of this research.

2.2 Motivation and history of the Chinese version of speedy trial and plea bargaining program

The Chinese legal system is a mixture of civil law and socialist law tradition, which both offer explanations for why plea bargaining had been alien to the Chinese criminal justice system for a very long time. As a civil-law country, the courts in China tend to conduct fact-finding through verifying the dossiers that have been prepared before trial (Chen R. , 2006; Goldstein & Marcus, 1977). Hence, while the fact that the

defendant admits guilt is often recorded in the dossiers by the police and the prosecutor and may be crucial to the judge's decision, the case must still go to trial before the judge can make a final determination (Soubise, 2018). However, China's socialist law tradition makes the criminal process more efficient. Influenced by the former Soviet Union's legal tradition, historically, convictions in the Chinese criminal justice system heavily rely on the defendant's confession and the court does not require the prosecutor to present much other evidence (Biddulph, Nesossi, & Trevaskes, 2017; Li, 2015; Lu & Kelly, 2008; Yan, 2013). Consequently, extracting a suspect's confession through interrogation is deemed the most crucial task for police in a criminal investigation (Belkin, 2000; He & He, 2012). Guided by the criminal justice policy of leniency to those who confess, severity to those who resist [*tanbai congkuan, kangju congyan*], defendants are encouraged to confess at a very early stage of a criminal process. As a result, most confessed defendants have no legal rights to trade in return for a reduced sentence with the prosecutor.

However, things began to change in recent years. Several remarkable wrongful convictions such as Shexianglin[4], Zhanggaoping[5], and Huugjilt[6] were exposed and helped address the problem of miscarriages of justice based on forced confessions (Biddulph, Nesossi, & Trevaskes, 2017). In 2014, the Fourth Plenary Session of the 18th Central Committee of the CPC released the Decision of the CPC Central Committee on Major

[4] Shexianglin was convicted murdering in 1998 because he was tortured by the police and confessed to the murder. After he had spent seven years in prison, in 2005 his wife reemerged and his conviction was overturned.

[5] Zhanggaoping and his nephew Zhanghui were convicted rape and murdering in 2003 because of forced confession. In 2013, another defendant's DNA was found to be the same as that was found in the victim of their case. Their conviction was overturned then.

[6] Huugjilt was an Inner Mongolian who was executed on June 10, 1996 for the rape and murder of a woman. On December 5, 2006, ten years after the execution, another suspect Zhaozhihong admitted he had committed the crime. Huugjilt was posthumously exonerated and Zhao Zhihong was sentenced to death in 2015.

Issues Pertaining to Comprehensively Promoting the Rule of Law. Specifically, the decision claimed that the criminal justice system needs to counter the tendency of police to rely on confessions and develops a trial-centered system of litigation, which aims to change the focus of the criminal process from police interrogation to the revelation of facts at trials (Shen, 2015; Zhang, 2015).

Although the trial-centeredness reform may help prevent wrongful convictions, it will possibly make some criminal cases more time-consuming since the judge needs to conduct a penetrating search for truth, without regard to whether the defendant has admitted his guilt. As a result, the demand that the criminal justice system should have enough resources to handle complex and serious cases implies the need to allocate resources more rationally to deal efficiently with simple or straightforward cases (Biddulph, Nesossi, & Trevaskes, 2017; Wei X. , 2016; Xiong, 2016). In fact, realizing that the lack of a simplified procedure for resolving uncontested cases became an obstacle to optimizing China's limited judicial, prosecutorial, and legal resources, the Fourth Plenary Session of the 18th Central Committee of the CPC also proposed that China would establish the *renzui renfa congkuan* [imposing lenient punishments on those pleading guilty and accepting punishments] system in the criminal justice system resources (China, CPC, 2014). This was recognized as a signal that China plans to develop its own version of plea bargaining.

The development of a Chinese style plea bargaining can be divided into three stages. The first stage was from June 2014 to September 2016, during which the *xingshi sucai* [speedy trial] program was established and tried in several pilot cities. The second stage has been effective from September 2016 to October 2018, during which *renzui*

renfa [plea bargaining] program was carried out in the same pilot cities. The third stage, which is also the final stage, was from October 2018 to present. During this period, both the *xingshi sucai* and *renzui renfa* have been expanded nationwide and therefore become formal systems in the Chinese criminal justice system.

2.2.1 Local experiments with the speedy trial (2014-2016)

On June 27, 2014, the Standing Committee of the National People's Congress passed a decision to approve a "speedy trial" [*xingshi sucai*] pilot proposed by the Supreme People's Court and the Supreme People's Procuratorate. The official document said this pilot program would take place in 18 cities and last for two years. The core idea of this program is to allow defendants in minor criminal cases to plead guilty in exchange for a simplified criminal process. The speedy trial differs from the previous criminal procedure in that in the speedy trial, defendants plead guilty, agree with the prosecutor on the sentencing recommendation, and sign a plea agreement before the trial. In addition, the regulations set out a series of time limits for speedy trial cases as well as states that the trial can be expedited by omitting both court investigation [*fating diaocha*] and court debate [*fating bianlun*] (China, The Supreme People's Court, 2014). However, the regulations require that criminal cases must meet the criteria for the application of speedy trial: (1) the defendant is charged with a certain type of minor offense[7] and the possible sentencing outcome must be no longer than one year of imprisonment; (2) the criminal facts are clear, and the evidence is credible and sufficient; (3) the defendant pleads guilty

[7] The list includes only eleven crimes types, which are: DUI [*weixianjiashi*], traffic offence [*jiaotongzhaoshi*], theft [*daoqie*], fraud [*zhapian*], assault [*guyishanghai*], snatch[*qiangduo*], pick a quarrel [*xunxinzishi*], unlawful detention [*feifa jujin*], drug crime [*duping fanzui*], bribery [*xinghui*] ,and causing a disturbance in public[*raoluan gonggongzhixu*].

and there is no dispute over the applicable law; (4) the defendant agrees to the prosecutor's sentencing recommendation and the use of the speedy trial procedure.

Compared to the *renzui renfa* program that will be discussed later, the speedy trial pilot in 2014 was indeed a relatively small-scale pilot, which restricted the scope of its application to a small group of defendants with specific criminal charges. Also, despite employing the guilty plea and simplified criminal process, this program is different from conventional plea bargaining. First, in the speedy trial, the guilty plea does not necessarily result in an official concession related to the charge or sentence. [8]Second, negotiation between the defendant and the prosecutor is not emphasized. In other words, formal bargaining is typically nonexistent in the speedy trial.

2.2.2 Local experiments with the Chinese version of plea bargaining (2016-2018)

The supposed success of the speedy trial pilot provided justification for the adoption of the second program in China. On September 3, 2016, the Standing Committee of the National People's Congress passed another decision to authorize the Supreme People's Court and the Supreme People's Procuratorate to develop a Chinese version of plea bargaining in the criminal justice system, which is called *renzui renfa congkuan*[imposing lenient punishments on those pleading guilty and accepting punishments]. Like the speedy trial program, this pilot was implemented in the same 18 cities.

The general idea of this program is that leniency may be offered to defendants who plead guilty, agree with the prosecutor on the sentencing recommendation, and sign

[8] According to the regulation, defendants entering the speedy trial could, rather than should receive a lenient sentencing (Article 13) (China, The Supreme People's Court, 2014).

a plea agreement. Compared to the speedy trial program, this program gives defendants more rights in the criminal process, making it closer to the conventional model of plea bargaining in Western countries. First, the official document explicitly states that defendants who plead guilty and who reach an agreement with the prosecutor could receive lenient sentencing. Second, this program acknowledges that the defendant and the prosecutor can negotiate as two parties on the sentence (The Supre Court of People's Republic of China, 2018). In addition, the scope of this program is broader than the speedy trial. Defendants charged with all types of crime can enter the plea negotiation process, instead of only those committing minor criminal offenses (China, The Supreme People's Court, 2016). To clarify the relationship between speedy trial and plea bargaining, Table 2-1 outlines the differences and similarities.

Table 2-1 Comparison of the Chinese version of Speedy Trial and Plea Bargaining

Speedy Trial	Similarities	Plea Bargaining
● Only applied to eleven crimes	● Defendants plead guilty	● Applied to all crimes
● Bargaining process is not emphasized	● Prosecutor offers a sentencing recommendation	● Bargaining process is written in law
● Sentencing leniency is not an expected consequence	● Defendants agree on the sentencing recommendation	● Sentencing leniency is an expected consequence
	● An agreement between the defendant and the prosecutor is reached and presented to the judge	● Plea bargaining can be disposed of through speedy trial, as well as summary procedure and ordinary procedure

However, there exists one quality that sets the Chinese version of plea bargaining apart from plea bargaining in Anglo-American courts. While sentence bargaining is at the

center of the new system, charge bargaining is not permitted. This means defendants cannot bargain with the prosecutor for lesser charges or having some charges dropped (Gu, 2016; Zuo, 2017).

According to the proposal that the Supreme Court submitted to the Standing Committee of the National People's Congress, the *renzui renfa* program is expected to achieve several long-term goals. First, the notice claimed that this program could achieve to efficiently control crime while protecting the rights of the defendants because it encourages defendants to confess willfully, and discourages police to gather evidence in an illegal way. Second, the notice also mentioned that this program could practice the "temper justice with mercy" criminal justice policy[9] for it offers defendants who commit a minor offense and plead guilty an extra opportunity of receiving lighter sentencing. Finally, the notice stated that this program could optimize the criminal justice resources by expediting the dispositional process of "simple" cases and enable the court to invest more time in complicated cases or cases with insufficient evidence (China, The Supreme People's Court, 2016).

2.2.3 Establishment of formal systems of the Chinese version of speedy trial and plea bargaining (since 2018)

On October 26, 2018, the Standing Committee of the National People's Congress in China passed a decision on revising the criminal procedure law (CPL). One notable feature of the 2018 CPL is that it added several articles on the *renzui renfa* and *xingshi sucai* programs, which are the Chinese versions of plea bargaining and speedy trial

[9] "Temper justice with mercy" [*kuanyan xiangji*] is an expression that repeatedly appears in Chinese official documents. This expression emphasizes the mixture of the harsh and lenient measurements in the criminal justice system.

respectively. This remarked that the CPL revisions expanded these two legal systems nationwide.

For example, the first amendment of the 2018 CPL stated that "criminal suspects or defendants who voluntarily and truthfully confess their own criminal conduct, admit the facts of the crime as charged, and are willing to accept punishment could receive a lenient disposition." (Article 15). In addition, the 2018 CPL also added several detailed articles on how this system operates, such as the obligation of police to inform suspects their rights of guilty plea (Article 120), the obligation of prosecutor to record and transfer the plea agreement (Article 162), and the obligation of judge to review the voluntariness of guilty plea (Article 190).

In addition, the 2018 CPL added a new section on speedy trial. It stated that " speedy trial applies to cases where the possible sentence is shorter than 3 years imprisonment, the facts are clear and the evidence is credible and sufficient, and the defendant admits guilt and accepts punishment and agrees to use the speedy trial" (Article 222) . In addition, it provided noted that "speedy trial cases are not subject to the time limits for service, and court investigation or courtroom debate are usually not carried out, and the verdict should be announced at court (Article 224).

Therefore, the 2018 CPL indicates changed the Chinese versions of speedy trial and plea bargaining from pilot programs to formal systems in Chinese criminal justice.

2.3 Prior research

In Chinese academia, there has been heated theoretical debate over whether the introduction of *renzuirenfa* is beneficial. On the promising side, some scholars argue that

this program can help to minimize contentiousness between prosecutors and defendants (Qian, 2018) and offers an extra opportunity for defendants to receive lenient sentencing (Chen W. , 2016). In addition, based on the essential role that plea bargaining plays in Anglo-American courts, its establishment in China is expected to resolve the problem of insufficient legal resources and help achieve greater efficiency in the criminal justice system (Chen R. , 2016; Wang, 2017; Wei X. , 2016) . On the concerning side, however, first, similar to the critics of plea bargaining in U.S. academia, many Chinese scholars argue that this program may compromise the rights of defendants. It is possible that guilty plea is manipulated by the police and prosecutors and defendants do not have the bargaining power to obtain a lighter sentencing outcome (Chen R. , 2016; Xiong, 2016). Also, because poor accused persons who are not familiar with the criminal justice system tend to accept the prosecutor's offer in an unthinking way, plea bargaining possibly deprives those people of all rights they should have in a trial (Jia, 2018; Zuo, 2017)[10]. Second, victim compensation has been a critical factor in the sentencing decision in China. Some scholars argue that plea bargaining emphasizes an agreement between the defendant and the prosecutor. In this mode, victims cannot exert their influence on the disposition of cases. Therefore, the introduction of plea bargaining may harm the rights of victims (Chen R. , 2006; Xiong, 2016). However, all these discussions are theoretical analyses, but rather less attention has been paid to the empirical study of how the plea bargaining program *actually affects* the criminal justice system. This paper aims to contribute to the understanding of the plea bargaining program by using a social science-

[10] Like the discussion in the U.S. literature, some Chinese scholars also mentioned that the plea bargaining may encourage innocent people to plead guilty. And the standard of evidence may be lowered, thus increasing the risk of wrongful conviction (Sun, 2018; Xiong, 2016).

oriented approach to examine how these legal reforms really work and help the theoretical study of law and the legal system to join part of larger empirical legal studies movement (Eisenberg, 2011).

There has been considerable literature devoted to empirical legal study of the practice of plea bargaining in the U.S. The research questions include the consequences of plea bargaining (Albonetti, 1998; Bushway & Redlich, 2012; Kutateladze & Lawson, 2018), analyses of what types of cases tended to be disposed of through plea bargaining (Boylan, 2012; Dervan & Edkins, 2013; Meyer & Gray, 1997), and explanations as to why plea bargaining occurs (Guidorizzi, 1998; Vogel, 2008). Because plea bargaining has been widely used in the U.S. criminal justice system since the late nineteenth century (Alschuler, 1979; Vogel, 1999), most empirical studies are done in a criminal justice system in which plea bargaining is already a common practice. Consequently, their studies cannot answer the counterfactual question whether the existence of plea bargaining is desirable for the whole criminal justice system.

A few other studies try to investigate the effects of plea bargaining by evaluating the impact of policy changes on plea bargaining. For example, in 1975, the state Attorney General in Alaska declared that prosecutors would no longer engage in charge bargaining or sentencing bargaining. This legal reform offered scholars the opportunity to review the question whether plea bargaining is indeed necessary. One short-term evaluation (Rubinstein & White, 1979) shows that both charge bargaining and sentence bargaining became rare events in Alaska during the first year of the policy, and the ban did not increase the mean case disposition time as expected. In addition, while the sentence for property crimes increased after the policy, the ban had no impact on the sentencing for

violent crimes. Secondly, Carns and Kruse (1992) reevaluate this policy more than ten years after plea bargaining was banned in Alaska. They find that the charge bargaining reappeared in the 1980s, but the sentencing bargaining is still avoided in Alaska. And the trial rate did increase in the first year after the ban, from 7% of all cases to 10%, but dropped back to 7% in 1984 and stayed at that level through 1987, suggesting less rigid enforcement of the ban. Moreover, they find that after the ban, prosecutors applied a more rigorous screening policy, more defendants openly pled guilty, and the overall sentence lengths increased substantially. However, one potential limitation for one-unit before-after design studies is that they cannot rule out temporal changes. For example, Carns and Kruse (1992) admitted that Alaska revised the criminal code and introduced a new presumptive sentencing statute after the institution of the ban in 1975. Therefore, it is possible that the changes that occurred in the criminal justice system are due to these policy changes, rather than the plea bargaining ban.

Because of the unusual nature of the criminal justice system in China, the empirical results of studies conducted in the American criminal justice system cannot offer straight *ex ante* prediction for the effect of introduction of the Chinese version of plea bargaining. Similar to these empirical studies on the plea bargaining ban in Alaska, this paper also uses a policy change to evaluate plea bargaining. However, it is worthwhile to note that one feature of the way that China began its plea bargaining would be beneficial to develop a more valid empirical study, that is, the pilots conducted by the policymaker. As discussed in the background part, the speedy trial and the plea bargaining program was carried out only in several pilot cities. Therefore, a difference-in-differences design, which compares a pilot city and its comparable control city both

before and after the policy change, can be used to adjust for temporal changes and help us to persuasively examine the real effect that the legal reform had.

2.4 Research Setting, Data and Measurement

2.4.1 Research Setting

In program evaluation, one potential threat to a simple before-after time-series design is that the changes in dependent variable can be said to be attributable to events other than the treatment that occurred at the same time. A solution to this problem is to add a control group to the time series analysis and conduct a difference-in-differences analysis. In my research project, to examine the causal effect of the speedy trial and the plea bargaining programs on the criminal justice system in a pilot city, I need to compare the cases tried by courts in a pilot city to those tried by courts in a comparable control city, which is similar to the pilot city but did not experience the same legal reform for a time period. Specifically, the control city should have the following characteristics: First, it should have very similar demographic, political and economic attributes as the pilot city.[11] Second, to ensure homogeneity in the criminal justice system, the control city and the treatment city should be in the same jurisdiction. In other words, geographically, they should be in the same province. Third, the pretreatment condition in the pilot city and the control city should be similar. This means neither of them developed a unique way to deal with DUI cases before the speedy trial program was carried out. [12]

[11] Therefore, just as it is difficult to find a city comparable to New York City or Washington D. C. in the United States, we are not able to find a control city for metropolitan areas such as Beijing and Shanghai in China. In addition, as for pilot cities located in the middle or western part of China, there are no other cities in the same province that have similar demographic, political and economic attributes since the pilot city itself is the only center in its province

[12] For example, at first, I considered using the pilot city Hangzhou and its control city Ningbo as my

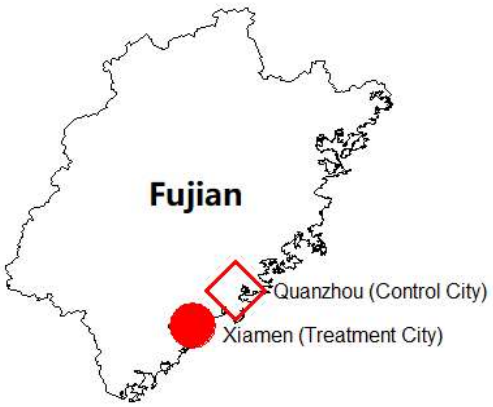

Figure 2-1 Map of Fujian Province with Xiamen (Treatment) and Quanzhou (Control)

Taking all these factors into consideration, I selected one pilot city, Xiamen, and its corresponding control city, Quanzhou, as my study targets. Figure 2-1 shows that both cities are located in southeastern Fujian province and border each other. The spatial adjacency implies similar demographics and culture across these two cities. Table 2-2 shows that the urban and rural per capita income (PCI) in these two cities are very close, indicating that they are both in China's well-developed areas. More importantly, the last column of Table 2-2 shows that the annual DUI arrest rate in both cities are almost identical, supporting that there is little difference in the DUI crime rate between these two cities. Finally, as far as I know, neither of these two cities carried out a local reform to deal with DUI cases before the pilot programs took effect. Therefore, the pretreatment conditions in these two cities are alike.

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research targets. However, I found that Hangzhou developed a fast-track criminal procedure to deal with DUI case before the speedy trial program was started. In fact, the overall case disposition time for DUI cases in Hangzhou was already extremely short even before the speedy trial was introduced——most DUI cases were disposed within ten days. Therefore, the speedy trial program can hardly exert extra effects on the case disposition of DUI cases in Hangzhou.

Table 2-2 Comparison of Xiamen (Treatment) and Quanzhou (Control)

City	Population (million)	PCI urban (dollar)	PCI rural (dollar)	No. of Courts	Average DUI caseload per year	Annual DUI arrest rate per 100 K people
Xiamen (Treatment)	3.92	6703	2737	6	1,217	31.03
Quanzhou （Control)	8.58	5747	2490	11	2,796	32.58

Note: PCI refers to per capita income. The unit was transformed from RMB to dollars.

Moreover, although the treatment city and control city is similar in the criminal justice system as well as demographic and economic attributes, it is still possible that a historical event other than the policy intervention could affect either the treatment or the control city. However, in a difference-in-differences design, this is not a concern unless this event only occurred to one of the two and significantly changes factors that are relevant to the dependent variable. In the context of my project, one factor is considered closely related to the disposition of DUI cases, that is, the overall crime severity.

To exclude this possibility, Figure 2-2 shows the trend of mean blood alcohol concentrations (BACs) of all charged DUI cases in both cities, which is the critical indicator of overall crime severity. As can be seen in this figure, the lines of treatment city and control city intertwine with each other across all time periods, and their confidence intervals overlap with each other. Therefore, there exists little possibility that a local event that changed the overall crime severity in either of the treatment or control city.

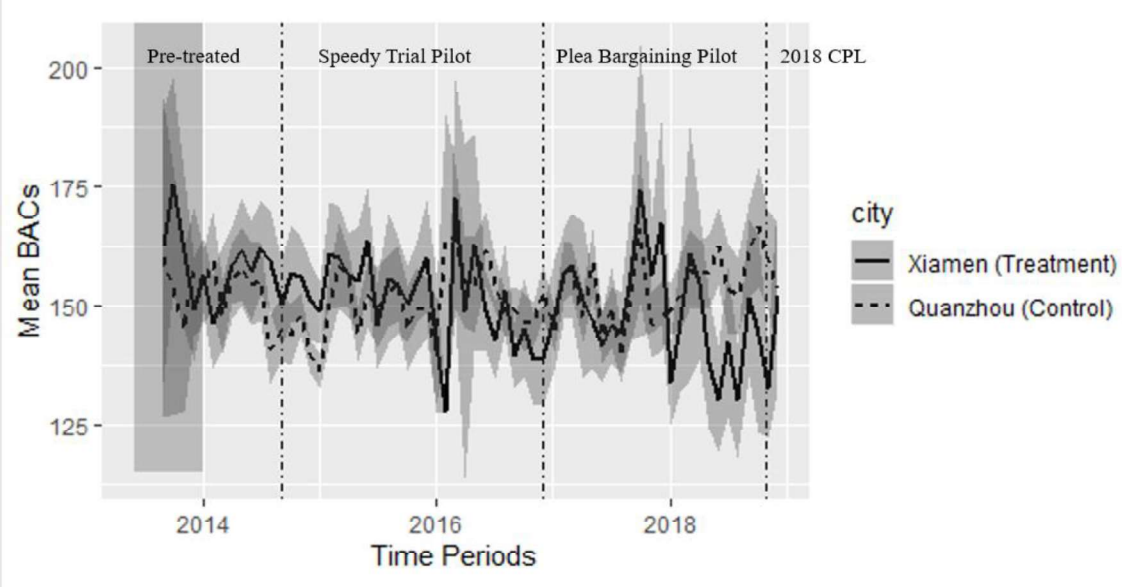

Figure 2-2 The time trend of BACs of Xiamen (Treatment) and Quanzhou (Control)[13]

After verifying key assumptions for a valid difference-in-difference design, this paper tries to answer the following research questions: First, because one policy goal of the Chinese version of speedy trial and plea bargaining is to expedite the handling of "simple" cases, taking DUI as an example, this paper aims to examine, compared to the control city, whether courts in pilot city were able to handle DUI cases more quickly after these two programs were carried out. Second, since the official documents claimed that these two programs could offer defendants extra opportunity of receiving a light sentence, I also assessed whether the overall sentence became more lenient in the pilot

[13] As noted in the data part, in this graph, the first period refers to the pretreatment period during which neither city was allowed to use a speedy trial or plea bargaining. The second period refers to the speedy trial piot period during which only Xiamen began to use the speedy trial to deal with DUI cases. The third period refers to the plea bargaining pilot period during which only Xiamen was able to use plea bargaining as well as speedy trial. The fourth stage refers to the national practice period during which both cities practiced in the speedy trial and plea bargaining. The following graphs are labelled in the same way.

city after the Chinese version of speedy trial and plea bargaining were introduced. Third, considering some literature argues that one side-effect of the plea bargaining system is that it ignores victim's benefits, this study also tries to examine whether these two programs discouraged victim compensation in the pilot city.

2.4.2 Data and Measurement

On July 1, 2013, the Supreme Court in China created a centralized website, called "China Court Judgments" [*zhongguo vaipan eenshuwang*]. At the same time, the Supreme Court began a new set of regulations, which are still in use today. The general principle of these regulations is that any document that reflects the termination of a case should be made public unless it falls into a specific excluded category (China, The Supreme People's Court, 2013).[14] In addition, according to the press conference held by the Supreme Court in January 2014, local courts were required to release the case number of any decision deemed unsuitable for posting online, and explain why the judgment could not be made public. This rule further institutionalized the publicizing of the court decision (China, The Supreme People's Court, 2016).[15]

In this research project, 19,955 judgments on DUI cases judged by courts located in Xiamen and Quanzhou were downloaded and coded. According to the current Chinese law, drivers would be sentenced to jail time from 1 to 6 months if the alcohol level in

[14] The latest version of the regulation further explicitly emphasized that courts should upload all decisions online unless they are exceptions for certain types of cases, that is cases involving state secrets, juvenile criminal cases, disputes concluded through mediation, divorce and adoption cases, and other documents deemed "inappropriate" to publicize. See the Supreme People's Court: *Guanyu renmin fayuan zai hulianwang gongbu caipan wenshu de guiding* [Regulations on the Publicizing Court's Decisions Online], August 29, 2016.

[15] For other recent work using this database, see Liebman, B. L. (2015). Leniency in chinese criminal law: Everyday justice in henan. *Berkeley Journal of International Law*, 33(1), 153-222.Wei, S., & Xiong, M. (2019). Judges' Gender and Sentencing in China: An Empirical Inquiry. *Feminist Criminology*, 1-34.

their blood surpasses 80 milligrams per 100 milliliters. This study focuses on DUI cases for three primary reasons. First, DUI cases are one of the most common minor crimes in China. According to an annual report provided by the Supreme People's Court, local courts tried more than 1.27 million DUI cases from 2013 to 2018 all over China (China, The Supreme People's Court, 2018). How the courts dispose of a common minor crime would be a good indicator of whether the criminal justice system achieves its goal of expediting the disposition of "simple" cases as policymakers expected. Second, for my purposes, to evaluate the effect of the reforms, DUI cases are one of the eleven crime types covered by both *xingshi sucai* as well as the *renzui renfa* pilot program. One report also shows that the number of DUI ranked first among all *renzui renfa* cases (Shangquan Law Office , 2018). Therefore, the empirical results on DUI cases could provide information on how these two related legal reforms affect the disposition of a single type of crime. Third, from the perspective of empirical design, compared to other criminal cases, the judgment of the DUI cases is relatively simple to code. Few DUI cases involve co-offenders. Moreover, in every DUI case, the judgment lists blood test result of the defendant, which is the most critical indicator of the defendant's crime severity. The existence of this evidence enables us to control the decisive factor that influences the sentencing outcome in my empirical analysis, helping us to identify the real effect of external shock on the sentencing outcome.

This paper aims to examine changes in a series of dependent variables before and after the Chinese version of speedy trial and the plea bargaining pilot programs. my data include DUI cases tried in both cities across four time periods. The pretreatment period was from the date when the first DUI case was uploaded online on June 1, 2013 to the

date when the speedy trial pilot began on August 22, 2014. During this period, neither city was allowed to use a speedy trial or plea bargaining. The speedy trial pilot period was from the beginning of the speedy trial pilot to the date when the plea bargaining pilot began on November 11, 2016. During this period, courts in Xiamen began to use the speedy trial to deal with DUI cases, while courts in Quanzhou did not carry out this reform. The plea bargaining pilot period was from the beginning of the plea bargaining pilot program to the date when the 2018 CPL was enacted on October 26, 2018. During this period, courts in Xiamen were able to use plea bargaining as well as speedy trials, while neither of these two systems was used in Quanzhou. The final stage was from October 26, 2018 to the end of the study period on January 31, 2019. During this period, the new CPL made the Chinese version of speedy trial and the plea bargaining a nationwide practice, and therefore both programs were practiced in both cities.

Existing literature shows that it is possible that local courts may fail to publish a portion of cases due to various reasons, and the missing data varies widely by court and case types (Liebman et al. 2017). To test the coverage of my dataset, I matched my dataset to two news reports provided by the local prosecurate in Xiamen. According to their reports,[16] 2,912 DUI cases were charged in Xiamen in 2014 and 2015. In my dataset, I found 2,812 DUI cases tried in these two years.[17] This shows that my dataset covers 96.6% of all the DUI cases reported by the prosecutor during the same period.

[16] The annual report in 2014 is found on https://xw.qq.com/cmsid/FJC20141205011376 00. The annual report in 2015 is found on https://m.v4.cc/News-661608.html.

[17] One reason why the annual number of tried DUI cases cannot exactly match the annual number of charged DUI cases might be that it usually takes the criminal justice system three to four month to deal with a DUI case. Therefore, a DUI case can be charged by a prosecutor at the end of a given year and tried by the court at the beginning of the next year.

Therefore, it supports my assumption that local courts had released almost all the judgments of DUI cases since 2014.

This study analyzes the effect of the Chinese version of speedy trial and plea bargaining programs on three case outcomes: the case disposition time, the sentencing outcome, and the victim compensation. Consequently, they are primary dependent variables in my analysis. First, case disposition time refers to the number of days of filing a complaint to the final trial court outcome. This variable measures how fast a case was handled. Second, the sentencing outcome includes two aspects: the length of sentence and the probation decision. On the one hand, in my dataset, every defendant is given a sentence, ranging from one to six months. On the other hand, however, some defendants do not need to serve their sentence in jail because the judge grants probation to these defendants. Both variables were coded to measure sentence leniency. Finally, in my dataset, a number of defendants' drunk driving caused injuries, which means there are victims in these DUI cases. To examine whether both programs discouraged victim compensation, a dummy variable of whether the victim was compensated was also included in the analysis.

In addition, regarding the sentence analysis, prior literature shows that a number of variables reflecting the blameworthiness of the defendant and the seriousness of the crime affect the sentencing outcomes in DUI cases (Meyer & Gray, 1997). Therefore, a number of legal relevant variables were coded as control variables in sentence analysis. First, as noted, in each case, I coded the most critical indicator of the defendant's crime severity in DUI, which is the blood alcohol concentrations (BACs). Second, other legal aggravating factors such as prior criminal records of the defendant, and whether an

accident was involved in the DUI offense as well as mitigating factors including whether the defendant confesses or voluntarily surrenders were also included in my analysis. Finally, because the official sentencing guideline in China[18] suggests that the victim compensation should be considered in the sentence, this variable was also coded as a control variable in my sentence analysis.

Table 2-3 Descriptive Statistics of Coded Variables

Variable	Full Sample(N=19,955) (I)	Xiamen (N=5,870) (II)	Quanzhou (N=14,085) (III)
Case Disposition Time (Days)			
Mean	125.3	100.2	135.7
SD	188.9	133.3	207
Sentence Length (Months)			
Mean	2.3	2.43	2.24
SD	1.25	1.4	1.17
Probation Decision （%）	40.4%	49.1%	36.9%
Victim Compensation （%）	11.2%	8.3%	12.5%
BACs (mg/ 100ml)			
Mean	150.8	151.4	150.5
SD	50.1	57.1	54.3
Prior Criminal Record （%）	10.5%	7.8%	11.6%
Accident Involved （%）	26.4%	24.1%	27.4%
Confession （%）	10.5%	94.1%	96.5%
Voluntary surrender （%）	26.4%	19.5%	15.9%

2.5 Methodology

This paper estimates the effects of both pilot programs on the criminal justice system. My research unit is each DUI case in my dataset. For example, to estimate both

[18] China. The Supreme People's Court: *Zuigaorenminfayuan guanyu changjian fanzui de liangxing zhidaoyijian* [Sentencing Guidelines on Typical Offences], July 31, 2014.

programs' effect on the case disposition time, the difference-in-differences baseline model is presented in the following form:

$$\log(disposition\ time)_{it} = \beta_0 + \beta_1 pilot\ city_{it} + \beta_2 speedy\ trial_t + \beta_3 plea\ bargaining_t + \beta_4 pilot\ city_{it} * speedy\ trial_t + \beta_5 pilot\ city_{it} * plea\ bargaining_t + \epsilon_{it}$$

(1)

$\log(disposition\ time)_{it}$ is the log transformation of case disposition time of a certain DUI case. $pilot_{it}$ indicates whether the city in which this case was tried was a pilot city at time t. Before October 26, 2018, Xiamen was a pilot city having his variable equal to 1, while Quanzhou was a control city having this variable equal to 0. However, after October 26, 2018, because the new CPL expanded pilot programs to all cities, this variable equals to one for both Xiamen and Quanzhou. $speedy\ trial_t$ and $plea\ bargaining_t$ indicate whether either of these two legal reforms was introduced at this time period. The variable $speedy\ trial_t$ changes from 0 to 1 after the speedy trial was started on August 22, 2014. Since the speedy trial is still being used after the plea bargaining program was carried out after September 3, 2016, this variable continues to be 1 at the second stage of this legal reform. In contrast, the variable $plea\ bargaining_t$ becomes 1 only after the second stage of plea bargaining reform was started. Therefore, the coefficients of interest are β_4 and β_5, which capture the change of courts in the pilot city after a legal reform compared to those courts in control cities. β_4 estimates the effect of how the speedy influences the case disposition time ever since this program was carried out. β_5 shows the extra effect of the introduction of plea bargaining on case disposition time after controlling for the effect of the speedy trial program.

It is possible that variations across different courts could confound my estimates. Therefore, the second model includes a court fixed effects:

$$log(disposition\ time)_{it} = \beta_0 + \beta_1 pilot\ city_{it} + \beta_2 speedy\ trial_t + \beta_3 plea\ bargaining_t + \beta_4 pilot\ city_{it} * speedy\ trial_t + \beta_5 pilot\ city_{it} * plea\ bargaining_t + court_{c(i)} + \epsilon_{it}$$

(2)

I use similar models to estimate both programs on jail sentence. However, because the distribution of jail sentence is not significantly skewed. I use OLS without log transformation. In addition, considering variables reflecting the blameworthiness of the defendant and the seriousness of the crime could influence the sentencing decision, I add a series of control variables to the equation:

$$Jail\ Sentence_{it} = \beta_0 + \beta_1 pilot\ city_{it} + \beta_2 speedy\ trial_t + \beta_3 plea\ bargaining_t + \beta_4 pilot\ city_{it} * speedy\ trial_t + \beta_5 pilot\ city_{it} * plea\ bargaining_t + \beta_6 BAC_i + \beta_7 accident_i + \beta_8 victim\ compensation_i + \beta_9 confession_i + \beta_9 voluntary\ surrender_i + court_{c(i)} + \epsilon_{it}$$

(3)

Finally, to examine the effects on probation decision and victim compensation, I use logistic regression and the odds ratio to estimate both programs on the likelihood that one outcome will occur. For example, the model of effects on victim compensation is:

$$\log \frac{P_{it}(victim\ compensated)}{1-P_{it}(victim\ compensated)} = \beta_0 + \beta_1 pilot\ city_{it} + \beta_2 speedy\ trial_t + \beta_3 plea\ bargaining_{it} + \beta_4 pilot\ city_{it} * speedy\ trial_t + \beta_5 pilot\ city_{it} * plea\ bargaining_t$$

(4)

$victim\ compensated$ is a variable to indicate whether the victim in this DUI case is compensated. And $\exp(\beta_4)$ and $\exp(\beta_5)$ indicate the effects of the speedy trial program and the plea bargaining program on the odds of the victim being compensated (versus not being compensated).

2.6 Results

2.6.1 Were the legal reforms implemented? The change of the composition of case dispositions

Before examining the effects of pilot programs on the case disposition time, sentencing outcome, and victim compensation, I need to check whether the legal reforms *truly* changed local courts' behavior in pilot cities. Despite the announcement by SPC at a specific time, it is possible that local courts refused to apply them. If it were true, it would be meaningless to evaluate whether speedy trials or plea bargaining influenced the criminal justice system.

According to the 2012 version of criminal procedure law in China, at that time there were two types of criminal procedure in the Chinese criminal justice system: one was the ordinary procedure, and the other was the summary procedure, in which the defendant admits his or her crime and agrees to a compacted criminal process.[19] However, once the speedy trial became a new type of criminal procedure in 2014, pilot cities are supposed to have three types of criminal procedures, from the most complete to the most compacted, namely, the ordinary procedure, the summary procedure, and the

[19] In summary procedure, cases were and are still allowed to be tried by a single judge, thus eliminating several criminal procedures such as interrogating the defendant, questioning the witnesses and expert witnesses, and cross-examination. In addition, the time required for trial was reduced from three months to twenty days.

speedy trial. Therefore, the first thing I want to test is whether the first stage of legal reform was truly implemented.

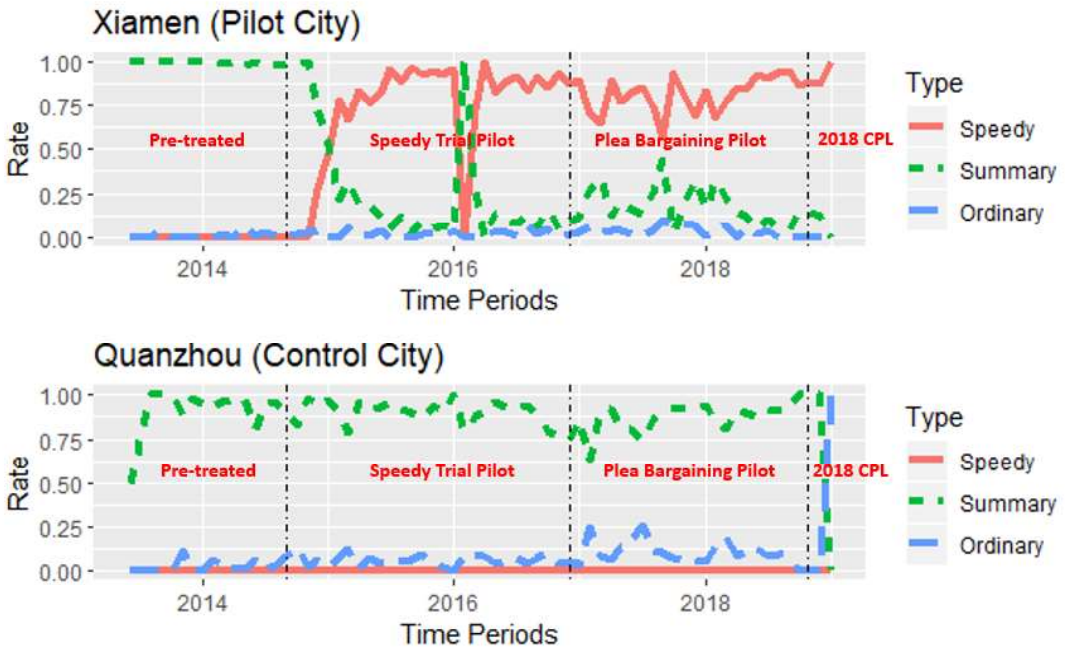

Figure 2-3 Case Disposition for DUI Cases in Xiamen and Quanzhou by Month

Figure 2-3 shows the time trend of the composition of case dispositions across time-series in both cities. As can be seen in the figure, the ordinary procedure is the least common case disposition both before and after the pilot programs took place. This means the vast majority of defendants admit their crime before entering the court. Before the speedy trial was introduced, courts in both pilot city and control city used the summary procedure as their main case disposition. However, after August 22, 2014, Xiamen, as a pilot city, started to use speedy trial in November 2014, three months after the notice of SPC was released. And after January 2015, more cases were disposed of through speedy

trial than any other case disposition. In the meantime, however, the summary procedure continues to be the most common case disposition in Quanzhou, and this pattern exists even after the 2018 CPL were enacted. This means, although the new CPL allowed all cities to use the speedy trial, this system was not widely used in Quanzhou.

The second stage of reform focused on the use of plea bargaining in the pilot city. Table 4 demonstrates the composition of case dispositions in Xiamen after the second stage reform was announced. According to the table, 414 DUI cases were disposed of through plea bargaining out of 1959 cases in Xiamen, constituting 21.1%. In addition, I do find there exists an obvious correlation between plea bargaining and criminal procedures: the vast majority of plea bargaining cases (almost 84.3%) were disposed of through speedy trial.

Table 2-4 Case Dispositions after the Introduction of Plea Bargaining Pilot in Xiamen (N=1,959 cases)

Case Disposition	Plea Bargaining	Not Plea Bargaining	Total
Ordinary Procedure	9	55	64
Summary Procedure	66	278	344
Speedy Trial	349	1,244	1,593
Total	414	1,545	1,959

In conclusion, it is confirmed that both the speedy trial program and the plea bargaining program changed court behaviors in the pilot city, Xiamen. The first stage program causes the speedy trial to become the most common criminal procedure to resolve DUI cases in the pilot city, while the control city Quanzhou still use the summary procedure to deal with most DUI cases. As for the second stage of reform, plea

bargaining became an important case disposition in Xiamen. And most plea bargaining took place in cases that were disposed of through the speedy trial procedure. However, I also noticed that there is no evidence showing that the 2018 CPL changed court behaviors in Quanzhou. One possible explanation is that because I only have data three months after the 2018 CPL was enacted, most courts were not able to apply the new law in such a short time period.

2.6.2 Effect on case disposition time

One policy goal of the Chinese version of speedy trial and plea bargaining programs is to enhance the efficiency of the criminal justice system. In each case, how efficient the case is resolved is usually indicated by the case disposition time, measured from the dates of filing a complaint to the final trial court outcome.

Figure 2-4 shows the distribution of case disposition time in Xiamen and Quanzhou by time periods. As can be seen in the figures for the pilot city, Xiamen, the most frequent case disposition time was above 50 days in the pretreated period. However, after the speedy trial program was carried out, the center of the case disposition time distribution slightly shifts to the left, showing the most frequent case disposition time in Xiamen became shorter than 50 days. In addition, the distribution became less spread and more positively skewed, and the right side of the distribution gets thinner. This trend continued after the plea bargaining pilot as well as the 2018 CPL was introduced, indicating that after the speedy trial and the plea bargaining program was carried out, more DUI cases were being handled quickly, and fewer DUI cases took the criminal justice system a long time to deal with. However, this did not occur in the control city, Quanzhou. In fact, the figure for Quanzhou shows that during the same period, the right

side of the distribution in the Quanzhou became slightly thicker, indicating that contrary to the pilot city, more DUI cases in the control city consumed longer disposition time. Notably, although the 2018 CPL allowed Quanzhou to use speedy trial and plea bargaining as well, the overall case disposition time did not become shorter correspondingly.

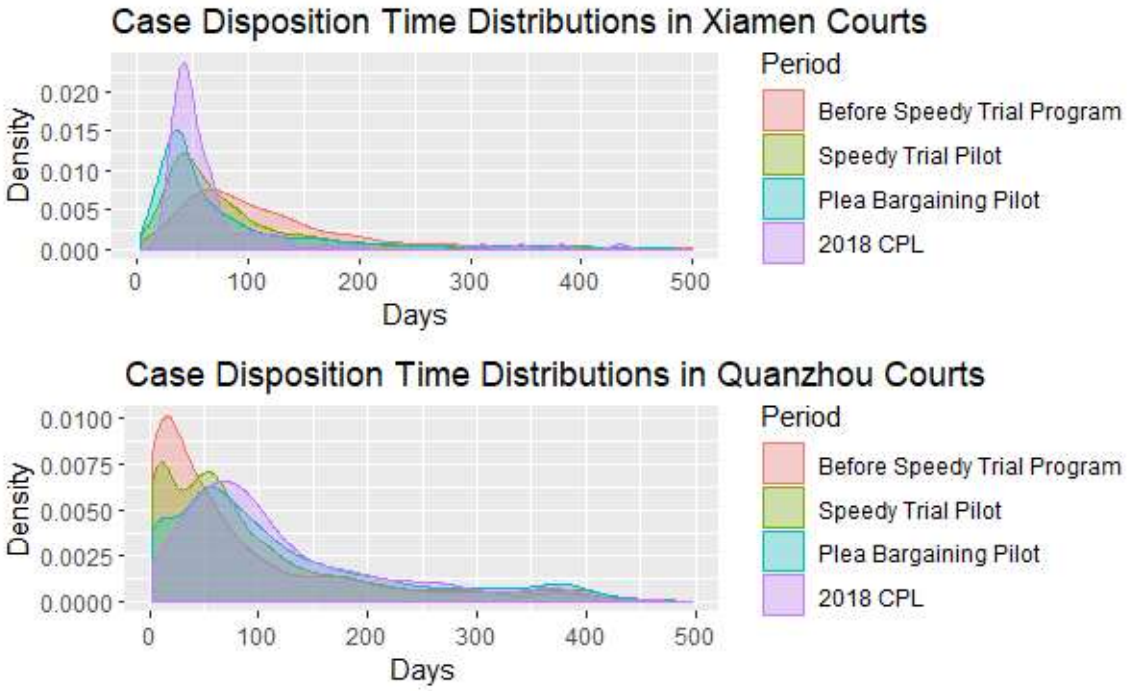

Figure 2-4 Distribution of Case Disposition Time for DUI Cases

To verify the conclusions drawn from Figure 2-4, I use the difference-in-differences model to estimate the effects of both legal reforms on the case disposition time. Since the case disposition time is highly skewed and the mean case disposition time is likely to be significantly affected by outliers, I apply the logarithmic transformation on the dependent variable. The regression results are shown in Table 2-5. As can be seen in the table, both interaction terms are statically significant. This model estimates that on

average, compared to the control city, the case disposition time in the pilot city decreases by 48.4 percent after the speedy trial system was used and the plea bargaining pilot further decreases the case disposition time by 31.1 percent. Considering that variations across courts could confound the results, I added court fixed effects. The results still show that both the speedy trial program and plea bargaining significantly reduce the case disposition time in the pilot city: compared to the control city, the case disposition time in the pilot city decreases by 48.8 percent after the speedy trial program was carried out, and further decreases by 26.7 percent after the plea bargaining program was started.

Table 2-5 Difference-in-differences of Logarithmic Transformation of Case Disposition Time

Coefficients of Interest	Estimate	Std. Error	100(exp(β)-1)	Estimate	Std. Error	100(exp(β)-1)
Pilot City * Speedy Trial Program	-0.66***	0.05	-48.4	-0.67***	0.05	-48.8
Pilot City * Plea Bargaining Program	-0.37***	0.04	-31.1	-0.31***	0.04	-26.7
Court Fixed	No			Yes		

Note: ***p<0.01

2.6.3 Effect on sentencing outcome

A common indicator of whether these two legal reforms impose leniency on defendants is the sentencing outcome. According to the regulations, defendants who entered the speedy trial or disposed of through a bargaining procedure *could* receive a lenient sentencing outcome. Therefore, one would expect that the introduction of the speedy trial and plea bargaining programs would result in a more lenient sentencing outcome.

Regarding the sentencing decision, the leniency of the sentencing outcome can be displayed in two ways. First, every defendant receives a declared jail sentence. Therefore,

it is possible that both programs led the courts to declare a shorter sentence. Second, despite the fact that a jail sentence is declared, some defendants do not need to serve the sentence because the judge grants probation and their sentence are suspended. As a result, a higher percentage of probation in DUI cases can also indicate sentencing leniency.

Figure 2-5 shows the mean sentence for DUI cases in both cities. As can be seen in the figure, the mean sentencing outcome of the control city, Quanzhou remains steady across all time periods, fluctuating between 2 to 2.5 months. However, the line of the pilot city, Xiamen, fluctuates more drastically. As can be seen in the figure, the mean declared sentence length in Quanzhou slightly increased after the speedy trial pilot program was carried out and then remained relatively stable until the end of this program. However, the mean declared sentence began to decrease half a year after the plea bargaining pilot was announced. This supports the idea that this program may result in a shorter declared sentence.

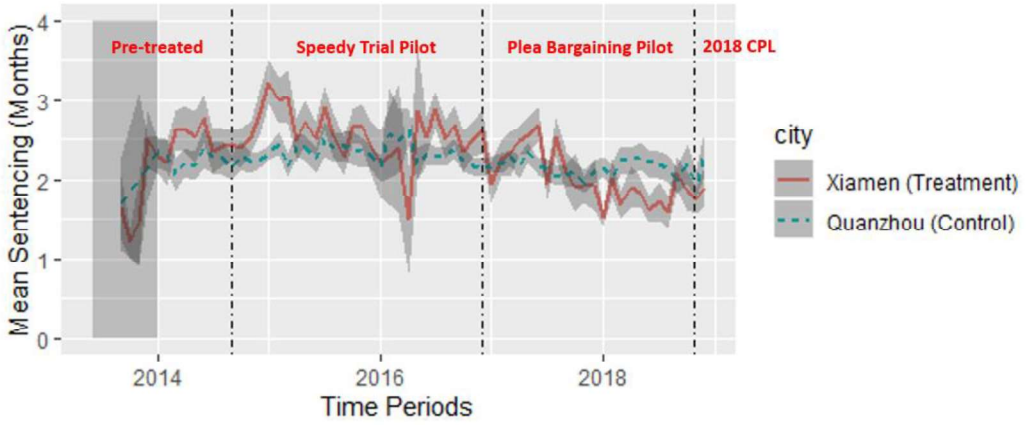

Figure 2-5 Time Trend of Mean Sentence for DUI Cases in both Cities

Table 2-6 shows the difference-in-differences analysis of sentencing outcome measured by, on average, how many months of jail sentence were declared. The first three columns show that compared to the control city, the mean declared sentence becomes 0.16 months longer in the pilot cities after the speedy trial program was carried out. But the plea bargaining pilot caused the declared sentence to reduce by 0.38 months. Considering the variables reflecting blameworthiness and crime severity could influence the sentencing decision, I added these control variables in the last three columns. The results are similar. After controlling all the other variables, the speedy trial pilot increased the declared sentence length by 0.18 months, while the plea bargaining pilot reduced the declared sentence length by 0.3 months.

Table 2-6 Difference-in-differences Analysis of Declared Sentence Length using OLS Regression

Coefficients of Interest	Estimate	Std. Error	p-value	Estimate	Std. Error	p-value
Pilot City * Speedy Trial Pilot	0.16***	0.06	<0.01	0.18***	0.06	<0.01
Pilot City * Plea Bargaining Pilot	-0.38***	0.04	<0.01	-0.30***	0.04	<0.01
Prior Criminal Record				0.14***	0.03	<0.01
BACs				0.006***	0.0002	<0.01
Accident Involved				0.06***	0.02	<0.01
Confession				0.5***	0.04	<0.01
Voluntarily Surrender				-0.32***	0.02	<0.01
Victim Compensation				0.14***	0.03	<0.01
Court Fixed	No			Yes		

***p<0.01

However, regarding the sentencing decision in misdemeanor cases like DUI, a shorter declared sentence may not necessarily mean true leniency. As noted, in my sample, a considerable number of defendants were granted probation. While they may

have a relatively longer declared sentence length, they do not need to serve their sentences. Figure 2-6 shows the time trend of the percentage of DUI cases in which probation is granted. As can be seen in the figure, the upward trends in these two cities are almost parallel before the introduction of the speedy trial program, indicating that the probability of probation was increasing in both cities. However, both lines stop rising around 2015. In particular, I see that the probation ratio of Xiamen began to steadily decrease, which means fewer defendants were granted probation in Xiamen courts, while the trend of Quanzhou remains relatively constant. Therefore, contrary to my expectations, in fact, figure 6 shows that defendants in cases tried in the pilot city are more likely to be sentenced to jail after the reform programs were introduced.

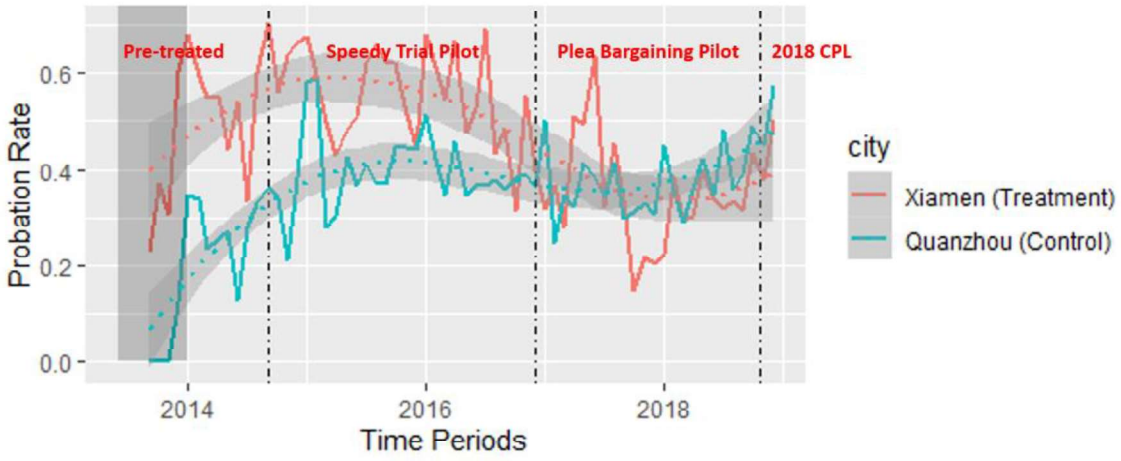

Figure 2-6 Time trend of Probation Ratio for DUI Cases in Both Cities

Table 2-7 demonstrates the difference-in-differences analysis of probation decisions using DUI cases in both cities. Similarly, it is worthwhile to note that the odds ratio of the interaction terms is significantly smaller than one, which means the introduction of these two legal reforms indeed leads to a decreased probability of a probation grant.

Specifically, for the pilot city, the speedy trial program and during the plea bargaining program, the odds of being granted probation (versus not being granted) decrease by a factor of 0.61 and 0.55, respectively. The estimates do not significantly change after I add court fixed as well as control variables.

Table 2-7 Difference-in-differences Analysis of Probation Decision using Logistic Regression

Coefficients of Interest	Odds Ratio	2.50%	97.50%	Odds Ratio	2.50%	97.50%
Pilot City * Speedy Trial Pilot	0.61***	0.5	0.74	0.63***	0.51	0.78
Pilot City * Plea Bargaining Pilot	0.55***	0.48	0.63	0.40***	0.34	0.46
Prior Criminal Record				0.21***	0.18	0.24
BACs				0.99***	0.99	0.99
Accident Involved				0.35***	0.32	0.39
Confession				3.19***	2.66	3.84
Voluntarily Surrender				1.15***	1.04	1.26
Victim Compensation				1.33***	1.16	1.53
Court Fixed	No			Yes		

***p<0.01

Therefore, Table 2-7 and Table 2-6 interestingly suggest contradictory conclusions on whether the plea bargaining pilot results in leniency. While Table 2-6 shows that the average declared sentence became shorter after this program was carried out, Table 2-7 suggests that fewer people were granted probation at the same time. To resolve this contradiction and examine whether the pilot programs brought true leniency, I created a new variable: *served sentence*. For defendants who do not receive probation, their served sentence equals the sentence declared by the judge. However, if defendants are granted probation, their served sentence changes to zero. Table 2-8 shows the difference-in-difference analysis of both programs' effect on the served sentence. As can be seen in the table, for the pilot city of Xiamen, during the speedy trial program and

during the plea bargaining pilot program, the mean of served sentence increases by 0.20 and 0.28 months, respectively. The estimates do not significantly change after I add court fixed effects as well as control variables. According to the last three columns, for a pilot city, the mean of the served sentence increases by 0.15 months. And it further increases by 0.41 months after the plea bargaining program was introduced.

Table 2-8 Difference-in-differences Analysis of Served Sentence using OLS Regression

Coefficients of Interest	Estimate	Std. Error	p-value	Estimate	Std. Error	p-value
Pilot City * Speedy Trial Pilot	0.20***	0.06	<0.01	0.15***	0.05	<0.01
Pilot City * Plea Bargaining Pilot	0.28***	0.04	<0.01	0.41***	0.04	<0.01
Prior Criminal Record				0.84***	0.02	<0.01
BACs				0.01***	0.00	<0.01
Accident Involved				0.56***	0.02	<0.01
Confession				-0.19***	0.04	<0.01
Voluntarily Surrender				-0.23***	0.02	<0.01
Victim Compensation				-0.04***	0.03	0.14
Court Fixed		No			Yes	

***p<0.01

In conclusion, my results show that both the speedy trial and the plea bargaining pilot did not bring real leniency for defendants. For the speedy trial program, not only did the average declared sentence become longer after the speedy trial program was carried out, but the probation rate decreased as well. Regarding the plea bargaining pilot, although I found that the average declared sentence length decreased after this program was carried out, the average time that defendants served in jail was actually increased because fewer defendants were granted probation at the same time.

2.6.4 Effect on victim compensation

Plea bargaining includes negotiations between the prosecutor and the defendant, which aim to reach a sentencing agreement between the two parties. Victim compensation is not so readily incorporated into plea negotiations because such negotiations are private and dominated by prosecutors. Therefore, some scholars suggest that one concern about the speedy trial and plea bargaining programs is that they may marginalize the victim's role in criminal process and defendants may feel it unnecessary to compensate the victim (Chen R. , 2016; Xiong, 2016). To test whether the victim's interests are less considered, I extracted my sample from only the DUI cases which caused injuries and examined whether these two legal reforms contributed to a lower likelihood of victim compensation.

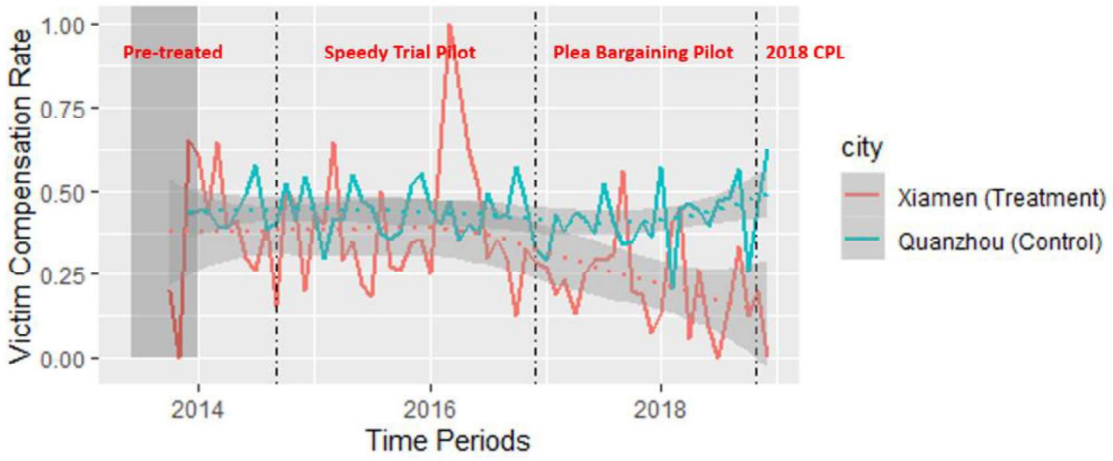

Figure 2-7 Time Trend of Victim Compensation Ratio for DUI Cases in both Cities

Figure 2-7 shows the time trend of the victim compensation ratio for the DUI cases involving injuries. As can be seen in the table, the smooth lines show, in general, a

lower percentage of victims in the pilot city, Xiamen, tend to be compensated than in the control city, Quanzhou across all time periods. In addition, the gap between these two lines became even larger after 2016. This indicates that compared to the control city, there existed a downward trend in victim compensation in the pilot city.

Table 2-9 shows the regression results of the difference-in-differences analysis. As can be seen in the table, I detect that both the plea bargaining and the speedy trial programs discourage victim compensation—for a pilot city during the speedy trial program and during the plea bargaining program, the odds of victim compensation decrease by a factor of 0.73 and 0.50,respectively. The estimates do not significantly change after I add court fixed variables.

Table 2-9 Difference-in-differences Analysis of Victim Compensation using Logit Regression

Coefficients of Interest	Odds Ratio	2.5 %	97.5 %	Odds Ratio	2.5 %	97.5 %
Pilot City * Speedy Trial Program	0.73*	0.51	1.06	0.73*	0.50	1.05
Pilot City * Plea Bargaining Program	0.70***	0.52	0.93	0.70***	0.52	0.93
Court Fixed	No			Yes		

*p<0.1***p<0.01

2.7 Discussion

As new types of case dispositions, the Chinese version of speedy trial and the plea bargaining programs are expected to achieve a series of policy goals, such as increasing the efficiency of the criminal justice system as well as offering leniency for the defendants. However, for various reasons, the matter is usually not this simple. This

paper evaluates these two programs based on a difference-in-differences design. The following conclusions and recommendations are suggested.

First, my results show that the speedy trial and the plea bargaining programs were able to shorten overall criminal disposition time in the pilot city. On the one hand, this suggests that by setting out time limits for criminal procedures and encouraging defendants to plead guilty in exchange for an agreement with the prosecutor, both the speedy trial and plea bargaining programs help the criminal justice system to deal with minor cases more efficiently. On the other hand, since I find that case disposition time continues to decrease even after the bargaining negotiation began to be emphasized. One explanation could be that the bargaining process does not take much time in practice. As some scholars suggested, underprivileged defendants are more likely to plead guilty in an unthinking way since they are not familiar with the criminal justice system (Jia, 2018; Zuo, 2017). In other words, in practice, the Chinese version of plea bargaining might actually be "a plea without a bargain."

Second, my results also show that the speedy trial and the plea bargaining programs did not result in overall leniency on defendants regarding probation decisions and served sentence. In fact, my results show that the introduction of these two legal reforms leads to a decreased probability of probation grant in the pilot city. There are two potential explanations for this finding. The first explanation is that this is due to the fact that plea bargaining is manipulated by the police and prosecutors and the defendant has no bargaining power (Chen R. , 2006; Xiong, 2016). Although many defendants pleaded guilty, they were not able to receive leniency as the regulations provided. As a result, the overall case outcomes did not become better after these two programs were carried out.

Another explanation, however, is that considering the Chinese criminal justice policy of leniency to those who confess, severity to those who resist [t*anbai congkuan, kangju congyan*], while the criminal justice system may have granted "plea discounts" on defendants who pleaded guilty, it also utilized these programs impose the "trial penalty" on defendants who choose to enter a full trial. If it is true, both programs cannot bring true benefits for defendants.

These findings suggest that although in written laws the *xingshi sucai* and *renzui renfa* programs have some featuresthat are similar to the plea bargaining in Anglo-American Courts - such as allowing defendants to plead guilty in exchange for some concession in sentencing as well emphasizing the importance of negotiation between defendants and prosecutor [*kongbian xieshang*], in practice, how these features were implemented could be problematic. This highlights the usual discrepancy between law on the books and law in action in the Chinese criminal justice system. As some Chinese scholars have mentioned, in China, most accused people are unrepresented and they are not familiar with the criminal justice system. Therefore, whether they fully understand the potential consequences of a guilty plea is highly questionable (Chen R. , 2016; Zuo, 2017). For example, in my sample I found that only 4 % of defendants have their own retained lawyers. Admittedly, both the 2018 CPL as well as the Lawyers for All program in China [*xingshi lvshi quanfugai*] required that an on-duty lawyer [*zhiban lvshi*] dispatched by a legal aid center to give defendants who did not hire a private lawyer some legal advice and be present when these defendants sign a plea agreement with the prosecutor. However, these on-duty lawyers do not act as a defense attorney and they will not appear in the court on behalf of the defendant. As most on-duty lawyers handle an

overwhelming caseload, there exists little possibility that they would take effort to bargain with the prosecutor for the benefits of their clients.

Therefore, rather than a system that claims to shift some power from prosecutor to defendants and thus offer an extra opportunity of receiving leniency, the Chinese version of speedy trial and plea bargaining is more like a case management system. Police, prosecutors, as well as courts mainly use this system to expedite handling 'simple' cases and therefore are able to allocate more resources on complicated cases. In this system, defendants have little bargaining power to negotiate with the prosecutor in exchange for a lenient outcome.

Finally, I detect that after the speedy trial and the plea bargaining programs were carried out, victims are less likely to be compensated in DUI cases. I may attribute this finding to the fact that an agreement between the prosecutor and the defendant does marginalize the role of victims in the criminal process. Defendants may be reluctant to compensate the victims in exchange for lighter sentencing. In the U.S. criminal justice system, there are several activities that define the emergence of the modern crime victims' rights movement (CVRM). The establishment of state victim compensation programs is a vital part (Young & Stein, 2004). Some scholars also discussed several approaches to protect the role of victim in plea bargaining cases (Manikis, 2012; O'Hear, 2007). In China, the protection of victim rights should also be a concern for policymakers in the future.

It should be noted that this paper has several limitations. First, it is true that courts are required to upload all decisions except for certain types of cases which are exempted, and I have verified that Xiamen did a good job of disclosing DUI cases. Nevertheless, I

are unable to find some other source to test the coverage of DUI cases in the control city, Quanzhou. Because disclosure rates may vary across courts, even within provinces and municipalities, the missing data problem in the control city will probably affect my analysis until I confirm that DUI cases published in the control city is representative all the cases.

Second, although I used a control city to lower the threat that historical events may obscure the effect of the intervention, I still cannot completely exclude the possibility that either the treatment city or the control city experienced some events that the other did not. If the confounding event occurred at the same time of the two legal reforms and had an effect in the same direction as the intervention, internal validity would be threatened. Third, there are eighteen pilot cities spreading over China. Based on my design, there is only one city can be subjected to a difference-in-differences design. Therefore, the extent to which the results of this study can be generalized to other pilot cities is questionable.

Third, this study only restricted to one type of criminal case—DUI. Although DUI is a typical type of simple cases disposed of through the Chinese version of speedy trial and plea bargaining, it has some characteristics that may prevent the accused party in DUI cases from significantly changing their case outcomes. For example, DUI cases have a relative narrow sentencing range, which is from 1 to 6 months. Additionally, the result of a defendant's blood test provides prosecutors in DUI cases with strong evidence, thus few defendants have the chance to refuse to plead guilty. It is possible that the results extracted from another type of crime might be different. To comprehensively evaluate the

effect of the speedy trial and plea bargaining system in China and elsewhere, more research should be done on additional types of crimes.

Finally, although my data include a number of DUIs after the 2018 CPL, these cases were all adjudicated within three months after the new law was enacted. This time period may have been too short for Quanzhou, a city that had not used the speedy trial and plea bargaining systems before, to show meaningful changes in court behavior. To answer the question of how the 2018 CPL influences court behaviors in cities like Quanzhou, future research needs to collect and analyze more recent data.

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CHAPTER 3: IS A PLEA REALLY A BARGAIN? AN EMPIRICAL STUDY OF SIX CITIES IN CHINA

Abstract

There is a belief in the criminal justice system that it is better to take a plea offer to avoid the uncertain consequences of a trial. Prior studies using the data in Anglo-American courts suggest that many legal and extralegal factors influence the decision of a defendings choosing a guilty plea versus going to trial. China developed its own plea bargaining system in 2016. Using 6,826 DUI cases adjudicated in six cities, this study examines what factors affect the decision of a guilty plea and whether the guilty plea brings true benefits in Chinese courts. The results show that more serious crimes and more dangerous defendants are less likely to be disposed of through guilty pleas (as opposed to going to trial). One possible explanation is that prosecutors may make more punitive offers in these cases, which in turn discourages defendants from accepting them. In addition, using a propensity score weighting technique to control for potential confounding variables, this study finds that defendants who pleaded guilty are more likely to receive positive case outcomes regarding pretrial detention and probation decision, which supports the argument that a guilty plea could help a defendant to avoid the "trial penalty" in Chinese criminal justice system.

Keywords Guilty Plea; Case Outcomes; Trial Penalty

3.1 Introduction

In the criminal justice system, legal actors' decision making is supposed to be guided by several focal concerns such as the severity of the crime, the blameworthiness of the defendant, and other practical considerations (Kutateladze & Lawson, 2018; Steffensmeier, 1980; Steffensmeier, Ulmer, & Kramer, 1998). Plea bargaining is usually defined as a process in which a defendant agrees to plead guilty in exchange for some concession from the prosecutor. A wealth of literature, mostly using data from American courts, has confirmed that many factors play a role in the decision-making about which cases are disposed by guilty plea versus proceeding to trial. These factors include legal factors such as crime severity, and prior criminal record, as well as extralegal factors such as the gender and race of the defendant (Boylan, 2012; Dervan & Edkins, 2013; Meyer & Gray, 1997).

One common reason for most defendants to plead guilty is to avoid the "trial penalty." They expect that pleas could lead to a more positive outcome in case dispositions — known as getting a "bargain" (Bushway, Redlich, & Norris, 2014; Bushway & Redlich, 2012). Most jurisdictions also acknowledge that defendants entering a guilty plea could receive a reduction in the sentence compared to similarly placed defendants entering a trial (Langer, 2004; Rauxloh, 2011; Soubise, 2018). The law in practice, however, could be different from the law on the books. Several empirical studies indicate that pleading guilty is not always the better choice. In other words, whether defendants who pleaded guilty receive true benefits remains contradictory (Albonetti,

1998; Brereton & Casper, 1981-1982; Bushway & Redlich, 2012; Uhlman & Walker, 1979).

In contrast, the opportunity for defendants to plead guilty and thereby avoid a full trial was alien to the Chinese criminal justice system for decades. The inquisitorial culture and socialist law tradition derived from the Chinese criminal justice system both dictate that the truth in a case cannot be bargained with or compromised. Nevertheless, due to the increasing caseload, recent reforms in China have introduced a new system to expedite the dispositional process of "simple" cases. On September 3, 2016, the Supreme People's Court and the Supreme People's Procuratorate started a program called *renzui renfa congkuan* [Imposing Lenient Punishments on Those Pleading Guilty and Accepting Punishments] in several pilot cities, which is cited by some scholars as the Chinese version of plea bargaining (Gu, 2016; Jia, 2018). This program allows prosecutors to propose a sentence recommendation for a defendant who pleads guilty. Negotiations over pleas between defense and prosecution are also allowed thereafter. Finally, certain regulations explicitly state that leniency could be offered to defendants who plead guilty, agree with the prosecutor on the sentencing recommendation, and sign a plea agreement.

The *renzui renfa* program was described as a legal transplant from the plea bargaining system in Anglo-American courts (Chen R. , 2016; Gu, 2016). Nevertheless, it should be noted that there are several unique characteristics that set the Chinese version of plea bargaining apart from the conventional plea bargaining in Anglo-American Courts. For example, defendants cannot bargain with the prosecutor to receive lesser charges or to have some charges dropped. Also, the law claimed that the defendant still has the right to the presumption of innocence, while the proof standard cannot be lowered

(Gu, 2016; Sun, 2018; Zuo, 2017). However, two features make this program, at least in written laws, comparable to the conventional plea bargaining system. First, this program acknowledged that the defendant and the prosecutor can negotiate as two parties on the sentence, which is expressed as *kongbian xieshang* in Chinese (China, The Supre People's Court, 2018). In other words, the "bargain" process has been acknowledged. Second, the regulations also provided that defendants who plead guilty and reach an agreement with the prosecutor may receive lenient sentencing (China, The Supreme People's Court, 2016). Therefore, a process in which a guilty plea could result in some concession from the prosecutor also exists in the Chinese context (Zhu, 2016).

Although the official document of *renzui renfa* program explicitly states that a guilty plea should bring benefits for defendants, some Chinese scholars have expressed similar concerns discussed in the Anglo-American practice of plea bargaining - that is, whether the sentence reduction truly happens in practice. Specifically, considering that China has a reputation for its unbalanced justice system in favor of the police and prosecutors, it is possible that the guilty plea is manipulated by the police and prosecutors and that defendants do not have the bargaining power to obtain a lighter sentencing outcome (Chen R. , 2016; Xiong Q. , 2016; Wang, 2017). Also, because poor accused persons who are not familiar with the criminal justice system tend to accept the prosecutor's offer without much consideration, this raises further questions about whether a guilty plea could lead to more positive results for defendants (Jia, 2018; Zuo, 2017). While these theoretical discussions offer an interesting insight to understand the implementation of the Chinese version of plea bargaining, they do not provide empirical evidence on what actually happens in practice.

This study fills this gap by providing an empirical study of the mode of decision-making and its effect on case outcomes in the Chinese version of plea bargaining. Specifically, this study aims to answer two questions: what factors play a role in the decision of a guilty plea versus proceeding to trial, and whether the decision of a guilty plea leads to more positive results. I use data on DUI cases tried by courts located in six cities where the *renzui renfa* program was carried out. I first examine the influence of legal and extralegal factors in determining which cases are disposed of by a guilty plea versus trial. My results show that defendants without a prior criminal record, with a lower level of Blood Alcohol Concentrations (BACs), or having confessed were more likely to plead guilty. I find that defendants who failed to compensate the victims were more likely to enter a guilty plea. Furthermore, using a propensity score weighting technique to control for potential confounding variables, this study answers the question of whether the defendants who pleaded guilty received leniency compared to the similarly situated defendants who were disposed of through full trial. Generally, my results support the conclusion that a guilty plea could lead to more positive case outcomes. Defendants who pleaded guilty were more likely to be released before the trial and be granted probation. In addition, although defendants who pleaded guilty, on average, received a longer declared sentence length, their served sentences were significantly shorter than defendants who did not plead guilty because a higher percentage of these defendants had their sentences suspended. Finally, whether a defendant pleaded guilty was not a significant predictor of the fine amount imposed on defendants.

This remaining article has six parts: Part 2 introduces the background information of what the Chinese version of plea bargaining is like. Part 3 reviews the prior literature.

Part 4 presents the data. Part 5 describes the methodology. Part 6 presents empirical results. Part 7 reviews the findings and the limitations of this research.

3.2 Development of plea bargaining in China

Two features of the Chinese criminal justice system explain why the formal plea bargaining system did not exist in China for decades. First, Chinese criminal procedure is inquisitorial in nature, which assumes that the criminal process is a neutral investigation conducted by the state to find substantial truth. In this model, prosecutors are supposed to represent the wider public interest rather than pursuing the narrow interests of the prosecution side (Rauxloh, 2014; Soubise, 2018). They play a role as state officials in supervising the criminal investigation. Therefore, the idea that case outcomes can be negotiated between the prosecutor and the defendant is alien to the inquisitorial system. In practice, prosecutors document all the results of a criminal investigation in the dossiers. The judge conducts fact-finding through verifying the dossiers that have been prepared before trial (Chen R. , 2006; Goldstein & Marcus, 1977). Hence, while the fact that the defendant admits guilt is often recorded in the dossiers by the prosecutor and may be crucial to the judge's decision, the case must still go to trial before the judge can make a final determination (Soubise, 2018).

Second, as a socialist country, China's legal culture is also deeply influenced by the former Soviet Union's legal tradition and has a reputation for its unbalanced justice system in favor of the police and prosecutors. In this model, prosecutors play a role as a "provider of justice," who cooperate with the police and the court to crack down on

crime.[20] The judge does not require the prosecutor to present much evidence in the dossier and convictions heavily rely on defendants' confessions. Guided by the criminal justice policy of *leniency to those who confess, severity to those who resist* [t*anbai congkuan, kangju congyan*], defendants are encouraged to confess at a very early stage of a criminal process. As a result, most confessed defendants have no legal rights to trade in return for a reduced sentence with the prosecutor (Biddulph, Nesossi, & Trevaskes, 2017; Li, 2015; Lu & Kelly, 2008; Yan, 2013).

For a long time, this model of criminal proceedings has been criticized by many scholars for disregarding the defendant's rights and being more likely to lead to a miscarriage of justice (Chen W. , 2016; Chen R. , 2006; Biddulph, Nesossi, & Trevaskes, 2017). In practice, several remarkable wrongful convictions such as Shexianglin[21], Zhanggaoping[22], and Huugjilt[23] were exposed and suggested the necessity of fundamental reforms in the criminal justice system.

On October 29, 2014, the Fourth Plenary Session of the 18th Central Committee of the CPC released the Decision of the CPC Central Committee on Major Issues

[20] Herbert Packer vividly described this kind of criminal process as the Crime Control Model: "The image (of this model) that comes to mind is an assembly line or a conveyor belt down which moves an endless stream of cases, never stopping, carrying the cases to workers who stand at fixed stations and who perform on each case as it comes by the same small but essential operation that brings it one step closer to being a finished product, or, to exchange the metaphor for the reality, a closed file." Herbert L. Packer. 1964. "Two Models of the Criminal Process." *University of Pennsylvania Law Review* 113(1):11.

[21] Shexianglin was convicted of murdering his wife in 1998 because he was tortured by the police and confessed to the murder. After he had spent seven years in prison, in 2005 his wife reemerged and his conviction was overturned.

[22] Zhanggaoping and his nephew Zhanghui were convicted of rape and murder in 2003 because of a forced confession. In 2013, another defendant's DNA was matched to DNA found in the victim of their case. Their conviction was overturned then.

[23] Huugjilt was an Inner Mongolian who was executed on June 10, 1996 for the rape and murder of a woman. On December 5, 2006, ten years after the execution, another suspect, Zhao zhihong, admitted he had committed the crime. Huugjilt was posthumously exonerated and Zhao Zhihong was sentenced to death in 2015.

Pertaining to Comprehensively Promoting the Rule of Law. This decision was interpreted as a signal that the central government planned to start several reforms in the legal system. In the criminal justice system, two related reforms were announced. First, the decision proposed that placing the trial at the center *[yi shenpan wei zhongxi*] should be one of the future organizing principles of the justice system. This reform emphasized that in complicated cases, the judge should invest enough time in court hearings to conduct fact-finding process rather than heavily relying on dossiers to determine the facts of a case (Shen, 2015; Zhang, 2015; Biddulph, Nesossi, & Trevaskes, 2017). Second, realizing that the lack of a simplified procedure for resolving uncontested cases became an obstacle to optimizing China's limited judicial, prosecutorial, and legal resources, the decision also stated that China should establish the *renzui renfa congkuan* [imposing lenient punishments on those pleading guilty and accepting punishments] system in the criminal justice system (China, CPC, 2014). This system aims to help the justice system to handle simple or straightforward cases in a more efficient way and, therefore, have enough resources to handle complex and serious cases.

Two years later, the idea of developing a Chinese version of plea bargaining was implemented. On September 3, 2016, the Standing Committee of the National People's Congress formally passed a decision to authorize the Supreme People's Court and the Supreme People's Procuratorate to carry out the *renzui renfa congkuan* program, which is also known as the Chinese version of plea bargaining. This program was first carried out in 18 cities as a pilot program for two years and then expanded nationwide.

According to official regulations, the core idea of the *renzui renfa* program is to impose leniency on defendants who plead guilty, agree with the prosecutor on the

sentencing recommendation, and sign a plea agreement (China, The Supreme People's Court, 2016). Several characteristics of this program indicate its similarities to the conventional model of plea bargaining in Anglo-American Courts. First, this program allows defendants and prosecutors to reach a formal agreement on charge and sentence, which will be delivered to the judge for validation. Second, this program firstly acknowledges that the defendant and the prosecutor can negotiate as two parties over pleas and sentences (China, The Supre People's Court, 2018). Last but not the least, this program allows defendants to plead guilty in exchange for some concession from the prosecutor by stating that a lenient disposition could be imposed on defendants who reach an agreement with the prosecutor (China, The Supreme People's Court, 2016).

Nevertheless, some scholars underline two important differences between the Chinese version of plea bargaining and plea bargaining in Anglo-American courts. First, the scope of plea bargaining in China is narrower than that in Anglo-American courts. While sentence bargaining is at the center of the Chinese plea bargaining system, charge bargaining is not permitted. This means defendants cannot bargain with the prosecutor for lesser charges or having some charges dropped (Gu, 2016; Zuo, 2017). Second, because the Chinese criminal justice system is inquisitorial in nature and based on the notion that the substantial truth, rather than the procedural truth should be found in the courtroom, some scholars argue that the proof standard cannot be lowered even in cases whereby defendants plead guilty (Chen R. , 2017; Sun, 2018).

After implementing this program in 18 pilot cities for two years, the Chinese version of plea bargaining was expanded nationwide. On October 26, 2018, the Standing Committee of the National People's Congress in China revised the criminal procedure

law (CPL). One notable feature of the 2018 CPL is that it added several articles on the criminal proceedings of *renzuirenfa*. Specifically, the first amendment of the 2018 CPL stated that "criminal suspects or defendants who voluntarily and truthfully plead guilty, admit the facts of the crime as charged, and are willing to accept punishment could receive a lenient disposition" (Article 15). In addition, the 2018 CPL added some detailed articles on how this new criminal process should be operated, such as the obligation of police to inform suspects of their rights for a guilty plea (Article 120), the obligation of the prosecutor to record and transfer the plea agreement (Article 162), and the obligation of the judge to review the voluntariness of guilty plea (Article 190). Moreover, the 2018 CPL also addressed the role of attorneys in plea bargaining by stating that a retained lawyer or an on-duty lawyer [*zhiban lvshi*] should be present when defendants sign a plea agreement with the prosecutor (Article 173).

3.3 Prior Literature

Given that plea bargaining is a newly established system in China, there has not yet been a quantitative study on the decision making process of plea bargaining in China. In contrast, plea bargaining has been widely used in criminal cases in the U.S. since the late nineteenth century (Alschuler, 1979; Vogel, 1999). Now, most criminal cases in the U.S. are resolved through guilty pleas rather than trials.[24] Consequently, there has been considerable literature devoted to the empirical legal study of the practice of plea bargaining in U.S academia. In a broad sense, there are two research questions

[24] In the federal system, out of 78,155 convictions from October 1, 2013 to September 30, 2014, 76,163 were obtained through guilty plea. This proportion has reached 97.5%. In the state system, 94% of felony offenders sentenced in 2006 pleaded guilty. See Bureau of Justice, U.S. Department of Justice, Federal Justice Statistics, 2014 Statistical Tables, at 17(2017); Bureau of Justice, U.S. Department of Justice, Felony Sentences in State Courts, 2006, at 24-25(2009).

concerning the empirical study of decision-making in plea bargaining system: first, what factors influence a guilty plea versus a trial decision. Second, whether the decision of pleading guilty results in positive case outcomes.

3.3.1 Factors Affecting a Guilty Plea Decision

There are various actors in the criminal justice system whose discretion could influence the case disposition. The decision of a guilty plea is normally considered as the result of the discretion exercised by both the prosecutor and the defendant. A wealth of studies have been done to determine factors affecting plea bargaining decisions. In general, prior research acknowledges that both legal and extralegal factors influence the decision-making of plea bargaining.

Legal factors may influence the perceived blameworthiness of the defendant and are therefore thought to drive both prosecutorial and judicial decision making throughout case processing. For example, previous studies indicate that the severity of the crime could affect the decision of a guilty plea. In a study based on 200 DUI defendants arraigned for DUI, Meyer and Gary (1997) found thatdefendants facing longer jail terms were more likely to plead not guilty and conclude that offense severity was the most important determinant of plea bargaining decisions. However, using jail sentences as a proxy for severity can be problematic because cases that go to trial are not representative of all criminal cases, and thus prison sentences at trial are endogenous. Some recent studies began to use a natural experiment to detect the effect of punishment severity on plea bargaining. For example, by examing the effect of judge assignment, Boylan (2012) found that a 10-month increase in prison sentences raises trial rates by 1 percentage point.

In addition, a prior criminal record is another legal factor that is considered to have an impact on the plea bargaining decision. However, evidence provided by prior empirical work is contradictory. Some find that defendants with prior arrests or convictions more often plead guilty than those without prior criminal records (Kutateladze & Lawson, 2018; Myers, 1982) , while other research indicates that prior convictions do not affect plea bargaining (Meyer & Gray, 1997), or affect it in the opposite direction (Myers & Hagan, 1979).

Finally, studies also suggest that some other extralegal characteristics of defendants, such as race, gender, and age could also influence the decision to go to trial. For example, there is evidence that males and older defendants are more likely to proceed to trial (Myers & Hagan, 1979). In addition, there are studies indicating that Caucasians were more likely than other ethnic groups to plead not guilty (Meyer & Gray, 1997). However, several other studies have found no influence of race (Ball, 2006; Frenzel & Ball, 2007; Kutateladze & Lawson, 2018).

This study also anticipates that legal and extralegal factors might influence the plea bargaining decision. Instead of using the prison sentence, this paper uses several characteristics of DUI crimes such as the BACs and the harm caused by DUI as a proxy for offense severity. In addition, other legal factors indicating blameworthiness such as victim compensation and confession are also included in my model. Finally, I test whether extralegal factors such as gender and ethnicity have an impact on the discretion of plea bargaining in the Chinese context as well.

3.3.2 Plea Bargaining and Case Outcomes

There are several reasons why leniency should accompany plea bargaining. On the one hand, plea bargaining makes the prosecutor more efficient administratively and gives them a better chance of securing convictions for those cases that do still go to trial. Consequently, the criminal justice system should offer the defendants who plead guilty a reward of leniency (Bushway, Redlich, & Norris, 2014). On the other hand, plea bargaining indicates that defendants acknowledge guilt and manifest a willingness to assume responsibility for their actions. Therefore, the sentence imposed on these defendants should be more lenient since they have reduced blameworthiness (Bowers, 2008)

Several empirical studies have been done to examine the relationship between plea bargaining and its effect on sentencing leniency. Earlier research simply answers this question by comparing the sentencing outcome of defendants who pleaded guilty with defendants who did not without addressing the possibility that these two groups of defendants may not be similarly situated. While some find that plea bargaining brings benefits to the defendant (Brereton & Casper, 1981-1982) , others argue that there is little evidence to show, overall, that a plea is a better deal for defendants (Uhlman & Walker, 1979). More recent studies recognized that many legal and extralegal factors influence the decision of plea bargaining as well as the sentencing outcome. Therefore, empirical studies began to use a statistical method to determine the true effect of plea bargaining by controlling confounding variables. For example, based on the data of DUI cases, Meyer and Gray (1997) find that crime severity could both influence pleas and sentencing outcomes.

However, China has a criminal justice system that is significantly different from that in the United States. As noted, many scholars are concerned that China has a reputation for the bias of its justice system in favor of the police and prosecutors. Therefore, it is possible that the guilty plea is coerced by the police and prosecutors and that defendants do not have the bargaining power to obtain a lighter sentencing outcome (Chen R. , 2016; Xiong Q. , 2016; Wang, 2017). As a result, the empirical results of studies conducted in the American criminal justice system cannot offer straight *ex ante* prediction for the decision-making in the Chinese plea bargaining system.

Despite the lack of empirical studies, there exists heated theoretical debates in China over the extent to which extra sentencing reduction should be imposed on defendants who plead guilty. Some scholars argue that leniency for defendants who plead guilty has sufficient justification because these defendants help to increase the efficiency of the criminal justice and show their willingness to take responsibility for their crime (Wei X. , 2016; Zhu, 2016). At the same time, however, other scholars hold that large sentence reductions for a guilty plea may encourage innocent defendants to plead guilty and create a penalty for defendants who exercise their right to trial. In addition, since the guilty plea is not directly related to the blameworthiness of the defendants associated with the seriousness of the offense or the offender's level of culpability, a significant sentencing reduction due to guilty pleas may undermine ordinal proportionality in sentencing (Xiong Q. , 2016; Zuo, 2017).

To address these theoretical debates, the current study is the first one to empirically assess the effect of a guilty plea on sentence outcomes in the Chinese context. Specifically, a propensity score weighting technique is used to determine the treatment

effect of plea bargaining. This methodology allows the comparison between the defendants who pleaded guilty and the defendants who did not plead guilty but had the same joint distribution of observed legal and extralegal features. In addition, apart from the sentencing outcome, this paper examines other treatment effects such as pretrial detention and fines imposed on the defendants to answer whether the decision of a guilty plea brings true benefits to the defendant.

3.4 Data

This study uses data on 6,826 DUI cases processed by courts located in six cities—Beijing, Shanghai, Hangzhou, Fuzhou, Xiamen, and Qingdao. All the cities are among the 18 pilot cities in which the Chinese version of plea bargaining program was initially carried out in 2016. Figure 3-1 shows the spatial distribution of the sample cities. As shown on the map, all six cities are located along the east coast, which is the most developed area in China.

My sample is constructed in two steps: First, I downloaded all the DUI case files adjudicated in these six cities from a website established by the Supreme People's Court in China: China Court Judgments [*zhongguo caipan wenshuwang*][25]. Starting from July 2013, the SPC requested that local courts upload all documents that reflect the termination of a case on this website.[26] Therefore, I assume that case files downloaded

[25] For other recent work using this database, see Liebman, B. L. (2015). Leniency in chinese criminal law: Everyday justice in henan. *Berkeley Journal of International Law*, 33(1), 153-222.Wei, S., & Xiong, M. (2019). Judges' Gender and Sentencing in China: An Empirical Inquiry. *Feminist Criminology*, 1-34.

[26] The latest version of regulation states that local courts should upload any judgment online within seven days from the date of the case is disposed (Article 7) unless this case falls into an excluded category including cases involving state secrets, juvenile criminal cases, disputes concluded through mediation, divorce and adoption cases (Article 4). Moreover, the regulation requires local courts to disclose the Case ID, the name of the court, the filing date, and the explanation whenever they decide not to release a specific

from this website should cover most DUI cases adjudicated in my sample cities. Second, from each case file, I coded a series of legal and extralegal variables including prior criminal record, crime severity, gender, and ethnicity. Additionally, case outcome variables including the pretrial detention decision and sentencing outcomes are also included. Most importantly, each judgment also records the information about whether the offender pleaded guilty and reached a deal with the prosecutor. Because the plea bargaining pilot program was implemented on November 11, 2016, I begin the observation period exactly on that day. The last judgment in my dataset was tried on July 22, 2018.

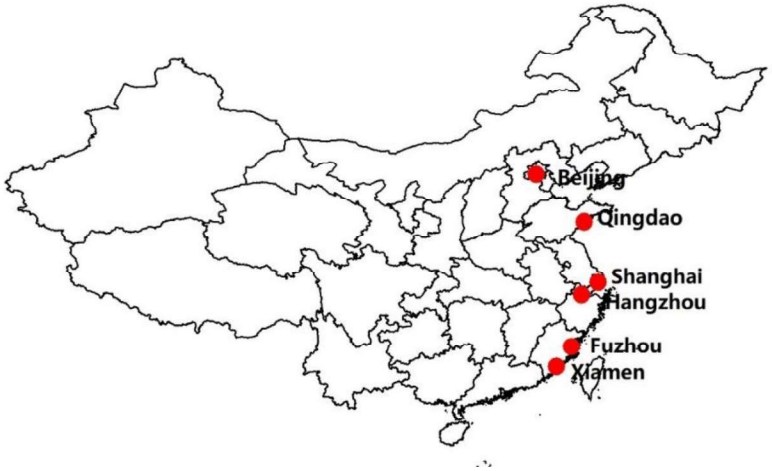

Figure 3-1 Location of Six Sample Cities

Drunk driving behavior has been criminalized in China since 2011 when the eighth amendment of criminal law was enacted. According to the current Chinese law, drivers would be sentenced to jail time from 1 to 6 months if the alcohol level in their blood surpasses 80 milligrams per 100 milliliters. This study focuses on DUI cases for

case (Article 6) (SPC, 2016). This rule further institutionalized the publicizing of the court decision.

two primary reasons. First, DUI is one of the most common misdemeanors across the world. According to a Chinese annual report, the number of DUI cases disposed of through plea bargaining is the largest among all the crime types.[27] Therefore, how the courts dispose of DUIs would be a good indicator of the decision making in plea versus trial. Second, from the perspective of empirical design, compared to other criminal cases, the judgment of the DUI cases is relatively simple to code. Few DUI cases involve co-offenders. Moreover, in every DUI case, the judgment lists the blood test result of the defendant, which is the most critical indicator of the defendant's crime severity. The existence of this evidence enables us to control the decisive factor that influences the sentencing outcome in our empirical analysis, helping us to identify the real effect of the guilty plea decision itself.

Table 3-1 provides summary statistics of my data. As can be seen from the table, among 6,826 DUI cases, there are 1,388 DUI cases in which the defendant pleaded guilty. According to the current version of criminal procedure law in China, there are three types of criminal procedure in the Chinese criminal justice system: from the most complete to the most compacted, namely, the ordinary procedure, the summary procedure, and the speedy trial.[28] Compared to other cases, plea bargaining cases are more likely to be disposed of through speedy trial and less likely to be disposed of

[27] Fanaxingbian: Big Data Report on Plea Bargaining [*Renzui renfa da shuju baogao*], http://www.sohu.com/a/256415491_170807.

[28] In the ordinary procedure, the defendant is supposed to receive a full trial. In the summary procedure, cases are allowed to be tried by a single judge, thus eliminating several criminal procedures such as interrogating the defendant, questioning the witnesses and expert witnesses, and cross-examination. In addition, the time required for trial are reduced from three months to twenty days. In the speedy trial, defendants plead guilty, agree with the prosecutor on the sentencing recommendation, and sign a plea agreement before the trial. Cases disposed of through the speedy trial can be expedited by omitting both court investigation [*fating diaocha*] and court debate [*fating bianlun*].

through the ordinary or summary procedures. In addition, Table 3-1 shows that there exist several differences in legal factors between the cases in which defendants pleaded guilty and in which defendants did not. On average, defendants who pleaded guilty had a lower level of blood alcohol concentrations (BACs) and their DUI behaviors were less likely to cause accidents, which indicates their crimes are overall less serious.[29] Finally, regarding sentencing outcomes, it is surprising to find that the mean sentence declared by the judge for defendants who pleaded guilty is longer than other defendants. However, this does not necessarily indicate that their sentence was harsher. The table shows that a higher percentage of plea bargaining defendants (41.5%) were granted probation. These defendants did not need to serve the sentence in jail.

[29] DUI cases in China are detected either through normal police stops or through an accident investigation. In the former situation, there would be no victim in the DUI case. In the latter situation, the accident usually involves a victim and therefore is related to the issue of victim compensation. However, according to the Chinese law, a driver who causes serious physical injury or death while committing a DUI, would face other felony charges such as aggravated vehicular assault [*jiaotongzhaoshi*] rather than minor crimes as DUI. Therefore, in my sample, although there are 40% of DUI cases involving an accident. Most of these accidents were a property-damage-only case and no victim was serious injured in the sample.

Table 3-1 Summary Statistics of DUI Cases in Six Cities

Case Disposition	Full Sample	Plea Bargain	Not Plea Bargain
No. of Cases	6,826	1,388	5,438
Procedures			
Ordinary Procedure	3.28%	2.52%	3.48%
Summary Procedure	36.13%	18.37%	36.52%
Speedy Trial	60.69%	79.68%	55.72%
Legal Factors			
Having Prior Record	9.29%	8.86%	9.40%
BACs (mg/100ml)	154.13	147.84	155.69
Accident Involved	38.64%	29.03%	41.09%
Confession	92.98%	96.97%	91.94%
Victim Compensation	16.64%	11.82%	17.86%
Having a Criminal Attorney	12.48%	10.66%	12.93%
Extralegal Factors			
Female	2.74%	2.95%	2.68%
Minority	3.69%	3.60%	3.71%
Pretrial Detention	68.25%	60.81%	70.15%
Sentencing Outcome			
Declared Sentence (months)	2.19	2.32	2.15
Probation Decision	31.2%	41.5%	28.5%
Fine (yuan)	3464	3216	3527
Cities			
Beijing	32.98%	35.23%	32.40%
Shanghai	23.18%	14.12%	25.49%
Hangzhou	9.79%	13.54%	8.83%
Fuzhou	8.88%	2.45%	10.52%
Xiamen	19.65%	27.67%	17.60%
Qingdao	5.54%	6.99%	5.17%

3.5 Methodology

This study has two goals: First, it assesses what factors affect the decision of whether to plead guilty or go to trial. Second, it tests whether the decision of a guilty plea results in better case outcomes for defendants.

To examine the factors affecting a guilty plea decision, I use logistic regression and the odds ratio to estimate a series of legal and extralegal factors on the likelihood that

plea bargaining occurs to a specific type of case. The model is presented in the following form:

$$\log \frac{P_i(plea\ bargain)}{1-P_i(plea\ bargain)} = \beta_0 + \beta_1 criminal\ procedure_i + \beta_2 prior\ record_i + \beta_3 BACs\ higher\ than\ 80_i + \beta_4 accident_i + \beta_5 confession_i + \beta_6 victim\ compensation_i + \beta_7 legal\ representation_i + \beta_8 gender_i + \beta_9 ethnicity_i + court_{c(i)} + \epsilon_i$$

(1)

$plea\ bargain$ is a variable to indicate whether the defendant, in this case, was disposed of through a plea bargain. And exp (β_1) to exp(β_9) indicate the effects of a series of legal and extralegal factors on the odds of the cases being plea bargained (versus not being plea bargained). In this model, the baseline condition is a defendant who was disposed of through an ordinary procedure, had no prior criminal record, had a BACs level of 80 milligrams per 100 milliliters (the minimum threshold for a DUI arrest in China), did not cause an accident, did not confess, did not compensate for victims, did not hire a lawyer, and was male and Han.

Table 3-1 shows that defendants who pleaded guilty tend to have a lower level of BACs and are less likely to cause an accident. If defendants who committed less severe crimes are more likely to plead guilty, the leniency of case outcomes cannot be attributed to the decision of pleading guilty.

Therefore, in order to examine the causal link between a guilty plea and better case outcomes, statistical adjustments need to be used to control alternative explanations. One conventional way to address this methodological issue is to include these confounding variables in a simple linear regression. However, this method was criticized

as being highly sensitive to the form of the model and the inclusion of important interaction terms (Imbens, 2004). Therefore, this study uses the methodology of doubly regression estimation to identify the effect of the guilty plea on case outcomes. This method combines a form of outcome regression with a model for the exposure (i.e., the propensity score) to estimate the causal effect of an exposure on an outcome (Funk, et al., 2011). It has been widely used in natural and social science (Jiang, Lu, Song, Hudgens, & Naprvavnik, 2017; Uysal, 2015) and was applied in criminology research to assess the effect of race bias in post-traffic stops (Ridgeway, 2006). In my study, applying this methodology includes two steps: First, I used a propensity score weighting technique to construct a "comparison groups" (e.g., defendants who did not plead guilty) whose distribution of potential confounding variables equals the "target group" (e.g., defendants who pleaded guilty). Specifically, this study uses generalized boosted models (GBM), a multivariate nonparametric regression technique, to estimate the propensity score. Second, after verifying that these two groups of defendants now have the same distribution of confounding variables, several regression models were applied to identify the effect of a guilty plea on case outcomes.

Table 3-2 shows the first step of doubly robust estimation. The second column in Table 3-2 displays the percentages for plea bargaining cases. The third column in Table 3-2 displays the weighted percentages for the constructed comparison samples. The effective sample size (ESS) gives an estimate of the number of comparison participants that are comparable to the treatment group. In my sample, there are effectively 2,587 non-plea bargaining cases that have features similar to the plea bargaining cases. The fourth column in Table 3-2 displays the raw percentages. These columns indicate that

these two groups of cases indeed have different features. However, after using the propensity score weighting technique, the weighted percentages for the control group are uniformly close to the percentages for the treatment group. Whether the defendant pleaded guilty, therefore, is the only factor differing between the groups by design.

Table 3-2 Assessment of the comparison samples of defendants who did not plead guilty for a target sample of defendants who pleaded guilty from the propensity weighting (N=6,826)

	Plea Bargain N=1,388	Not Plea Bargain (Weighted) ESS= 2587.1	Not Plea Bargain (Unweighted) N=5,438
Legal Factors			
Having Prior Record	8.86%	9.05%	9.40%
BACs (mg/100ml)	147.84	148.40	155.75
Accident Involved	29.03%	29.89%	41.10%
Confession	96.97%	96.59%	91.96%
Victim Compensation	11.82%	12.49%	17.87%
Having Criminal Attorney	10.66%	11.20%	12.93%
Procedures			
Speedy Trial	79.68%	78.66%	55.72%
Summary Procedure	18.37%	18.60%	36.52%
Extralegal Factors			
Minority	3.60%	3.40%	3.71%
Female	2.95%	2.53%	2.68%
Cities			
Beijing	35.23%	36.89%	32.40%
Shanghai	2.45%	2.92%	10.52%
Hangzhou	13.54%	11.92%	8.83%
Fuzhou	6.99%	6.61%	5.17%
Xiamen	14.12%	14.85%	25.49%
Qingdao	27.67%	26.81%	17.60%

Assuming the decision of a guilty plea is now the only factor differing between the groups of defendants and there are no other factors affecting both the decision of whether to plead guilty and case outcomes, I use the following models to assess the effect

of a guilty plea on case dispositions. To examine the effect of the decision of a guilty plea on pretrial decisions and probation decisions, I use logistic regression and the odds ratio to estimate the likelihood that one outcome will occur. For example, the model of effects on pretrial decisions is:

$$\log \frac{P_{it}(released\ before\ trial)}{1-P_{it}(\text{released before trial})} = \beta_0 + \beta_1 plea\ bargain + \beta_2 criminal\ procedure_i + \beta_3 prior\ record_i + \beta_4 BACs\ higher\ than\ 80_i + \beta_5 accident_i + \beta_6 confession_i + \beta_7 victim\ compensation_i + \beta_8 legal\ representation_i + \beta_9 gender_i + \beta_{10} ethnicity_i + court_{c(i)}$$

$$+\epsilon_i \quad (2)$$

$released\ before\ trial$ is a dummy variable to indicate whether the defendant, in this case, is released before the trial. The variable *plea bargain* is a dummy variable and it becomes 1 if this defendant pleaded guilty. Consequently, exp (β_1) indicates the effect of plea bargaining on the odds of the defendant being released (versus not being released). I also include a number of case variables controlling for legal and extralegal factors. These variables include prior criminal record, the blood alcohol concentrations of the defendant (BACs), whether an accident was involved, whether the defendant confessed, whether the defendant was represented by a lawyer, the type of criminal procedures by which this case was disposed, extralegal factors including gender and ethnicity, and city fixed effect. In this model, the baseline condition is a defendant who did not plead guilty, was disposed of through an ordinary procedure, had no prior criminal record, had a BACs level of 80 milligrams per 100 milliliters, did not cause an accident, did not confess, did not compensate for victims, did not hire a lawyer, and was male and Han. I use the exact same model to estimate the effect of a guilty plea on probation decisions.

Regarding the effect of a guilty plea on sentence length and fine amount, similar OLS models are used:

$$sentence\ length = \beta_0 + \beta_1 plea\ bargain + \beta_2 criminal\ procedure_i + \beta_3 prior\ record_i + \beta_4 BACs\ higher\ than\ 80_i + \beta_5 accident_i + \beta_6 confession_i + \beta_7 victim\ compensation_i + \beta_8 legal\ representation_i + \beta_9 gender_i + \beta_{10} ethnicity_i + court_{c(i)} + \epsilon_i \quad (3)$$

$sentence\ length$ is a continuous variable to indicate the length of sentence imposed on the defendant. Similarly, β_1 is the coefficients of interest, suggesting the average difference of sentence length between defendants who plead guilty and defendants who did not after controlling for a series of variables.

3.6 Results

3.6.1 Factors Affecting a Plea Bargain Decision

As shown in Table 3-1, out of 6,826 DUI cases, 1,388 DUI cases were disposed of through plea bargaining. I use logistic regression analysis to determine which variables affected the decision of a guilty plea. Both legal and extralegal variables are included. Legal variables are those upon which sentencing is supposed to be legally based, including offense severity, prior criminal record, whether the defendant confessed, and whether the defendant compensated the victim. Extralegal factors are those that reflect personal characteristics, including gender and ethnicity[30].

Table 3-3 shows the regression results. As can be seen in the Table, the prior criminal record does affect the odd of defendants being disposed of through plea

[30] Ethnic minorities in China are the non-Han Chinese population in China. China officially recognizes 55 ethnic minority groups within China in addition to the Han majority. As of 2010, the combined population of officially recognized minority groups comprised 8.49% of the population of mainland China.

bargaining. For a defendant who had a prior criminal record, the odd of pleading guilty (versus not pleading guilty) decreases by a factor of 0.78. In addition, certain variables regarding offense severity influence whether defendants plead guilty. For example, for a defendant whose DUI offense caused an accident, the odd of plea bargaining decreases by a factor of 0.76. However, another determinant of crime severity, such as the blood alcohol concentration is not associated with the decision of pleading guilty. In conclusion, I do find that defendants who had a criminal record and caused harm were less likely to plead guilty and reached an agreement with the prosecutor.

In addition, confession does increase the likelihood that the defendant pleaded guilty. If a defendant confessed, he or she is three times more likely to plead guilty. Interestingly, victim compensation decreases the likelihood of plea bargaining. After controlling for the *accident* variable, for a defendant who compensated the victim, the odd of plea bargaining decreases by a factor of 0.76. This echoes concerns of some scholars, that is, victim compensation is not so readily incorporated into plea negotiations because such negotiations are private and dominated by prosecutors. Consequently, plea bargaining may marginalize the victim's role in the criminal process and defendants may feel it unnecessary to compensate the victim (Chen R. , 2016; Xiong Q. , 2016).

Extralegal factors such as gender and ethnicity do not significantly affect the decision to plead guilty. Perhaps it is because of the negligible role that the small number of defendants with certain characteristics could play in a multivariate model. Indeed, less than 3% percent of defendants in our data are either female or minorities.

Table 3-3 Legal and Extralegal Factors Affecting Plea Bargaining (N = 6,826)

	Plea Bargain		
	Odds Ratio	2.5 %	97.5 %
Intercept	0.10***	0.07	0.15
Legal Factors			
Having Prior Criminal Record	0.78***	0.60	0.92
BACs higher than 80 (mg/100ml)	1.00	1.00	1.00
Accident Involved	0.76***	0.61	0.95
Confession	3.00***	1.98	4.64
Victim Compensation	0.76**	0.59	0.99
Having Defense Attorney	0.91	0.69	1.19
Summary Procedure	2.68***	1.86	3.92
Speedy Trial	9.48***	6.52	13.98
Extralegal Factors			
Female	1.24	0.84	1.80
Minority	0.94	0.61	1.44
Court Fixed	Yes		

*p<0.1 **p<0.05 ***p<0.01

3.6.2 Plea Bargaining and Pre-trial Detention

After assessing the effects of legal and extralegal factors on the decision of a guilty plea, I examine whether a guilty plea resulted in better case outcomes using the sample created by propensity score weighting. As noted in the methodology part, the propensity score weighting technique effectively created 2,587.1 non-plea bargaining cases that have features similar to the plea bargaining cases. My target group has 1,388 defendants who did not plead guilty. Therefore, the effective sample size (ESS) for my analysis becomes 3975.1.

First, I examine whether the guilty plea resulted in a lower likelihood of pretrial detention. The excessive use of pretrial detention was addressed and criticized by many scholars (Yi, 2016; Lin & Shen, 2016). Although the 2012 CPL stated that pretrial

detention should only apply to defendants who were likely to commit new crimes, to endanger state and public security, to destroy evidence, to avenge themselves on their victims, or to commit self-harm or escape (Article 79), in practice, more than 85% of defendants were detained before trial and this percentage was even higher in felony crimes such as robbery (Xiong & Wei, 2017). Even for misdemeanor cases like DUI in my sample, only 31% of defendants were released before the trial.

If the association between a guilty plea and lenient disposition exists, the decision of a guilty plea is expected to increase the likelihood of a defendant being released before the trial. Table 3-4 displays the results of the logistic regression model of the effect of plea bargaining on pretrial decisions using a doubly robust estimation. The second column of the table shows that defendants who pleaded guilty were significantly more likely to be released before trial compared to defendants who did not by a factor of 6.35. This suggests that plea bargaining results in a more lenient disposition in pretrial detention.

For other legal factors, I find that confession significantly increases the odds of being released before trial by a factor of 2.44. Surprisingly, defendants in cases involving an accident are more likely to be released before a trial. In addition, case disposition could also influence pretrial detention. Specifically, defendants disposed of through the speedy trial procedure are less likely to be granted a pretrial release. Finally, neither gender nor ethnicity has an effect on pre-trial detention.

Table 3-4 Logistic Regression Models of the Effect of Plea Bargaining on Pretrial Decision using the Doubly Robust Estimation (ESS=3975.1)

	Released Prior to Trial		
	Odds Ratio	2.5%	97.5%
Intercept	0.02 ***	0.007	0.05
Plea Bargain	6.35 ***	4.45	9.05
Having Prior Criminal Record	1.39	0.81	2.37
BACs higher than 80 (mg/100ml)	1.00	1.00	1.00
Accident Involved	1.71 **	1.07	2.73
Confession	2.44 ***	1.28	4.67
Victim Compensation	1.42	0.76	2.62
Having Defense Attorney	1.05	0.51	2.15
Speedy Trial	0.11 ***	0.05	0.24
Summary Procedure	1.65	0.78	3.53
Minority	0.77	0.39	1.53
Female	1.18	0.63	2.21
Court Fixed		Yes	

Note: ESS refers to the Effective Sample Size *p<0.1 **p<0.05 ***p<0.01

3.6.3 Plea Bargaining and Probation Decision

A common indicator of the fact that a defendant in misdemeanor cases received lenient sentencing outcome is that he or she was not incarcerated after the trial. In my sample, although every defendant received a declared jail sentence, some defendants did not serve the sentence because the judge granted probation and their sentence was suspended.

Table 3-5 Logistic Regression Model of the Effect of Plea Bargaining on Probation Decision using the Doubly Robust Estimation (ESS=3975.1)

	Probation Granted		
	Odds Ratio	2.5%	97.5%
Intercept	0.02***	0.007	0.06
Plea Bargain	2.43***	2.01	2.94
Having Prior Criminal Record	0.28***	0.18	0.44
BACs higher than 80 (mg/100ml)	0.99***	0.99	0.99
Accident Involved	0.27***	0.18	0.39
Confession	0.56*	0.31	1.02
Victim Compensation	0.91	0.56	1.51
Having Defense Attorney	0.91	0.59	1.41
Speedy Trial	1.08	0.61	1.93
Summary Procedure	0.83	0.47	1.45
Minority	0.53**	0.29	0.98
Female	1.20	0.61	2.37
Court Fixed	Yes		

Note: ESS refers to the Effective Sample Size *p<0.1 **p<0.05 ***p<0.01

To examine whether the decision of plea bargaining had an effect on probation decisions, Table 3-5 shows the logistic regression results. As can be seen in the table, the second column shows that the decision of a guilty plea significantly increases the likelihood of probation by a factor of 2.43. This supports the argument that plea bargaining results in lenient sentencing outcomes.

In addition, many other legal and extralegal factors are also significant predictors of the probation decision. For example, I find that having a prior criminal record and a previous accident could decrease the likelihood of probation by a factor of 0.28 and 0.27, respectively. Interestingly, being a minority decreases the likelihood of receiving probation by a factor of 0.53.

3.6.4 Plea Bargaining and Sentence Length

According to Chinese criminal law, DUI is subject to punishment of fewer than six months in jail. In my sample, every defendant received a declared jail sentence between one to six months. If a guilty plea resulted in leniency in the sentencing outcome, the average declared sentence length is expected to be shorter for defendants who pleaded guilty than for defendants who did not.

Table 3-6 OLS Model of the Effect of Plea Bargaining on Declared Sentence Length using the Doubly Robust Estimation (ESS=3975.1)

	Declared Sentence Length (Month)		
	Estimate	Std. Error	p-value
Intercept	1.24 ***	0.23	<0.001
Plea Bargain	0.27 ***	0.03	<0.001
Having Prior Criminal Record	0.14 *	0.09	0.09
BACs higher than 80 (mg/100ml)	0.01 ***	0.001	0.000
Accident Involved	-0.05	0.06	0.48
Confession	0.26 ***	0.08	0.001
Victim Compensation	0.10	0.09	0.24
Having Defense Attorney	-0.11 **	0.07	0.10
Speedy Trial	-0.21	0.22	0.33
Summary Procedure	-0.15	0.22	0.50
Minority	-0.21 **	0.09	0.01
Female	-0.05	0.12	0.68
Court Fixed	Yes		

Note: ESS refers to the Effective Sample Size *p<0.1 **p<0.05 ***p<0.01

Table 3-6 displays the results of the OLS regression of the effect of plea bargaining on declared sentence length. Contrary to our expectation, I find that, on average, defendants who pleaded guilty received 0.27 months longer declared sentence length than defendants who did not.

Table 3-7 OLS Model of the Effect of Plea Bargaining on Served Sentence Length using the Doubly Robust Estimation (ESS=3975.1)

	Served Sentence Length (Month)		
	Estimate	Std. Error	p-value
Intercept	1.03	0.22	<0.001
Plea Bargain	-0.22 ***	0.03	<0.001
Having Prior Criminal Record	0.54 ***	0.09	<0.001
BACs higher than 80 (mg/100ml)	0.01 ***	0.00	<0.001
Accident Involved	0.42 ***	0.07	<0.001
Confession	0.37 ***	0.08	<0.001
Victim Compensation	0.06	0.08	0.45
Having Defense Attorney	-0.07	0.07	0.28
Speedy Trial	-0.17	0.20	0.39
Summary Procedure	-0.02	0.20	0.93
Minority	0.04	0.07	0.52
Female	-0.27 ***	0.09	<0.001
Court Fixed	Yes		

Note: ESS refers to the Effective Sample Size *p<0.1 **p<0.05 ***p<0.01

Therefore, Table 3-5 and Table 3-6 interestingly suggest contradictory conclusions on whether the guilty plea results in leniency. While Table 3-5 shows that defendants who pleaded guilty are more likely to be granted probation, Table 3-6 suggests that they received longer sentence length. To resolve this contradiction and examine whether plea bargaining results in greater leniency, I created a new variable: served sentence. For defendants who did not receive probation, their served sentence equals the sentence declared by the judge. However, if defendants were granted probation, their served sentence changed to zero. Table 6 shows the OLS regression results. As can be seen in the table, for defendants who pleaded guilty, the average served sentence decreases by 0.22 months. Consequently, it shows that defendants who pleaded guilty received leniency regarding the average time they served in jail.

In addition, I also find a number of legal variables have a significant effect on sentence length. For example, having a prior criminal record increases the served sentence length, on average, by 0.54 months. One unit increase of BACs could result in an increase of served sentence length by 0.01 months. A prior accident increases sentence length, on average, by 0.42 months. Finally, I also find that male defendants have 0.27 months longer served sentence length than female defendants.

3.6.5 Plea Bargaining and Fine Amount

Table 3-8 OLS Model of the Effect of Plea Bargaining on Fine Amount using the Doubly Robust Estimation (ESS=3975.1)

	Fine Amount (Yuan)		
	Estimate	Std. Error	p-value
Intercept	955.58*	532.91	0.07
Plea Bargain	5.10	60.41	0.93
Having Prior Criminal Record	196.37	129.44	0.13
BACs higher than 80 (mg/100ml)	15.81***	1.43	0.00
Accident Involved	133.81	116.12	0.25
Confession	397.71**	158.68	0.01
Victim Compensation	195.86	166.08	0.24
Having Defense Attorney	694.73***	127.72	0.00
Speedy Trial	-433.80	475.25	0.36
Summary Procedure	-819.96*	472.91	0.08
Minority	-78.79	119.11	0.51
Female	-71.53	234.26	0.76
Court Fixed	Yes		

Note: ESS refers to the Effective Sample Size *p<0.1 **p<0.05 ***p<0.01

Finally, I examine whether the guilty plea had an effect on fine amounts imposed on defendants. Table 3-8 shows the OLS regression results of the effect of plea bargaining on the amount of the fine. The second column shows that whether the defendants pleaded guilty is not a significant predictor of the amount of fine. In contrast, other variables indicating the severity of crime could significantly influence the amount

of the fine. Specifically, one unit increase of BACs of the defendant could increase the fine amount by 15 yuan.

3.7 Discussion

One practical issue, which is true all over the world, it that the criminal justice system needs to maintain its efficiency without significantly compromising the right of defendants. Plea bargaining is believed to be a potential solution because it can help lighten the caseload for prosecutors, save defendants from the discomfort of trial proceedings, and provide an extra opportunity of more positive case outcomes (Bowers, 2008; Easterbrook, 1983; Guidorizzi, 1998; Fisher, 2000). In the American courts, the vast majority of cases are disposed of through guilty pleas. Yet previous research findings on what factors contribute to plea bargaining and whether guilty pleas result in more positive case outcomes have been mixed (Kutateladze & Lawson, 2018).

China is a country where the plea bargaining system did not exist before. However, driven by similar motivations, such as expediting the dispositional process of "simple" cases and providing the defendants an extra opportunity to receive lenient sentencing, in September 2016, China started to apply a pilot program in eighteen pilot cites. The pilot program was expressed as "imposing lenient punishments on those pleading guilty and accepting punishment"[*renzui renfa congkuan*] in the Chinese official document (China, The Supreme People's Court, 2016). Although this Chinese version of plea bargaining has some different features from the traditional plea bargaining system in Anglo-American Courts, the core idea that defendants give up their right to a full trial in exchange for better case outcomes, or for an explicit or implicit benefit, is the same. The

present study is the first study to examine what factors influence a guilty plea decision and its causal relationship with case outcomes in the Chinese criminal justice system.

Using DUI cases in six cities as my research context, my study finds that several legal factors such as prior criminal record and crime severity have a significant effect on whether cases were disposed of through guilty pleas versus trial. Specifically, more serious crimes such as DUIs causing an accident and more dangerous offenders such as those with a criminal record are less likely to be disposed of through guilty pleas (as opposed to going to trial). This finding is consistent with prior studies done in American courts (Kutateladze & Lawson, 2018; Meyer & Gray, 1997). There exist several possible explanations for this. First, due to the actual harm of certain DUI cases or elevated blameworthiness of certain defendants, prosecutors expect that these defendants are more likely to receive a harsher sentence if they go to trial. Therefore, they tend to make more punitive offers in these cases, which in turn discourage defendants from accepting them. Second, because the policy goal of this program is to expedite the handling 'simple' cases, prosecutors are therefore able to allocate more resources to complicated cases. It is highly possible that prosecutors may use this program as a case management system. Prosecutors could have a screening process and prefer to reach an agreement with defendants who are less blameworthy. This mechanism, if it existed, could also explain why prior criminal records and crime severity significantly affect the decision of whether a defendant was disposed of through plea bargaining.

Notably, my study shows that cases without victim compensation are more likely to be disposed of through a guilty plea (versus going to trial). This is either because defendants who are not able to compensate victims tend to plead guilty in exchange for

some sentence reductions or because defendants who pleaded guilty feel it is unnecessary to compensate victims. If the latter causal relationship exists, this supports the argument that an agreement between the prosecutor and the defendant does marginalize the role of victims in the criminal process (Chen R. , 2017). In the U.S. criminal justice system, there are several activities that define the emergence of the modern crime victims' rights movement (CVRM). The establishment of state victim compensation programs is a vital part (Young & Stein, 2004). Some scholars also discussed several approaches to protect the role of victims in plea bargaining cases (Manikis, 2012; O'Hear, 2007) My study suggests that the protection of victim rights should be a concern for policymakers in the future.

Regarding the question of whether the decision of pleading guilty led to more positive case outcomes, although there have been theoretical debates over whether the leniency resulted from a guilty plea is legitimate (Xiong Q. , 2016; Zhu, 2016; Zuo, 2017), my study reveals that in practice, defendants who pleaded guilty did receive better dispositions throughout the whole criminal process. Shockingly, my results show that defendants who pleaded guilty are six times more likely to be released before trial compared to defendants who did not. As for the sentencing outcomes, my study shows that a guilty plea could increase the likelihood of probation by a factor of 2.43. Although defendants who pleaded guilty, on average, received a longer declared sentence, their served sentences are significantly shorter since many of them do not serve their sentences in jail. The disparity between these two groups of defendants can occur through two mechanisms. One explanation is that the plea bargaining system offered an extra opportunity for defendants to receive leniency as promised. Therefore, defendants who

pleaded guilty were granted extra "plea discounts." Another explanation, however, is that considering the Chinese criminal justice policy of leniency to those who confess, severity to those who resist [t*anbai congkuan, kangju congyan*], the criminal justice system in China could have utilized this system to facilitate case dispositions by threatening to impose the "trial penalty" on defendants who refused to plead guilty. If this is true, the development of a plea bargaining system in China can hardly be said to bring benefits to defendants.

This study is subject to several limitations. First, although it is true that courts are required to upload all decisions except for certain types of cases which are exempted, existing literature shows that local courts may fail to publish a portion of the cases due to various reasons, and the missing data varies widely by court and case types (Liebman et al. 2017). If the missing data issue is associated with certain case variables, it could generate biased estimates. Second, this study is restricted to one type of criminal case—DUI. Although DUI is a typical type of simple case disposed of through the Chinese version of plea bargaining, it has some characteristics that may prevent the accused party in DUI cases from significantly changing their case outcomes. For example, DUI cases have a relatively narrow sentencing range, which is from 1 to 6 months. Additionally, the result of a defendant's blood test provides prosecutors in DUI cases with strong evidence, thus few defendants have the chance to refuse to plead guilty. It is possible that the results extracted from another type of crime might be different. To comprehensively evaluate the plea bargaining system in China and elsewhere, more research should be done on additional types of crimes. Third, although I tried to control for a number of legal and extralegal variables to examine the effect of a guilty plea on case outcomes, there are

still some potential confounding variables that are not included in my study. For example, I do not have information about the socioeconomic status of each defendant. Some scholars argue that most underprivileged defendants are not familiar with the criminal justice system. Therefore, whether they fully understand the potential consequences of a guilty plea is highly questionable (Chen R. , 2016; Zuo, 2017). Future studies could assess whether these characteristics of defendants influence the decision of a guilty plea and its relationship with certain case outcomes. Finally, my analysis focuses on six cities located in China's developed areas, which suggests the need for broader analyses focusing on other places. In future studies, researchers could study the plea bargaining system in midwestern Chinese cities. Because these cities are in less developed areas and have fewer legal resources, the plea bargaining system may have been carried out in a different way.

3.8 References

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CHAPTER 4: MORE LAWYERS, BETTER CASE OUTCOMES? EVIDENCE FROM THE "LAWYERS FOR ALL" PROGRAM IN GUANGDONG, CHINA

Abstract

Providing indigent defendants with publicly financed lawyers is a worldwide practice. China developed a "lawyers for all" program in 2017 to expand the provision of legal counsel to indigent defendants. Using data from 4,133 defendants charged with robbery in Guangdong province, this study finds that although this program increased the rate of indigent defendants being represented by a court-appointed lawyer from less than 10% to near 50%, overall case outcomes regarding the pretrial decision, conviction decision, as well as the sentencing outcome, did not change. To explore why this null effect occurred, I further assess each type of lawyers' effect on case outcomes. Regarding the pretrial decision and the conviction decision, my analysis shows that being represented by an appointed lawyer did not have a significant effect on dependent variables. This explains why introducing more appointed lawyers would not make a difference in these case outcomes. However, before the LFA program, my results show that, on average, court-appointed lawyers were able to help defendants receive a more lenient sentencing outcome compared to defendants without a lawyer. But this effect disappeared after the LFA program was announced. Finally, more inexperienced appointed lawyers entered the criminal justice system during the post-LFA period, which could have compromised the overall quality of legal aid services.

Keywords: Criminal Attorney; Lawyer Competency; Legal Resources

4.1 Introduction

The right to counsel is widely acknowledged to be an important right in criminal proceedings. One practical issue, which is true all over the world, is that many defendants cannot afford to hire their own lawyers. Therefore, providing indigent defendants with publicly financed lawyers has become a worldwide practice. In the U.S., although the sixth amendment explicitly states that the accused has a right to a lawyer for his defense, it was not until the early 1960s that the Supreme Court broadened the right to counsel by ruling that federal and state jurisdictions should provide counsel for those who were indigent[31]. To date, almost all indigent defendants in the U.S, are entitled to have a government-funded lawyer to represent them in any case in which the possible sentencing outcome is incarceration (Feeney & Jackson, 1991; Harlow, 2001). For civil law countries like Germany and Japan, defendants also have a right to counsel under the constitution and the code of criminal procedure[32]. In Germany, section 140 (1) of the German Code of Criminal Procedure states that court shall assign an accused with a defense counsel in so-called "necessary defense", which involves situations such as the accused is charged with a felony, is tried before a higher court, is detained on remand or

[31] These cases include *Gideon v. Wainwright* 372 U.S. 335 (1963), *In re Gault* 387 U.S. 1, 20 (1967) and *Argersinger v. Hamlin*, 407 U.S. 25 (1972).

[32] For example, section 137 (1) of the German Code of Criminal Procedure provides that the accused may have the assistance of defense counsel at any stage of the proceedings. In Japan, Article 30 of the Code of Criminal Procedures (CCP) states that the accused or the suspect may appoint counsel at any time.

otherwise not considered able to defend himself.[33] In Japan, according to Article 36 of the Code of Criminal Procedure, defense counsel will be appointed upon request or by the authority of the court if a suspect is detained in connection with a criminal case or is indicted.[34]

Although the access to an attorney in the criminal proceedings became a defined right, whether this right brought positive case outcomes for defendants remains an open question. Courtroom observation indicates that a lawyer's role is to argue on behalf of the defendant. Most of their responsibilities such as collecting evidence, challenging procedural errors, negotiating with the prosecutor, etc. are supposed to bring benefits to the defendant (Kadish, Schulhofer, & Barkow, 2017). However, previous studies displayed mixed results on whether the efforts of attorneys effectively result in better case outcomes.

Based on a before-and-after analysis of *Argersinger v. Hamlin* decision, Krantz and his colleague (1976) found that the extension of the right to counsel in misdemeanor cases could bring positive case outcomes for defendants. This finding has been used as evidence showing that attorneys could make a difference in criminal proceedings (Feeney & Jackson, 1991). Several other studies, however, suggested that the effect of attorneys is not so clear. For example, by randomly assigning juvenile defendants either to be represented by the defender project or to a control group that was largely unrepresented in two cities, Stapleton and Teitelbaum (1972) found that being represented by an

[33] The German Code of Criminal Procedure in the version published on 7 April 1987 (Federal Law Gazette [Bundesgesetzblatt] Part I p. 1074, 1319), as most recently amended by Article 3 of the Act of 23 April 2014 (Federal Law Gazette Part I p. 410), Section 140.
[34] The Japan Code of Criminal Procedure (Part I and Part II), Act No. 131 of July 10, 1948, as most recently amended by Act No. 74 of 2011, Article 36.

attorney was neither associated with a lower adjudication rate nor associated with a lower rate of being committed to state institutions. Clarke and Koch (1980) studied a sample of 1,435 juveniles in two North Carolina cities during 1975 and 1976 and found that the type of counsel a juvenile made no difference in whether he was adjudicated delinquent or committed. Instead, children represented by counsel were more likely to be committed than those without counsel, raising further questions about the effectiveness of providing counsel in criminal proceedings.

Considering the provision of legal counsel has expanded to all the cases where incarceration could be imposed, recent studies have assessed whether lawyers produce positive results at the early stages. For example, Worden and his colleague (2018) evaluated the counsel at first appearance (CAFA) programs in four counties. By comparing cases adjudicated before and after the CAFA program, their results showed that the CAFA program could result in more positive outcomes in pretrial decisions. Early counsel on misdemeanor bail decisions could either increase the likelihood of release decisions or decrease bail amounts. (Worden, Morgan, Shteynberg, & Davies, 2018)

To my knowledge, all the empirical studies comparing the case outcomes between represented and unrepresented defendants in the American criminal justice system focused on misdemeanor cases. Compared with felony cases, the criminal proceedings of misdemeanor cases are usually less adversarial. As some scholars suggested, defendants committing misdemeanor crimes may choose to be unrepresented because they plan to plead guilty and throw themselves on the mercy of the court. It is also possible that these defendants were unrepresented simply because the judge made a predetermination not to

impose incarceration even if the defendants were convicted (Feeney & Jackson, 1991). Therefore, the estimation of the effect of legal counsel on misdemeanor cases could be biased unless all these factors are considered.

Given the fact that almost all felony defendants in American courts are represented by a lawyer, more recent studies on the effect of legal counsel in felony cases focused on exploring whether the type of lawyer matters. Non-indigent defendants pay to hire their own lawyers. But for indigent defendants who cannot afford a lawyer, the only choice they have is to be represented by a lawyer supplied by the state. In this situation, a judge or court official either appoints a defense counsel from a list of attorneys in private practice or a salaried public defender to represent the defendant (Kadish, Schulhofer, & Barkow, 2017). One research question, which is closely relevant to the current study, is whether the quality of assistance given to indigent defendants is equal to that obtained by defendants who can afford to hire their own counsel.

Some empirical studies suggest that different types of lawyers do not produce different case outcomes. Williams (2002) studied 420 felony cases in a Florida Circuit Court. Her comparison of sentencing outcomes for defendants with public defenders versus defendants with retained counsel found that the type of legal counsel was not a significant predictor in any sentence outcome, including probation decision, incarceration decision, and sentence length. Similarly, using a sample of 2,850 offenders convicted of felonies in Cook County Circuit Court, Hartley and his colleague (2010) found that whether a defendant was represented by a public defender or a retained attorney had no significant direct effect on case outcomes.

Nevertheless, a considerable number of studies do illustrate that defendants with appointed attorneys received less favorable outcomes compared to their counterparts with retained attorneys. Beck and Shumsky (1997) studied 606 murder cases in Georgia and found that a death sentence was more likely to be imposed on defendants with an appointed counsel than those with a retained attorney after controlling for other confounding variables. Using a large sample of 87,661 defendants charged with felony cases, Cohen (2014) demonstrated that private attorneys and public defenders secured similar adjudication and sentencing outcomes for their clients, but defendants with assigned counsel tended to receive less favorable outcomes.

Other studies also suggested that the type of counsel could influence case outcomes at the early stages of criminal proceedings. For example, Williams (2017) studied the bail decisions for felony defendants in 75 most populous counties and found that compared with defendants with a retained attorney, defendants with public defenders were more likely to be denied bail and less likely to be released, but they also benefited from lower bail amounts and non-financial release options. In fact, the proposition that quality differences exist in different types of counsel is also supported by some qualitative research, which revealed that many court-appointed lawyers were in disadvantaged situations and encountered problems such as low salaries, overwhelming caseloads, insufficient incentives and relative isolation (Feeney & Jackson, 1991; Anderson & Heaton, 2012; Calogero, 1995). Their findings further cast doubt on the quality of services provided by these court-appointed lawyers.

In summary, previous empirical studies done in the American criminal justice system suggest that whether legal representation produces positive results for defendants

remains uncertain and the effectiveness of legal counsel could depend on whether the lawyer was privately hired or publicly appointed. However, an important methodological question involved in these cross-sectional analyses is whether certain omitted variables could influence both the type of counsel and variations in the case outcomes. Although most studies attempted to control for many confounding variables in their multivariate models, the causal relationship between the provision of legal counsel and case outcomes cannot be fully established unless all these factors are considered. In contrast, the current study examines the effect of legal provisions on case outcomes using a policy change that expanded the coverage of legal counsel in China. Assuming the policy change itself is an external shock, this study better identifies the true effect of legal provision on case outcomes.

The criminal justice system in China is significantly different from that in the U.S.. Considering its civil law and socialist law tradition, lawyers in China are believed to be far less adversarial than lawyers in American courts. However, a similar policy change, which occurred in American courts more than half a century ago[35], happened in the Chinese criminal justice system recently. In October 2017, the Supreme Court in China decided to carry out a pilot program named "Full Coverage of Defense Lawyers in Criminal Cases" [*xingshianjian lvshi bianhu quan fugai*]. This "Lawyers for All" (LFA) program required the state to provide a lawyer to indigent defendants, either representing them or giving them suggestions depending on the case type. Notably, for felony cases

[35] In *Gideon v. Wainwright* 372 U.S. 335 (1963), the Supreme Court held that states were required to follow the sixth amendment and to afford the full right to counsel to felony defendants. Later, decisions in *In re Gault* 387 U.S. 1, 20 (1967) and *Argersinger v. Hamlin*, 407 U.S. 25 (1972) further extended the right to counsel to juvenile cases and to misdemeanour cases in which the defendant was given a custody sentence.

disposed of through the ordinary procedure[36], this program mandated that a court-appointed attorney should appear in the court on behalf of the defendant. Similar to the decision in *Gideon v. Wainwright* (1963), the LFA program in China was a national decision imposing a universal requirement on local courts. While some of those local courts already had programs to afford the right to counsel to indigent defendants, most courts did not have such a system before the LFA program was carried out.

Official documents claimed that this program represented a significant step in protecting civil rights in the criminal justice system. They held that providing more defendants with lawyers would make criminal procedures more adversarial and bring true benefits to defendants (China, Ministry of Justice of People's Republic of China, 2019). Also, to ensure that this program would be implemented, certain regulations mandated that the appellate court shall rescind the original judgment and remand a retrial if the first trial court fails to appoint an attorney for the defendant. Considering these promising features, the LFA program was expected to have a positive impact on the Chinese criminal justice system in which almost half of the defendants used to be unrepresented in the criminal proceedings (China Law Society, 2018).

Some scholars, however, identified several potential challenges of this program. For example, some literature mentioned that many jurisdictions may lack enough funds and staff to deal with the sudden increase in legal services (Li L. , 2017; Guo & Han, 2018). Others also suggested this program cannot be successful until enough competent

[36] According to the current Criminal Procedure Law in China, there are three types of criminal procedures in the Chinese criminal justice system, which are the fast-track procedure, the summary procedure, and the ordinary procedure. The summary procedure and the fast-track procedure applies to simple cases of which the facts are clear and defendants plead guilty and have no objection to facts of the crime. In contrast, the ordinary procedure applies to complicated cases in which the possible punishment is harsh, the defendant does not plead guilty or there is a dispute over facts of the crime.

court-appointed lawyers enter the criminal justice system (Gu, 2017; Chen, Dong, & Tang, 2018).

Moreover, several unique characteristics in the Chinese criminal justice system also complicate a lawyer's potential influence on case outcomes. The Chinese legal system is a mixture of civil law and socialist law tradition. As a civil-law country, the courts in China tend to conduct fact-finding through verifying the dossiers that have been prepared before trial (Chen R. , 2006; Goldstein & Marcus, 1977). Hence, after the essential dossiers are verified by the judge, defendants and attorneys may find it extremely difficult to disprove the facts presented by the prosecution. Moreover, although lawyers' procedural rights have been strengthened after serval waves of legal reforms, criminal defense in China still involves certain difficulties. State laws and regulations require criminal attorneys to obey certain local governments' instructions (Liu & Halliday, 2011; Cookea, Linb, & Jiang, 2013). Consequently, lawyers in China are supposed to be less combative and less adversarial, which may further limit their ability to change the defendants' case outcomes.

Using China's policy change as a context, this study examines whether a sudden expansion in the provision of lawyers to indigent defendants results in better case outcomes and whether outcomes differed between court-appointed lawyers and privately hired lawyers. This study focuses on Guangdong province, where almost two-thirds of defendants did not have a lawyer before the LFA program. My main results. show that although the rate of defendants represented by a court-appointed lawyer increased from less than 10% percent to more than 50% after the LFA program was carried out, this did not change overall case outcomes regarding the pretrial decision, conviction decision, or

mean sentence length. To explore why this null effect occurred, I further assess each type of lawyers' effect on case outcomes. Regarding the pretrial decision and the conviction decision, my analysis shows that being represented by an appointed lawyer did not have a significant effect on dependent variables. This explains why introducing more appointed lawyers would not make a difference in these case outcomes. However, before the LFA program, my results show that, on average, court-appointed lawyers were able to help defendants receive a more lenient sentencing outcome compared to defendants without a lawyer. But this effect disappeared after the LFA program was announced. I argue that the increasing number of inexperienced appointed lawyers in the criminal justice system implies the decreased quality of legal aid services.

The remainder of the paper is organized as follows. Part 2 describes the background information of what the legal representation, the legal aid system and the LFA program in China are like. Part 3 provides a description of the research setting, data, and methods. Part 4 presents the main results of the effects of the LFA program on case outcomes. Part 5 proposes and tests several potential explanations for the main results. Part 6 reviews the findings and the limitations of this research.

4.2 Background

4.2.1 Criminal Defense in China

Professional criminal defense in China was almost non-existent before the late 1970s. Mao's communist ideology regarded criminal defendants as "enemies of the people" and the criminal justice system was utilized as a weapon to smash crime. Therefore, the primary task of defense lawyers in Mao's era, if they existed at all, was to

work as a state employee to help defendants to admit guilt, instead of pursuing the interests of their clients (Lynch, 2011; Liang, He, & Lu, 2014; Liu & Halliday, 2009).

Nevertheless, the past 40 years have witnessed a phenomenal change in the Chinese criminal justice system. In an effort to establish a legal system that, at least in outward appearance, satisfies international standards, since the late 1970s, China has carried out a series of legal reforms to reconstruct its legal profession (Liu & Halliday, 2009; Liebman B. L., 1999; Jr., 2010; Potter, 1999). In 1979, there were only 212 lawyers in China (China Lawyers Association , 2002), but this number increased to 357,193 at the end of 2017 (China Law Society, 2018). More importantly, a series of laws and regulations were enacted, and the roles of defense lawyers significantly expanded in the reform era (Liang, He, & Lu, 2014). Therefore, legal representation in China, at least in written laws, has become more consistent with the global standards (Liu & Halliday, 2009; Jr., 2010).

First, criminal defense lawyers began to act as an agent serving the interests of their clients, instead of a state legal employee. In the early 1980s, there were no private law firms in China; instead, lawyers worked in state-run law firms and enterprises (Liebman B. L., 1999; Liu & Halliday, 2009; Lynch, 2011). However, China's legal profession experienced a fundamental transition in the late 1980s. After the Ministry of Justice permitted legal practice free of direct state supervision in 1988, an increasing number of private law firms were established. Then, the 1997 Lawyers Law replaced the expression of 'state legal workers' with the description that lawyers 'shall be subject to the supervision of the State, society and the parties concerned'. Therefore, despite the government's formal and informal stated control, the privatization of the legal profession

and legal reforms in China provided lawyers in China with greater self-governance, which contributed to a more independent and professional system of legal representation. (Lynch, 2011; Lu & Miethe, 2002).

Second, China revised its Criminal Procedure Law (CPL) several times.[37] Each version allowed defense lawyers to be involved in criminal cases at an earlier stage and have easier access to case files (Lu & Miethe, 2002; Liu & Halliday, 2009; Liang, He, & Lu, 2014). In the 1979 CPL, criminal defenders did not obtain access to the defendants until a case file reached the trial (Article 110). Such a late involvement in criminal proceedings definitely kept a lawyer's effect on the case to a minimum. Instead, the 1996 CPL allowed a defendant to meet a lawyer "following the first interrogation". But the 1996 CPL also put some constraints on defense lawyers' involvement in this phase of the investigation, stating that the police could be present at the meeting when they feel it necessary (Article 96). The 2012 CPL further expanded a lawyer's role in criminal proceedings and better guaranteed their rights. According to the 2012 CPL, the police should inform the defendant of his/her right to obtain a defender during the first interrogation (Article 33). In addition, a detention center shall arrange a meeting between the defense lawyer and the defendant within 48 hours after receiving a request and the meeting shall not be monitored (Article 37). These legal reforms allowed lawyers to become more active participants in the criminal justice system and have better opportunities to affect case outcomes (Lu & Fu, 1998; Liang, He, & Lu, 2014).

[37] There have been four modifications of the Criminal Procedure Law in China after the Cultural Revolution, which took place in 1979, 1996, 2012, and 2018.

Third, China's criminal justice legal reforms embodied and institutionalized certain global norms, at least in its written legislation (Liu & Halliday, 2009; Potter, 1999; Jr., 2010). One feature of these norms is to place great importance on due process and emphasize the protection of the procedural rights of defendants. For example, the 1996 CPL mentioned the "presumption of innocence" for the first time by stating that "no person shall be found guilty without being judged by a court" (Article 12). Also, it granted defense lawyers the right to conduct parallel investigations, bring their own witnesses to the court (Article 37), and conduct cross-examination of evidence in the trial (Article 47). The 2012 CPL further adopted exclusionary rules against evidence illegally obtained through torture (Articles 50, 53, 54). In addition, the 2018 CPL established the Chinese version of the plea bargaining system [*renzui renfa cong kuan*] for the first time and required the lawyer's presence when defendants sign the guilty plea agreement with the prosecutor (Article 174). These rules, while still being problematically implemented in practice, help to protect the rights of the defendants and enhances the position of defense lawyers. They shifted some power from the police and prosecutor to defendants and lawyers, signaling that the justice system was moving towards an adversarial model (Lu & Miethe, 2002; Liu & Halliday, 2009; Li E. , 2010) .

However, the implementation of law in practice is different from the establishment of formal law in the books. Due to traditional, social and political constraints, this gap in the Chinese criminal justice system is even wider than that in other countries (Liu & Halliday, 2009; Jr., 2010). Legal practice for defense lawyers in China is still fraught with obstacles and risks (Michelson, 2007; Lynch, 2011).

First, while the legal profession generally becomes more independent, political interference in lawyers' defense work does not fade away (Lynch, 2011; Liebman B. L., 1999). The government in China still exert controls over lawyers through various justice bureaus. For example, every licensed lawyer in China must join a local branch of All-China Lawyers' Association (ACLA); lawyers are not permitted to form any other self-regulated associations. Ministry of Justice (MOJ) and its local branches directly supervise all levels of ACLA and have real power over issues such as bar admission, license revocations, and disbarment decisions. As a result, lawyers in China are required to comply with instructions and regulations of MOJ (Lynch, 2011; Cookea, Linb, & Jiang, 2013). Additionally, several studies found that many Chinese lawyers also try to build personal relations with the justice bureaus to overcome institutional barriers and dangers in their legal practice. They rely in their daily work on a diverse set of direct and indirect individual and organizational ties to the state (Michelson, 2007; Liu & Halliday, 2011; Lu, Trejbalova, & Liang, 2019). This kind of political embeddedness may prevent lawyers from prioritizing their clients' interests in certain circumstances.

Second, lawyers who tend to challenge state power and aggressively pursue legal proceduralism may encounter considerable difficulties and dangers in their daily defense work (Liu & Halliday, 2011; Lynch, 2011). China's legal culture is also deeply influenced by the former Soviet Union's legal tradition and has a reputation for its unbalanced justice system in favor of the police and prosecutors. In this model, prosecutors play a role as "provider of justice," who cooperate with the police and the court to crack down on crime. In such a system, the opinions of defense lawyers are likely to be ignored and the efforts of defense work may turn out to be fruitless (Liang,

He, & Lu, 2014; Packer, 1964). In addition, the potential abuse of Article 306 in the Criminal law also plays the role of "the Sword of Damocles" hanging over all defense lawyers. This law allows the conviction of lawyers who have conspired with defendants to commit perjury or induce their clients to 'change their testimony or make false testimony'. In practice, the prosecutor has wide discretion over the interpretation of this article and may use it to retaliate against lawyers who are defending cases against them (Liu & Halliday, 2011; Li E. , 2010; Lynch, 2011). Therefore, in sensitive cases, it is possible that lawyers are forced to give up aggressive approaches to avoid getting into trouble.[38]

In summary, it should be admitted that legal representation in the Chinese criminal justice system has made tremendous progress in the last few decades. Lawyers in China are now granted more rights and their role in the criminal process has significantly expanded. However, the extent to which these changes on the books have been transformed into real practice remains questionable. In certain cases, whether the efforts rendered by the defense lawyer can truly affect the case outcome still depends on various extra-legal and practical factors.

4.2.2 China's Indigent Defense System before the LFA program

In the U.S. criminal justice system, only 20 percent of criminal defendants are able to hire their own lawyers (Kadish, Schulhofer, & Barkow, 2017). In China, this proportion was even smaller, only 15% of defendants have the means to hire lawyers (Li L. , 2017). Consequently, it is a common practice around the world that a judge, court

[38] It is worthwhile to note that, in China, there is a group of lawyers encountering far more risks than criminal attorneys. These lawyers help Chinese citizens to assert their constitutional, civil rights and public interest through litigation and legal activism. They are labelled as "rights protection" lawyers [*Weiquan Lvshi*].

administrator, or some other official appoint a defense counsel for those indigent defendants who need a lawyer but cannot afford the legal fees. In China, this provision is termed legal aid [*falvyuanzhu*].

As the legal profession of defense lawyers progressed, the legal aid system in China developed rapidly as well (Liebman B. L., 1999). The 1979 CPL only provided that courts could, where they deemed necessary, appoint a "defender" to represent a defendant, and they should do so when the defendant is deaf, mute or a minor and had not retained a defender (Article 27). However, given that the legal profession was underdeveloped at that time, this legal aid was rarely performed by a professional defense lawyer (Liebman B. L., 1999). After the legal profession experienced a fundamental transition in the early 1990s, the 1996 CPL for the first time used the term "lawyers" in specific articles (Article 34). The 2012 CPL further expanded the provision of legal aid in the criminal justice system and listed four conditions under which courts shall designate a lawyer to a defendant without an entrusted lawyer: (1) The defendant is vision, hearing or speech impaired; (2) The defendant has a mental illness; (3) The possible sentence for the defendant is capital punishment or life imprisonment; and (4) The defendant is a minor under the age of 18 (Article 34 and Article 267). In addition, it also stated that an indigent defendant could apply for legal assistance and the legal aid center should assign a lawyer when they believe that his or her application qualifies (Article 34). In short, the 2012 CPL established the basic framework and criteria of the legal aid program in the Chinese criminal justice system before the "Lawyers for All" (LFA) program was carried out.

Moreover, the law stated courts shall contact a legal aid center [*falvyuanzhu zhongxin*] in its jurisdiction to request a legal aid lawyer when they deem it necessary

(2012 CPL Article 34). However, in practice, how legal aid centers assign lawyers highly depends on local practice. In a few cities, the legal aid center itself employs a number of full-time lawyers and these lawyers handle the majority of the criminal cases assigned by the courts. This model is like the public defender system in the U.S. criminal system, where these attorneys work as state staff to represent indigent defendants (Kadish, Schulhofer, & Barkow, 2017; Liebman B. L., 1999). In many other cities, however, the legal aid center collaborates with private law firms or independent lawyers. This is more similar to the contract system in the U.S. In this model if a center receives a case suitable for legal aid, it requests a local law firm to appoint a lawyer to undertake this case. In most cases, these appointed attorneys are compensated at a fixed rate, which is usually lower than that in private practice (Chen, Dong, & Tang, 2018). However, due to the lack of financial resources, some local legal aid centers also require lawyers to serve a number of "pro bono" cases without compensation (Liebman B. L., 1999)[39].

While the development of the legal aid system in China is remarkable, this system is far from satisfactory. Even in the criminal justice system, legal aid and defense lawyers remain beyond the reach of the majority of defendants. Official statistics show that 54% of criminal defendants all over the country had defense attorneys before the LFA program was carried out (China Law Society, 2018)[40]. Overall, 15% of defendants hired their own lawyers and 39% of defendants obtained a legal aid lawyer, leaving 46% of defendants without defense attorneys.

[39] To ensure that lawyers fulfill their responsibility, China's Lawyers Law also states that it is statutory obligation for lawyers to provide legal aid (Article 42) and the local branch of Ministry of Justice may impose punishment on lawyers who refused to accept this obligation (Article 47).
[40] According to the official statistics, there were 1, 294,377 criminal trials all over China in 2017. Among them, 705,213 cases were represented by lawyers.

4.2.3 The "Lawyers for All" (LFA) Program

Realizing that the insufficient availability of legal aid is an obstacle to build a criminal justice system claiming to promote human rights and social justice[41], in 2017, the Supreme People's Court (SPC) and the Ministry of Justice (MOJ) jointly decided to conduct the pilot program called "Full Coverage of Defense Lawyers in Criminal Cases" [*xingshianjian lvshi bianhu quan fugai*]. This "Lawyers for All" (LFA) program started on October 12, 2017 and was first carried out in eight provinces and municipalities for one year[42]. After December 28, 2017, this program was expanded to all provinces across the country.

The core idea of the LFA program is that all criminal defendants shall be assigned a lawyer to represent them or give them legal advice at some stages of their criminal proceedings. The levels of legal assistance depend on the type of criminal procedures within each case. According to the current CPL, there are three types of criminal procedures in the Chinese criminal justice system: the summary procedure, the fast-track procedure, and the ordinary procedure. The summary procedure applies to cases in which the facts are clear, the evidence is concrete and sufficient, and the defendants plead guilty and have no objection to facts of the crime (2018 CPL, Article 214). The fast-track procedure applies to cases that satisfy all the requirements of the summary procedure and additionally requires that defendants sign a plea bargaining agreement to accept his punishment which should not exceed three years imprisonment (2018 CPL, Article 222).

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[41] China. CPC: *Zhongguo gongchandang shiba jie sanzhong quanhui gongbao* [Communiqué of the Third Plenary Session of the 18th Central Committee of the CPC], November 12, 2013, Retrieved April 22, 2019 at http://www.china.org.cn/chinese/2014-01/16/content_31213800_3.htm.

[42] The eight pilot districts are Beijing, Shanghai, Zhejiang, Anhui, Henan, Guangdong, Sichuan, and Shaanxi.

All the remaining cases should be disposed of through the ordinary procedure. Those cases are usually complicated, the possible punishment is harsh, or the facts of the crime are disputed. According to the Notice released by SPC and MOJ, the court should request a legal aid agency to assign a *defense attorney* if the case is disposed of through the ordinary procedure and the defendant does not hire a lawyer. The defense attorney would represent the defendant throughout the criminal process. In contrast, for cases disposed of through the summary procedure and fast-track procedure, although the notice states that defendants should receive *legal assistance* from an *on-duty lawyer* dispatched by a legal aid agency, these on-duty lawyers do not act as defense attorneys and they seldom appear in the court on behalf of the defendant (Article 2).

Compared to the previous CPL which only offered legal aid to a small portion of defendants, this pilot program significantly expanded the scope of legal aid and an attorney became a requirement in complicated criminal cases. However, at the current stage, the Notice allowed the provincial government to determine the extent to which this program would be implemented (Article 26). While in certain pilot provinces such as Guangzhou the LFA program was expanded to all local courts, other pilot provinces may have only selected a few cities to implement this project. I will return to this point in my research setting section.

Although official documents provided mandatary rules and addressed some practical issues to guarantee the implementation of the LFA program, some scholars argued that in practice, this program's success depends on other concerns. Specifically, local jurisdictions may suffer from a lack of qualified lawyers to undertake sudden increases in caseload. In addition, since this program left the financial burden of

providing lawyers to local governments, some jurisdictions may lack enough funding to carry out this program (Gu, 2017; Guo & Han, 2018; Li L. , 2017). In fact, these concerns have been illustrated by some observational studies. Chen and his colleague (2018) studied several local courts in Hangzhou, Zhejiang province and suggested that jurisdictions varied greatly in the level of attorneys hired and the resources available during the post-LFA period. Some jurisdictions encountered strong pressures for attorneys and budgets after this program was carried out. Huang and Liu's observation in Huangshi, Hubei also revealed similar problems. They found that the caseload for appointed attorneys increased by 50% after the LFA program was carried out, but there seem to be not enough personnel and financial resources to handle these increased cases (Huang & Liu, 2018).

If the lack of resources became a universal problem during the post-LFA period, it could negatively affect the quality of legal representation in many ways. First, it is obvious that publicly financed lawyers are much more likely to provide an inferior type of service if they face high caseload pressures and have difficulty in allocating enough time in every single case. Second, some local jurisdictions may choose to appoint new lawyers to undertake the increased caseload of legal aid services. However, due to lack of funds and training, whether these newcomers are qualified remains questionable. In either situation, the quality of legal aid services could significantly decrease, and court-appointed lawyers, as a group, are less likely to achieve good results. This "quantity over quality" hypothesis further challenges the proposition that the LFA program is going to help more defendants receive better case outcomes. The current study explores this issue in the following parts.

4.3 Research Setting, Data, and Methods

4.3.1 Research Setting

As noted in the background part, the SPC and the MOJ left the implementation of the LFA program to the local government's discretion. Due to limited financial and personnel resources, most pilot provinces such as Henan, Shanxi, and Zhejiang planned to apply this program to a few courts at first. [43] As a result, the LFA program is not expected to have an extensive effect on the criminal justice system in these provinces. Moreover, in some other districts, local courts started their own legal assistance program before the nationwide LFA program started. For example in Shanghai, 85% of the defendants charged with robbery have their attorneys prior to 2017. In 2018 after the LFA program was carried out, 88% of defendants were represented by an attorney. Given that this change is relatively small, it is hard to argue that the LFA program significantly influenced the criminal justice system in Shanghai courts.

In contrast, Guangdong is unique among the eight pilot provinces in that the high court and bureau of justice of Guangdong decided to expand the LFA program to the whole province right after this program was announced by the SPC. Local regulations stated that the SPC Notice should be applied to criminal defendants adjudicated in all levels of courts located in its jurisdiction.[44] As a result, the LAF program is anticipated to widely influence its local defense system.

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[43] For example, Zhejiang only implemented the LFA program in three cities. In Henan, the LFA program were only carried out in 31 courts, affecting one third of all criminal cases (China, The Supreme People's Court, 2017).

[44] Notice of the High Court and the Bureau of Justice in Guangdong Printing and Promulgating on the Measures for Launching the Pilot Program of Full Coverage of Defense Lawyers in Criminal Cases [*Guangdong sheng gaoji renmin fayuan. Guangdong sheng si fa ting yinfa " guanyu kaizhan xingshi anjian lvshi bianhu quan fugai gongzuo de shishi banfa" de tongzhi*]

In addition, as shown in the data section, Guangdong is a province where more than two-thirds of defendants charged with robbery did not have an attorney before the LAF program started. Less than 5% percent of defendants had access to a court-appointed attorney. However, this percentage increased to 23.1% after the LAF program was announced, and now more than half of defendants charged with robbery are represented by counsel. This provides an ideal context to study the effect of a sudden increase in the coverage of legal representation on the criminal justice system.

My study focuses on robbery cases for two reasons. First, robbery cases are one of the most common felony crimes in China and may result in sentences ranging from 3 years of imprisonment to the death penalty. In the U.S., almost all defendants charged with such a felony were represented by a criminal attorney, either hired or appointed (Harlow, 2000). Therefore, very few studies can answer the counterfactual question of whether case outcomes would change if these attorneys did not exist. Using the policy change in China, my study tries to find whether these attorneys in felony cases can truly make a difference regarding the pretrial detention decision, the conviction decision, and the sentencing outcome. Second, compared to defendants charged with a white-collar offense, defendants charged with a violent crime such as robbery tend to have a lower socioeconomic status. For example, among the 1,657 defendants in my sample for which I have employment information, 1,127 defendants are unemployed. 2,498 out of 2,739 defendants whose education information was disclosed in the case files did not receive an education higher than secondary school. In the U.S., these defendants are more likely to use indigent defense and are the main targets of legal assistance. One primary goal of my

research is to examine how the presence of defense attorneys in the criminal justice system could affect the outcome of cases involving indigent defendants.

4.3.2 Data and Measurement

My dataset includes a sample of 4,133 defendants charged with robbery between January 2016 and October 2018 in 157 courts all over Guangdong province in China. All data were coded from case files downloaded from a website called "China Court Judgments" [*zhongguo caipan wenshuwang*] established by the Supreme Court in China (SPC)[45]. Starting from July 2013, the SPC requested local courts to upload all documents that reflect the termination of a case on this website. The latest version of regulation states that local courts should upload any judgment online within seven days from the date of the case is disposed (Article 7) unless this case falls into an excluded category including cases involving state secrets, juvenile criminal cases, disputes concluded through mediation, divorce and adoption cases (Article 4). Moreover, the regulation requires local courts to disclose the Case ID, the name of the court, the filing date, and the explanation whenever they decide not to release a specific case (Article 6) (China, The Supre People's Court, 2016). This rule further institutionalized the publicizing of the court decision.

Therefore, my dataset should cover most robbery cases adjudicated in Guangdong courts during 2016-2018. However, it is possible that local courts may fail to release a certain portion of cases due to various reasons. Prior literature shows that the missing data issue varies widely by region and court (Roberts, Liebman, Stern, & Wang, 2017).

[45] For other recent work using this database, see Liebman, B. L. (2015). Leniency in chinese criminal law: Everyday justice in henan. *Berkeley Journal of International Law*, 33(1), 153-222.Wei, S., & Xiong, M. (2019). Judges' Gender and Sentencing in China: An Empirical Inquiry. *Feminist Criminology*, 1-34.

Nevertheless, because my study aims to use this data to evaluate the effect of a policy change on case outcomes, the missing data issue will not cause biased outcomes unless its distribution varies before and after the policy change and is dependent on case outcomes. I will return to this point in the discussion part.

According to Chinese criminal law, there are two degrees of robbery. The simple robbery occurs when a perpetrator uses force or threatens to use force to take someone else's property and may result in three to ten years of imprisonment. A robbery charge is elevated to aggravated robbery when it involves more than one of the following aggravating factors: (1) committing a home-invasion robbery; (2) carjacking of any driver or passenger on a public transportation; (3) robbing a bank, credit union or savings and loan institution; (4) robbing more than three times or taking property of high value; (5) causing severe injury or death; (6) impersonating a cop or a military officer; (7) use of a firearm; (8) robbing military materials or the materials for emergency rescue. The aggravated robbery leads to sentences from ten years of imprisonment to life imprisonment. In some fatal robberies in which the victim is killed, a death penalty may be applied.

I coded a series of variables reflecting the blameworthiness of the defendant and the seriousness of the crime. These legally relevant variables include prior criminal records, the number of robberies the defendant committed, whether the defendant committed a co-offending robbery, whether a weapon was used, and the degree of physical injury to the victim. In addition, I coded variables related to mitigating factors stated by the criminal law, such as attempted robbery (Article 23), guilty plea, voluntary surrender (Article 67), juvenile (Article 17), and mental disorder (Article 18). Also,

several aggravating factors including whether the defendant committed home invasion robbery, whether he/ she robbed items of high value, and whether he/ she is a recidivist (Article 65)[46] were also coded as control variables in the dataset.[47] Finally, as noted in part 2, one feature of the LFA program is to expand legal assistance depending on types of criminal procedures. Therefore, my dataset also includes variables such as whether the defendant was represented by a type of attorney (appointed attorneys or private attorneys) as well as types of criminal procedures (ordinary procedure, summary procedure, or speedy trial).

Table 4-1 summarizes the characteristics of my sample, reporting average characteristics of defendants tried before (Column II) and after (Column III) the LFA program. Table 4-1 also reports the t-statistic and associated p-value for a test of the null hypothesis of equal means across the two groups. As can be seen in the table, in my dataset, 2,633 defendants were adjudicated between January 1, 2016, and October 12, 2017, during which time the LFA program was not announced. Only 3.7% of these defendants had an attorney assigned by the court. And 26.2% of the defendants retained their own lawyers. The remaining 70% of defendants had no attorneys during the trial. However, among the 1,507 defendants who were adjudicated after the LFA program started, 23.1% of the defendants were represented by an appointed lawyer, causing the percentage of defendants without an attorney to drop to 48.5%. I do not find that there is

[46] In China, a recidivist refers perpetrators who commits new crimes within five years after finishing serving his/her sentence.

[47] As noted, the criminal law lists 8 circumstances that could elevate a robbery to aggravated robbery. For some of the circumstances such as causing severe injury or death to the victim, and committing more than three robberies, I have already coded them in other variables. As for the remaining five circumstances such as carjacking, robbing a bank, impersonating a cop or a military officer, use of a firearem, and robbing military materials or the materials for emergency rescue, there is no defendant committing these types of robbery in my sample.

a statistically significant difference between the two groups on the proportion of defendants retaining private lawyers.

The remaining rows of Table 4-1 show the legally relevant characteristics of these defendants. In general, there are no statistically significant differences between the pre-LFA and post-LFA groups in most variables at a significance level of 0.05. One exception is that a lower percentage of defendants were charged with attempted robberies after the LFA program was carried out. Despite this, the two groups of defendants before and after the LFA program appear largely balanced in their blameworthiness and seriousness of the offense.

This study analyzes the effect of the LFA program on case outcomes at three critical processing stages: the pretrial detention decision, the conviction decision, and the sentencing outcome. The dependent variable for the pretrial decision is a measure of whether the defendant was in custody pretrial or released. As for the conviction decision, I measure whether the defendant had their primary charge reduced. Although all defendants in my sample were indicted for robbery, some of them were finally convicted of less serious crimes such as assault, theft, burglary, etc. and received a less harsh sentencing outcome. Finally, I measure specific sentences imposed on each defendant. As noted, the possible sentencing outcome for robbery ranges from three years imprisonment to the death penalty[48]. Therefore, the dependent variables for the sentencing decisions

[48] In China, there are two types of death penalty. The first type of death penalty is death penalty with immediate execution. If a defendant is sentenced to this type of death penalty, he or she will be executed immediately after his or her case is reviewed by the Supreme Court. The second type of death penalty is death penalty with a suspension of execution. Defendants are given a suspended two-year sentence after which they will have their sentence commuted to life imprisonment unless they commit calculated crime in prison during these two years. In practice, very few defendants sentenced to death penalty with a suspension of execution were truly executed.

include a series of dummy measures of whether the defendant was sentenced to a specific type of death penalty or life imprisonment, and for those receiving fixed imprisonment, the length of the sentence imposed.

Table 4-2 shows the descriptive statistics of case outcomes by groups of defendants adjudicated before and after the LFA program. It shows that although defendants have easier access to appointed attorneys after the LFA program was carried out, all case outcomes of these defendants were not significantly different from that of defendants tried before the LFA program.

Table 4-1 Characteristics of Robbery Defendants before and after the LFA program

	Full Sample (N=4,133) (I)		Pre-LFA (N=2,626) (II)		LFA （N=1,507) (III)		T-STAT (II)-(III)	p-value
Variable	N	%	N	%	N	%		
Types of Counsel								
Appointed Attorney	446	10.8%	98	3.7%	348	23.1%	-16.86	<0.001
Private Attorney	1117	27.0%	689	26.2%	428	28.4%	-1.5	0.13
No Attorney	2570	62.2%	1839	70.0%	731	48.5%	13.43	<0.001
Case Disposition								
Ordinary Procedure	1546	37.4%	1005	38.3%	541	35.9%	1.43	0.151
Summary Procedure	2585	62.5%	1621	61.7%	964	64.0%	-1.43	0.15
Speedy Trial	2	0.0%	0	0.0%	2	0.1%	-1.41	0.16
Having Prior Criminal Record	1060	25.6%	655	24.9%	405	26.9%	-1.36	0.17
Number of Robbery Charges								
One	3667	88.7%	2327	88.6%	1340	88.9%	-0.2	0.84
Two	145	3.5%	89	3.4%	56	3.7%	-0.54	0.59
More than three	321	7.8%	210	8.0%	111	7.4%	0.74	0.46
Co-offending Robbery	1465	35.4%	907	34.5%	555	36.8%	-1.47	0.14
Using Weapon	2413	58.4%	1554	59.2%	859	57.0%	1.36	0.17

Table 4-1 Characteristics of Robbery Defendants before and after the LFA program (Continued)

	Full Sample (N=4,133) (I)		Pre-LFA (N=2,626) (II)		LFA (N=1,507) (III)		T-STAT (II)-(III)	p-value
Variable	N	%	N	%	N	%		
Degree of Physical Injury to Victim								
None (0)	2380	57.60%	1507	57.40%	873	57.90%	-1.16	0.24
Small Injury (1)	1290	31.20%	844	32.10%	446	29.60%	1.71	0.09
Mild Injury (2)	312	7.50%	187	7.10%	125	8.30%	-1.34	0.18
Severe Injury (3)	56	1.40%	37	1.40%	19	1.30%	0.4	0.69
Death (4)	95	2.30%	51	1.90%	44	2.90%	-1.91	0.06
Other Mitigating Factors								
Attempted Robbery	739	17.90%	497	18.90%	242	16.10%	2.35	0.02
Guilty Plea	2053	49.70%	1283	48.90%	770	51.10%	-1.38	0.17
Voluntary surrender	769	18.60%	467	17.80%	302	20.00%	-1.77	0.08
Juvenile	109	2.60%	66	2.50%	43	2.90%	-0.64	0.51
Having Mental Illness	16	0.40%	9	0.30%	7	0.50%	-0.58	0.56
Other Aggravating Factors								
Home Invasion Robbery	240	5.80%	148	5.60%	92	6.10%	-0.61	0.54
Rob Items of High Value	153	3.70%	100	3.80%	53	3.50%	0.48	0.63
Recidivism	733	17.70%	458	17.40%	275	18.20%	-0.65	0.52

Note: Column I displays the descriptive statistics of variables regarding the characteristics of the full sample. Column II and Column III show average characteristics of defendants adjudicated before and after the LFA program, respectively. The last two columns report the t-statistics and associated p-value for a test of the null hypothesis of equal means across these two groups of defendants for each variable.

Table 4-2 Case Outcomes before and after the LFA program

	Full Sample (N=4133) (I)		Pre-LFA (N=2626) (II)		LFA (N=1507) (III)		T-STAT (II)-(III)	p-value
Variable	N	%	N	%	N	%		
Released Prior to Trial	135	3.3%	93	3.5%	42	2.8%	1.36	0.18
Primary Charge Reduced	246	6.0%	155	5.9%	91	6.0%	-0.18	0.86
Sentencing Outcome								
Death Penalty with an Immediate Execution	10	0.2%	6	0.2%	4	0.3%	-0.22	0.81
Death Penalty with a Suspension of Execution	21	0.5%	12	0.5%	9	0.6%	-0.59	0.56
Life Imprisonment	23	0.6%	11	0.4%	12	0.8%	-1.44	0.15
Fixed-term Imprisonment	4079	98.7%	2597	98.9%	1482	98.3%	1.43	0.15
Mean (Month)	52.3		52.6		51.6		1.01	0.31
SD (Month)	40.6		40.7		40.3			

4.3.3 Methods

In the results section, this study uses before-and-after analysis to examine whether the LFA program changed overall case outcomes. In my regression, the research unit is defined as each defendant charged with robbery in the dataset. The main independent variable is whether this case was tried during the post-LFA period. As Figure 4-1 shows, although the LFA program was announced in October 2017. It took local justice system a few months to respond to this policy change. Therefore, the before-and-after analysis uses the date of the LFA program was announced and the date of this program was essentially implemented respectively.

For example, to examine the effect of the LFA program on pretrial decision and conviction, I use logistic regression and the odds ratio to estimate the likelihood that one outcome will occur. The model of effects on a pretrial decision is:

$$\log \frac{P_{it}(released\ before\ trial)}{1-P_{it}(released\ before\ trial)} = \alpha_0 + \alpha_1 post\_LFA_t + \beta X_i + \epsilon_{it} \quad (1)$$

$released\ before\ trial$ is a dummy variable to indicate whether the defendant, in this case, is released before the trial. The variable $post\_LFA_{it}$ is a dummy variable and it becomes 1 if this defendant is adjudicated after the LFA program was started either using the date of its announcement or the date of its implementation. Consequently, exp (α_1) indicates the effects of the LFA program on the odds of the defendant being released (versus not being released). X_i refers to a number of case variables controlling for the blameworthiness of the defendant and the seriousness of the

crime. These variables include prior criminal record, number of robbery charges, whether an accomplice was involved, whether a weapon was used, degree of physical injury to victim, mitigating factors such as attempted robbery, guilty plea, voluntary surrender, whether he or she is a juvenile defendant, and whether the defendant has mental diseases, and aggravating factors such as home invasion robbery, robbing a property of high value, and whether the defendant is a recidivist.

T statistics in Table 1 suggest that defendants adjudicated before and after the LFA program appear largely balanced regarding these confounding variables. This provides the confidence that the estimator (which is α_1 in model 1) generated from linear regression can be robust and should not be sensitive to changes in the specification of the model. I use the same model to examine the effect of the LFA program on the likelihood of defendants having their primary charge reduced.

I use a similar model to examine the effect of the LFA program on sentence length. Because the distribution of sentence length is highly right-skewed and the mean case sentence length is likely to be significantly affected by outliers, I apply the logarithmic transformation on the dependent variable:

$$\log(sentence\ length)_{it} = \alpha_0 + \alpha_1 post\_LFA_t + \beta X_i + \epsilon_{it} \quad (2)$$

In this model, the same control variables vectors were used. Similarly, α_1 is the coefficient of interest. Specifically, 100(exp (α_1)-1) suggests the percent change of sentence length after the LFA program was carried out.

In the analysis of the findings, this study examines the effect of each type of lawyer on case outcomes. However, one methodological issue is that, unlike the before-and-after analysis in which defendants were adjudicated during the pre-LFA and post-

LFA and appeared largely balanced in their blameworthiness, defendants represented by different attorneys of counsel differed greatly in these variables. One conventional way to address this methodological issue is to include these confounding variables in a simple linear regression. However, this method was criticized as being highly sensitive to the form of the model and the inclusion of important interaction terms (Imbens, 2004). Therefore, this study uses the methodology of doubly regression estimation to identify the effect of the type of lawyers on case outcomes. This method combines a form of outcome regression with a model for the exposure (i.e., the propensity score) to estimate the causal effect of an exposure on an outcome (Funk, et al., 2011). It has been widely used in natural and social science (Jiang, Lu, Song, Hudgens, & Naprvavnik, 2017; Uysal, 2015) and was applied in criminology research to assess the effect of race bias in post-traffic stops (Ridgeway, 2006)). In my study, applying this methodology includes two steps: First, I used a propensity score weighting technique to construct several "comparison groups" (e.g., defendants with a retained attorney or an appointed attorney) whose distribution of potential confounding variables equals the "target group" (e.g., defendants without an attorney). Specifically, this study uses generalized boosted models (GBM), a multivariate nonparametric regression technique, to estimate the propensity score. Second, after verifying that defendants with different types of attorneys now have the same distribution of confounding variables, several regression models were applied to identify the effect of the type of lawyers on case outcomes.

Table 4-3 shows the outcomes of the first step of doubly robust estimation. As shown in the Table, the propensity weighting creates two groups of defendants with a

court-appointed attorney and a private attorney that match the defendants without an attorney on many important case characteristics. The second column in Table 3 displays the percentages for the defendants without an attorney population. The third and fourth columns in Table 4-3 display the weighted percentages for the constructed comparison samples. The effective sample size (ESS) gives an estimate of the number of comparison participants that are comparable to the treatment group. In my sample, for example, there are effectively 365 defendants with a court-appointed attorney and 835 defendants with a private attorney that have features similar to the defendants without an attorney. The fifth and sixth columns in Table 3 display the raw percentages. These columns indicate that these three groups of defendants indeed have different features. For example, compared to defendants without an attorney, defendants with a court-appointed or private attorney are more likely to commit fatal robberies. Also, defendants with a private attorney are less likely to have a prior criminal record. However, after using the propensity score weighting technique, the weighted percentages for these two groups are uniformly close to the percentages for the defendants without an attorney.

Assuming the type of attorneys is now the only factor differing between the groups of defendants and there are no other factors affecting both legal counsel and case outcomes, I use the following model to assess the effect of each type of lawyer on sentence length:

$$\log(sentence\ length)_{it} = \alpha_0 + \alpha_1 private\ attorney_i + \alpha_2 appointed\ attorney_i + \beta X_i + \epsilon_{it} \quad (3)$$

Table 4-3 Assessment of the Comparison Samples of Defendants with Court-Appointed Attorneys and Private Attorneys for a Target Sample of Defendants without an Attorneys from the Propensity Weighting (N=4,133)

	No Attorney N=2570	Court Appointed (Weighted) ESS=364.5	Private Attorney (Weighted) ESS=834.8	Court Appointed N=446	Private Attorney N=1117
Having Prior Criminal Record	28.4%	26.6%	26.6%	28.7%	18.1%
Number of Charges					
Two	2.9%	3.1%	2.8%	3.6%	4.8%
More than three	6.9%	7.1%	6.2%	9.0%	9.3%
Injury to Victims					
Small injury (1)	30.4%	29.9%	29.4%	29.1%	33.9%
Mild injury (2)	6.6%	7.0%	6.4%	7.8%	9.6%
Severe injury (3)	0.9%	0.6%	0.6%	2.0%	2.2%
Death (4)	0.3%	0.4%	0.3%	10.8%	3.5%
Co-offending Robbery	31.3%	33.1%	31.8%	39.7%	42.9%
Using Weapon	57.6%	56.3%	56.7%	58.5%	60.1%
Attempted Robbery	18.2%	17.2%	17.0%	16.8%	17.7%
Guilty Plea	48.8%	49.7%	50.0%	53.8%	50.1%
Voluntary Surrender	16.2%	17.1%	16.2%	21.1%	23.2%
Juvenile	2.0%	2.0%	2.0%	5.4%	3.0%
Having Mental Illness	0.1%	0.1%	0.7%	1.8%	0.4%
Home Invasion Robbery	4.9%	5.3%	4.9%	7.0%	7.4%
Rob Items of High Value	2.7%	2.5%	2.5%	3.6%	6.1%
Recidivism	19.9%	20.5%	18.3%	20.9%	11.6%

where 100(exp (α_1)-1) and 100(exp (α_2)-1) refers to the percent change of sentence length when a defendant was represented by a private attorney or a court attorney (versus defendants without an attorney), respectively.

Finally, this study examines the LFA program's effect on the performance of each type of lawyer. The following difference-in-differences model is used:

$$\log(sentence\ length)_{it} = \alpha_0 + \alpha_1 post\_LFA_t + \alpha_2 private\ attorney_i + \alpha_3 appointed\ attorney_i + \alpha_4 private\ attorney_i * post\_LFA_t + \alpha_5 appointed\ attorney_i * post\_LFA_t + \beta X_i + \epsilon_{it} \quad (4)$$

In this model, I compare the change of overall sentence length of defendants being represented by a certain type of attorney before and after the LFA program relative to the change of sentence length of defendants without an attorney. α_4 and α_5 are coefficients of interests. 100(exp (α_4)-1) measures the percent change of sentence length of defendants being represented by a private attorney after the LFA program relative to the percent change of sentence length of defendants without an attorney, while 100(exp (α_5)-1) measures the percent change of sentence length of defendants being represented by an appointed attorney after the LFA program relative to the same comparison group.

4.4 Results

4.4.1 The Legal Representation Coverage before and after the LFA

As noted, the LFA program aims to provide all criminal defendants who did not hire a lawyer with some legal assistance depending on their case type. For defendants who entered the ordinary procedure, the LFA program required a court-appointed attorney to represent them. Different from those on-duty lawyers who only provide legal advice, these attorneys would appear in court as a defense lawyer.

For each defendant in my dataset, I have information on whether this defendant was represented by an attorney and what type this attorney was (private or court-appointed). If the LFA program was truly implemented by local courts, a higher percentage of defendants would have been represented by a publicly financed attorney. Figure 4-1 shows the time series plot of the percentages of defendants represented by a

certain type of attorney. As can be seen in the figure, before the LFA program was announced, the percentage of defendants represented by a court-appointed attorney remained below 10%. During this time period, most defendants with an attorney hired their own private lawyers. However, things began to change after the LFA program started. The percentage of defendants with a court-appointed attorney sharply increased to 40% three months after this program was carried out, showing that this program was essentially implemented in February 2018. The percentage of defendants with a private attorney, however, remained relatively stable both before and after the LFA program, fluctuating between 20% and 40% across all time periods.

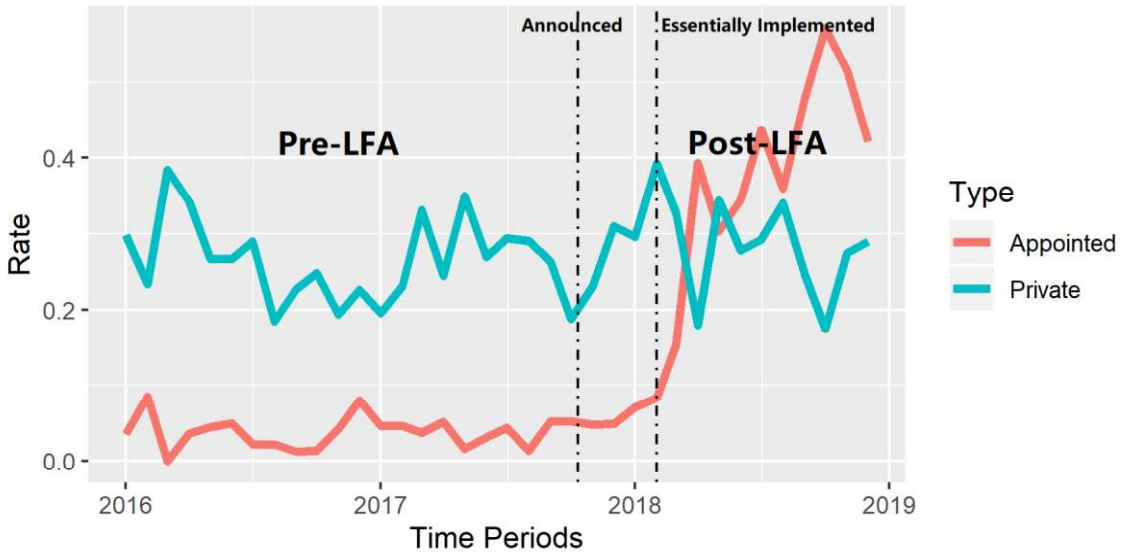

Figure 4-1 The Time Trend of Monthly Rates of Defendants Represented by Certain Types of Attorney

Therefore, I conclude that the LFA program did expand the coverage of legal representation in criminal cases such as robbery. And this increased coverage was

achieved mainly through providing more indigent defendants with publicly financed appointed lawyers.

4.4.2 Pretrial Detention Decision before and after the LFA

Previous literature found that lawyers could play an important role in the bail decision regarding whether the defendant was released as well as the amount of bail set by the judge (Hartley, Miller, & Spohn, 2010; Worden, Morgan, Shteynberg, & Davies, 2018). In China, the excessive use of pretrial detention was addressed and criticized by many scholars (Yi, 2016; Lin & Shen, 2016). Although the 2012 CPL stated that pretrial detention should only apply to defendants who were likely to commit new crimes, to endanger state and public security, to destroy evidence, to avenge themselves on their victims, or to commit self-harm or escape (Article 79). In practice, however, more than 85% of defendants were detained before trial and this percentage was even higher in felony crimes such as robbery (Xiong & Wei, 2017). For example, in my dataset, only 3.3% of defendants charged with robbery were released before the trial.

Pretrial detention in China is not subject to judicial review and prosecutors serve as decision-making agents to evaluate the necessity of continued detention of the defendant (Yi, 2016; Lin & Shen, 2016). However, lawyers still have the right to file and submit paperwork to certain agencies, arguing that their clients are qualified for certain alternatives to pretrial detention, such as guarantors pending trial [*qubaohoushen*] and residential surveillance [*jianshijuzhu*].

Considering that lawyers could still exert some influence on pretrial decisions, the increased coverage of criminal attorneys during the post-LFA period possibly lead to fewer defendants being detained before trial. Figure 4-2 shows the time trend of the

percentage of defendants being released across pre-LFA and post-LFA periods. As can be seen in the figure, only a small percentage of defendants were released before trial (less than 5%) across all time trends. Although more defendants were represented by a lawyer after the LFA program was announced, the percentage of defendants being released did not increase simultaneously.

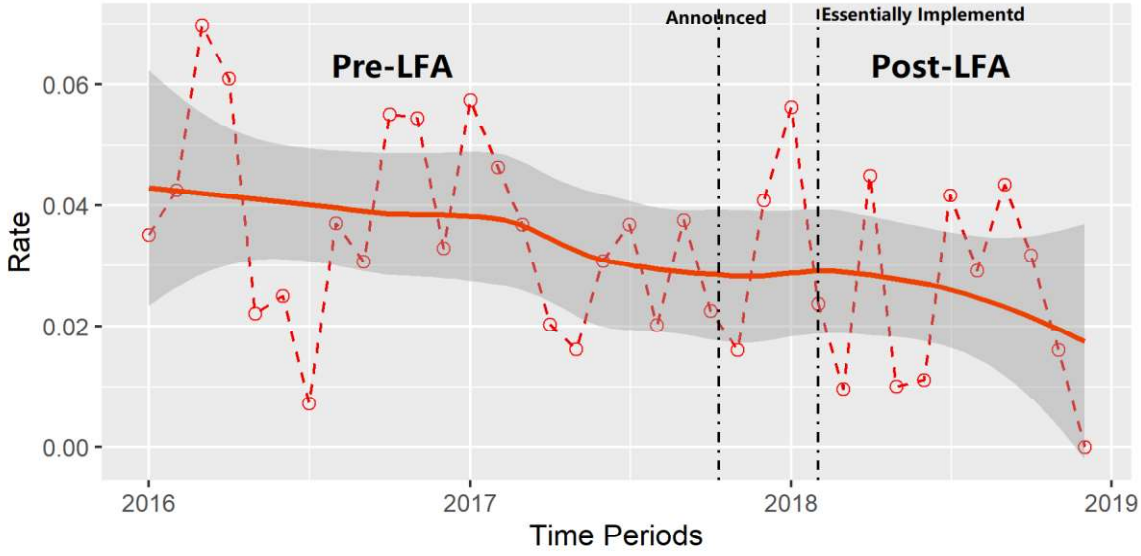

Figure 4-2 Monthly Rates of Defendants being Released before Trial and its LOWESS fit with a 95% confidence interval

Table 4-4 presents the results of the logistic regression analysis for the pretrial detention decision and the primary charge reduction decision. It indicates that whether the defendant was adjudicated during the post-LFA period (either using the announcement date or the implementation date) was not a significant predictor of the likelihood of the decision to release the defendant. In other words, whether more defendants received legal assistance from a lawyer did not affect their possibility of being released before trial. Some of the legal factors, however, are significant predictors in the

pretrial detention decision. For example, those who committed crimes with other offenders or voluntarily surrendered were more likely to be released before the trial.

Table 4-4 Logistic Regression Models of whether the Defendant was Released before the Trial (N=4,133)

	Using the Announcement Date			Using the Essential Implementation Date		
	Odds Ratio	2.5%	97.5%	Odds Ratio	2.5%	97.5%
Post-LFA	0.74	0.5	1.07	0.66	0.40	1.03
Having Prior Criminal Record	1.3	0.73	2.18	1.28	0.72	2.15
Number of Charges						
Two	1.18	0.45	2.54	1.17	0.45	2.53
More than three	1.18	0.62	2.08	1.18	0.62	2.07
Injury to Victim	1.05	0.87	1.25	1.06	0.87	1.27
Co-offending Robbery	1.64***	1.14	2.36	1.64***	1.14	2.35
Using Weapon	0.83	0.58	1.19	0.84	0.59	1.20
Attempted Robbery	1.50*	0.97	2.27	1.50	0.96	2.26
Guilty Plea	1.01	0.71	1.43	1.01	0.71	1.44
Voluntary Surrender	2.67***	1.84	3.85	2.67***	1.84	3.85
Juvenile	1.66	0.63	3.62	1.66	0.63	3.60
Having Mental Illness	2.35	0.13	12.16	2.53	0.14	13.16
Home Invasion Robbery	1.35	0.65	2.52	1.36	0.65	2.54
Rob Items of High Value	0.68	0.23	1.56	0.66	0.23	1.52
Recidivism	0.60	0.30	1.17	0.60	0.30	1.19

*p<0.1 **p<0.05

***p<0.01

4.4.3 Conviction Decision before and after the LFA

In China, the criminal justice system has a conviction rate that exceeds 99.9%. In 2017, for example, official statistics show that there were over 6 million convictions and 4,874 acquittals, resulting in the acquittal rate of 0.09% (China Law Society, 2018).

Consequently, one more practical strategy that many defense lawyers take is to argue that the act committed by the defendant constitutes a less serious offense. For instance, in robbery cases, attorneys may argue that the facts presented by the prosecutor cannot prove the defendant used force when taking the property and the charge should be reduced to burglary or theft. In other circumstances, attorneys may argue that the defendant attacked the victim without the intention of taking the property and he should be convicted of aggravated assault. In my sample, 6% of defendants charged with robbery were finally convicted of a less serious crime. Given that lawyers' defense strategy may play a role in the conviction decision, the LFA program could affect this kind of conviction decision.

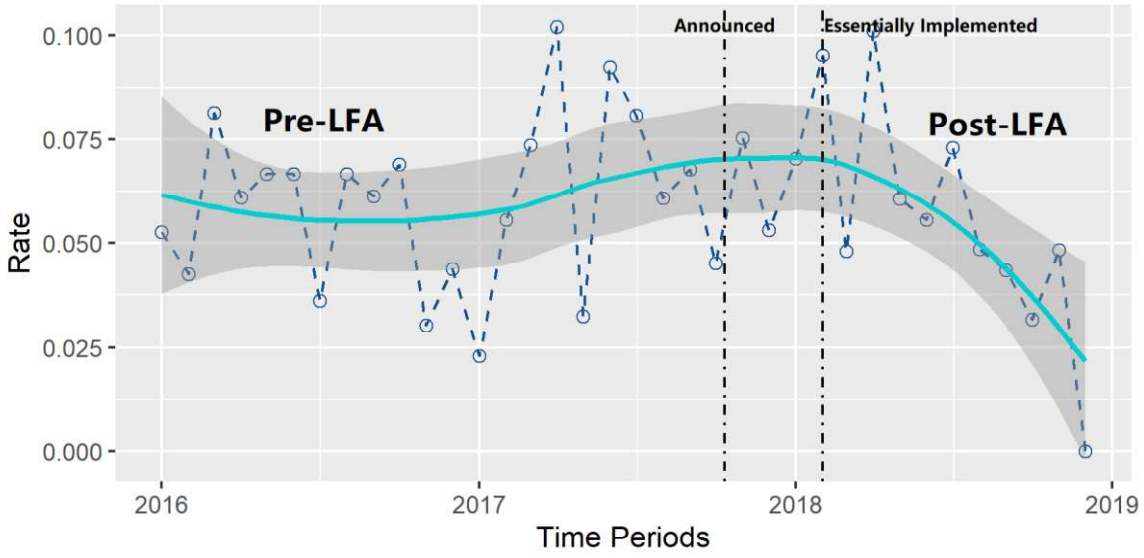

Figure 4-3 Monthly Rates of Defendants whose Primary Charge was Reduced and its LOWESS fit with a 95% confidence interval

Figure 4-3 presents the time trend of the percentage of defendants who were convicted of a crime less serious than robbery. The percentage of defendants who had

their primary charge reduced did not increase after the LFA program was carried out. In contrast, I find that there existed a downward trend in the percentage of charge reductions several months after the LFA program. In other words, more lawyers did not bring more charge reductions. The logistic regression results presented in Table 4-5 also support this finding. The table indicate that after controlling for other legal variables, the LFA program did not significantly influence the likelihood of reducing the primary charge.

Table 4-5 Logistic Regression Models of Whether the Defendant Had the Primary Charge Reduced

	Using the Announcement Date			Using the Essential Implementation Date		
	Odds Ratio	2.5%	97.5%	Odds Ratio	2.5%	97.5%
Post-LFA	0.99	0.75	1.3	0.97	0.70	1.33
Having Prior Criminal Record	1.78***	1.19	2.61	1.78***	1.19	2.61
Number of Charges						
Two	1.86***	1.02	3.18	1.86***	1.02	3.18
More than three	1.04	0.63	1.65	1.06	0.64	1.67
Injury to Victim	1.36***	1.2	1.52	1.37***	1.21	1.55
Co-offending Robbery	1.21	0.92	1.6	1.21	0.91	1.59
Using Weapon	0.78*	0.6	1.02	0.79*	0.60	1.03
Attempted Robbery	0.93	0.65	1.31	0.93	0.64	1.30
Guilty Plea	0.72***	0.55	0.93	0.72***	0.55	0.94
Voluntary Surrender	0.97	0.68	1.35	0.96	0.67	1.34
Juvenile	0.87	0.3	1.97	0.87	0.30	1.97
Having Mental Illness	1.21	0.07	6.17	1.21	0.07	6.21
Home Invasion Robbery	0.76	0.4	1.32	0.76	0.40	1.32
Rob Items of High Value	1.70*	0.91	2.96	1.70*	0.91	2.97
Recidivism	1.38	0.91	2.12	1.38	0.91	2.12

*p<0.1 **p<0.05

***p<0.01

4.4.4 Sentencing Outcome before and after the LFA

In the sentencing outcome analysis, I deleted 246 defendants whose primary charge was reduced and focused on 3,887 defendants who were convicted of robbery. I then divided these defendants into two groups. The first group includes 3,792 defendants who committed a non-fatal robbery in which no victim was killed. For these defendants, the most serious sentencing outcome is life imprisonment. In my sample, only 3 defendants charged with non-fatal robbery received a life sentence, all the remaining 3,789 defendants were sentenced to fixed imprisonment.

The other group includes 95 defendants who committed a fatal robbery. Their crime caused at least one victim to die. In the U.S., these defendants would be charged with murder. In China, fatal robbery is convicted as one type of aggravated robbery, but the possible sentence could be the death penalty. Among the 95 defendants, 31 defendants were sentenced to a certain type of death penalty. And 20 defendants were sentenced to life imprisonment.

More importantly, there exists one feature that sets the fatal robbery apart from other robberies. As noted in the background part, the 2012 CPL provided that the court should appoint a lawyer for defendants whose possible sentence is the death penalty or life imprisonment. In my sample, I find 88 (92.6%) defendants committing fatal robbery were represented by a lawyer. And the fact that a large portion of defendants has access to court-appointed lawyers did not change across the pre-LFA and post-LFA periods. Among 52 defendants who were adjudicated before the LFA program was announced, 26 defendants (50%) were represented by a court-appointed lawyer and 21 defendants

(40.4%) were represented by a private lawyer. As for the 43 defendants who were adjudicated after the LFA program, 23 defendants (53.4%) were represented by a court-appointed lawyer and the 18 defendants (39.1%) were represented by a private lawyer. In other words, the LFA program appeared to have no effect on the legal representations in fatal robberies. Therefore, in my analysis of sentencing outcomes, the group of fatal robbery defendants can serve as a control group.

Table 4-6 presents the logistic regression results of sentencing outcomes in fatal robberies. I use three dependent variables: (1) whether the defendant was sentenced to death penalty, both with and without suspension; (2) whether the defendant was sentenced to death penalty with an immediate execution; as noted in the measurement section, these defendants could truly be executed; and (3) whether the defendant was sentenced to life imprisonment. I abandoned several control variables including the injury caused to victims (all defendants caused death), attempt, mental disorder, and juvenile (no defendants in this group are eligible for these factors). As expected, Table 4-6 indicates that whether the case was tried during the post-LFA period was not a significant predictor of the sentencing outcomes in fatal robbery cases. Regarding other legal variables, the first column shows that defendants who used a weapon during the crime are significantly more likely to be sentenced to death. And defendants who committed a crime with other co-offenders are less likely to receive the death penalty. It is because, in each fatal robbery case, judges tend to sentence one principal offender to death, and other co-offenders who act as an accessory usually receive a more lenient sentencing outcome. In addition, the fourth column indicates that defendants who have several robbery

charges are more likely to be sentenced to the harshest sentencing outcome, that is, the death penalty with instant execution.

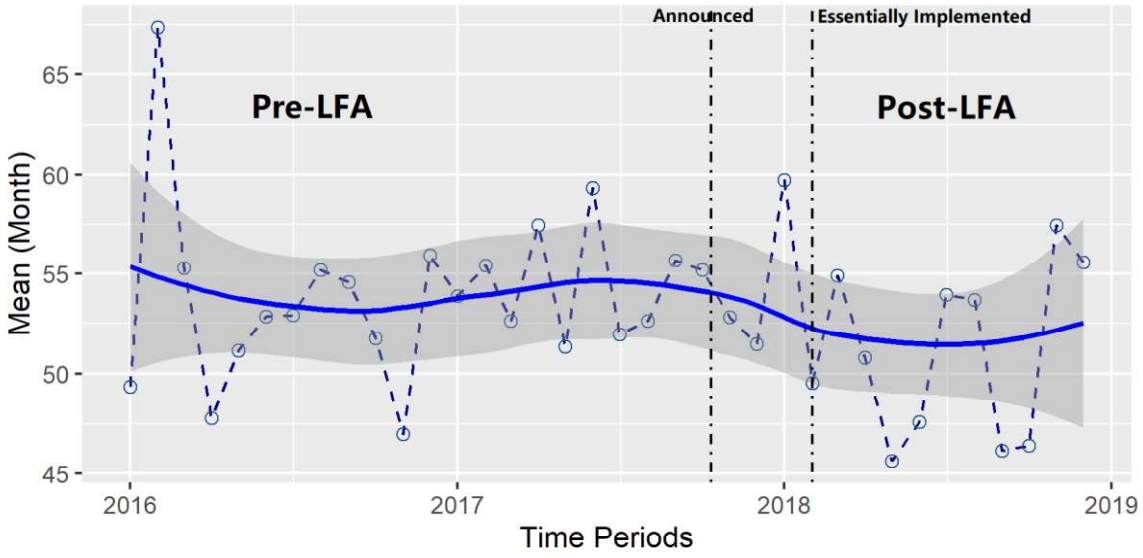

Figure 4-4 Monthly Mean Sentence Length of Non-fatal Robberies and its LOWESS fit with a 95% confidence interval (N=3,792)

For the 3,792 defendants who committed a non-fatal robbery, the LFA program significantly influenced the legal representation. In my sample, among 2451 defendants who committed non-fatal robbery and were adjudicated before the LFA program was announced, only 67 defendants (2.7%) were represented by a court-appointed lawyer and 618 defendants (25.5%) were represented by a private lawyer, resulting in the legal representation rate of 28.1%. However, things significantly changed after the LFA program was carried out. 301 out of 1341 defendants (22.4%) were represented by a court-appointed lawyer after the LFA program. And the total legal representation rate became 49.7%.

Table 4-6 Logistic Regression Models of Sentencing Outcomes in Fatal Robberies (N=95)

	Death Penalty (All Types)			Death Penalty (with an Immediate Execution)			Life Sentence		
	Odds Ratio	2.5%	97.5%	Odds Ratio	2.5%	97.5%	Odds Ratio	2.5%	97.5%
Post-LFA	0.66	0.22	1.90	0.74	0.10	4.84	1.49	0.49	4.62
Having Prior Criminal Record	2.40	0.46	12.35	8.57	0.40	565.15	0.41	0.04	2.29
Number of Charges									
Two	3.99	0.11	135.50	NA	NA	NA	4.99	0.15	196.18
More than three	2.44	0.20	28.70	58.38***	1.09	6903.90	2.27	0.09	30.56
Co-offending Robbery	0.10***	0.03	0.31	0.01	0.00	0.18	0.64	0.19	2.13
Using Weapon	3.60***	1.09	13.71	3.80	0.62	36.48	0.83	0.26	2.86
Guilty Plea	1.16	0.37	3.66	0.20	0.00	2.45	1.37	0.42	4.39
Voluntary Surrender	0.68	0.19	2.27	0.26	0.01	2.47	0.71	0.20	2.30
Home Invasion Robbery	1.16	0.20	5.85	3.56	0.08	135.36	1.21	0.14	7.39
Rob Items of High Value	1.11	0.09	10.80	1.58	0.04	48.18	NA	NA	NA
Recidivism	1.81	0.24	15.36	0.09	0.00	3.49	0.72	0.03	11.11

***p<0.01

Table 4-7 OLS Model of Logarithmic Transformation of Sentencing Outcomes in Non-fatal Robberies (N=3,792)

	Using the Announcement Date			Using the Essential Implementation Date		
	Estimate	p-value	100(exp(β)-1)	Estimate	p-value	100(exp(β)-1)
Post-LFA	-0.02	0.35	-1.5	-0.02	0.35	-1.6
Having Prior Criminal Record	0.07**	0.01	7.2	0.07**	0.01	7.2
Number of Charges						
Two	0.34***	<0.01	40.6	0.34***	<0.01	40.4
More than three	0.81***	<0.01	125.5	0.81***	<0.01	125.9
Injury to Victim	0.08***	<0.01	8.3	0.08***	<0.01	8.0
Co-offending Robbery	0.07***	<0.01	7.4	0.07***	<0.01	7.4
Using Weapon	0.12***	<0.01	13.2	0.12***	<0.01	13.3
Attempted Robbery	-0.44***	<0.01	-35.3	-0.44***	<0.01	-35.3
Guilty Plea	0.06***	<0.01	6.5	0.06***	<0.01	6.5
Voluntary Surrender	-0.12***	<0.01	-11	-0.12***	<0.01	-11.1
Juvenile	-0.16***	<0.01	-15	-0.16***	<0.01	-15.0
Having Mental Illness	-0.28**	0.03	-24.1	-0.27***	0.033	-24.2
Home Invasion Robbery	0.68***	<0.01	97.8	0.68***	<0.01	98.0
Rob Items of High Value	0.69***	<0.01	100.4	0.70***	<0.01	100.6
Recidivism	0.14***	<0.01	14.9	0.14***	<0.01	14.8

**p<0.05 ***p<0.01

Therefore, assuming that the 20 percent increase in the legal representation rate could make a difference, I expect that more defendants would receive a lenient sentencing outcome after the LFA program. Nevertheless, Figure 4 indicates that the mean sentencing outcome remains relatively constant before and after the LFA program, fluctuating between 50 months and 60 months. In other words, the LFA program does not appear to result in better outcomes for defendants.

The OLS regression results also support this conclusion. The last column of Table 4-7 indicates the percentage change of sentence length with a one-unit change of each independent variable. As can be seen in the table, whether a defendant was adjudicated during the post-LFA program period did not affect the sentencing outcome both using the announcement date and the treatment date. In contrast, all the other legal variables are significant predictors. For example, on average, the sentence increased by 7% when a defendant had a prior criminal record. And defendants who voluntarily surrendered could, on average, receive an 11% reduction in sentencing, etc.

4.5 Mechanism

In general, my results indicate that the LFA program was not associated with any better case outcomes even though more defendants had access to defense counsel. Remarkably, I find that the percentage of defendants represented by an appointed lawyer in robbery cases increased from less than 5% to 40% half a year after the LFA program was carried out, leading the total percentage of defendants represented by a lawyer to reach 70%. For the remaining 30% of defendants who most likely pleaded guilty and entered the summary procedure, the LFA program also required an on-duty lawyer to give them some legal advice. However, the fact that more lawyers were introduced does not appear to change any case outcomes regarding the pretrial decision, conviction decision as well as the sentencing outcome. In this section, I propose and test several possible explanations for this null effect.

4.5.1 Useless Lawyers?

As noted, criminal defense in China still involves certain difficulties. Although

lawyers' procedural rights have been strengthened after serval waves of legal reforms, in practice criminal defense attorney services such as meeting suspects, accessing case files and collecting evidence remain challenging tasks (Jr., 2010; Li E. , 2010; Liu & Halliday, 2009). And criminal attorneys need to obey local governments' instructions and build personal relations with the justice bureaus in their daily practice (Liu & Halliday, 2011; Cookea, Linb, & Jiang, 2013). In sum, these characteristics of the Chinese criminal justice system imply that some lawyers may refrain from advocating in ways that run afoul of expectations.

Regarding the court-appointed attorneys, the situation could be even worse. Because the current CPL does not require the court to appoint a lawyer until the prosecutor delivered all the case files to the court, these lawyers are not able to practice many legal services at the early stages of the criminal process. In addition, these court-appointed lawyers usually receive a flat compensation rate much lower than what most other attorneys could earn in the private sector. Their incentive to invest adequate time in preparation for each individual case is thus questionable.

As a result, one possible explanation for my main results is that criminal attorneys, especially those appointed by the court were not able to play a role in the criminal justice system. Therefore, introducing more lawyers who are not helpful to defendants is not supposed to alter any case outcomes.

To test this hypothesis, I examine whether a specific type of lawyer could bring better case outcomes. As can be seen in Table 4-8, the second column indicates that neither the private attorney nor the appointed attorney was a significant predictor of the decision to release the defendant before trial. In other words, whether a defendant was

represented by an attorney did not affect a defendant's likelihood of being released. As for the conviction decision, my results indicate that defendants represented by a private attorney are more likely to have their primary charge reduced. However, being represented by an appointed attorney did not have a significant effect on the conviction decision.

Table 4-8 Logistic Regression Models of the Effect of legal counsel on Pretrial Decision and Conviction Decision using the Doubly Robust Estimation (ESS=3669.3)

	Released Prior to Trial			Primary Charge Reduced		
	Odds Ratio	2.5%	97.5%	Odds Ratio	2.5%	97.5%
Defended by Private Attorney	1.14	0.76	1.70	1.70***	1.23	2.36
Defended by Appointed Attorney	0.95	0.48	1.88	1.46	0.93	2.30
Having Prior Criminal Record	1.59	0.89	2.86	2.04***	1.24	3.36
Number of Charges						
Two	1.43	0.53	3.84	1.41	0.70	2.82
More than three	1.26	0.59	2.66	0.76	0.40	1.45
Injury to Victim	1.15	0.90	1.48	1.57***	1.32	1.86
Co-offending Robbery	1.57**	1.01	2.44	1.16	0.85	1.60
Using Weapon	0.82	0.53	1.25	0.76*	0.56	1.03
Attempted Robbery	1.58*	0.97	2.59	0.76	0.50	1.16
Guilty Plea	1.03	0.69	1.53	0.67***	0.49	0.90
Voluntary Surrender	2.88***	1.85	4.49	0.98	0.64	1.49
Juvenile	1.48	0.42	5.27	0.97	0.31	3.01
Having Mental Illness	0.41	0.05	3.51	0.15*	0.02	1.25
Home Invasion Robbery	0.64	0.25	1.63	0.58	0.25	1.31
Rob Items of High Value	0.72	0.22	2.38	2.24***	1.05	4.80
Recidivism	0.44**	0.21	0.92	1.32	0.78	2.23

*p<0.1 **p<0.05***p<0.01

In summary, Table 4-8 suggests that being represented by a court-appointed lawyer was not a significant predictor of either the decision to release the defendant before trial or the decision to reduce the defendant's primary charge. This finding

supports the hypothesis that court-appointed lawyers exerted little influence on certain case outcomes. As noted in Figure 1, the main effect of the LFA program was to expand the use of court-appointed lawyers in the criminal justice system but the percentage of defendants represented by a private attorney remained stable before and after the LFA program. After combining these two findings, I then can explain why overall case outcomes regarding pretrial detention and conviction decisions did not change after the LFA program was carried out.

Table 4-9 OLS model on the Logarithmic Transformation of Sentence Length in Non-fatal Robberies using the Doubly Robust Estimation (ESS=3,356.1)

	Estimate	Std. Error	p-value	100(exp(β)-1)
Defended by Private Attorney	-0.10***	0.02	0.00	-9.80
Defended by Appointed Attorney	-0.07**	0.03	0.01	-6.46
Having Prior Criminal Record	0.08***	0.03	0.00	8.46
Number of Charges				
Two	0.34***	0.05	0.00	40.99
More than three	0.86***	0.04	0.00	137.06
Injury to Victim	0.09***	0.01	0.00	9.69
Co-offending Robbery	0.07***	0.02	0.00	7.24
Using Weapon	0.13***	0.02	0.00	13.32
Attempted Robbery	-0.46***	0.03	0.00	-36.66
Guilty Plea	0.08***	0.02	0.00	7.99
Voluntary Surrender	-0.13***	0.03	0.00	-12.03
Juvenile	-0.08*	0.05	0.07	-7.90
Having Mental Illness	0.02	0.17	0.93	1.63
Home invasion robbery	0.67***	0.05	0.00	96.26
Rob items of high value	0.69***	0.08	0.00	99.36
Recidivism	0.13***	0.03	0.00	13.71

*p<0.1 **p<0.05 ***p<0.01

This conclusion, however, does not hold in the sentencing outcomes. In the sentencing analysis, I focus on 3,792 cases in which the defendants were convicted of

non-fatal robberies. That is, I excluded defendants committing fatal robberies and defendants who were finally not convicted of robbery because these defendants would be sentenced according to different guidelines. As noted in the methodology section, I use the propensity score weighting technique to construct comparison groups for the defendants without an attorney. Table 4-9 presents the regression results using the weighted sample. As can be seen in the table, both private lawyers and appointed lawyers could significantly affect the length of the sentence imposed on defendants. I found that retaining a private lawyer could decrease the sentence by 9.8%. And a court-appointed lawyer could also reduce a sentence by 6.5%. In other words, Table 4-8 suggests that compared to defendants without a lawyer, in general, court-appointed lawyers were able to make a difference and help defendants receive more lenient sentencing outcomes. As a result, there should be other explanations for the null effect of the LFA program on sentencing outcomes.

4.5.2 Quantity over Quality?

Table 4-8 only examines the average effect of legal counsel on sentencing outcomes over both pre-LFA and post-LFA periods. The role of court-appointed lawyers, however, might have changed across these two periods. Because the LFA program requires many more defendants to receive legal assistance, the legal aid service system might not be ready for the increased workload. Consequently, the whole system could have compromised the quality of legal services in individual cases in order to assure the quantity requirement of the LFA program. This could be another possible explanation for the null effect of the LFA program.

Table 4-10 OLS Model of the Effect of Legal Counsel on the Logarithmic Transformation of Sentence Length in Non-fatal Robberies before and after the LFA program (N=3,792)

	Pre-LFA(N=2,451)		Post-LFA(N=1,341)		Full Sample (N=3,792)	
	Estimate	100(exp(β)-1)	Estimate	100(exp(β)-1)	Estimate	100(exp(β)-1)
Defended by Private Attorney	-0.08**	-7.40	-0.11***	-10.71	-0.08***	-7.61
Defended by Appointed Attorney	-0.21**	-19.05	-0.02	-2.31	-0.22***	-19.52
Post-LFA					-0.01	-0.58
Private Attorney*Post-LFA					-0.03	2.78
Appointed Attorney*Post-LFA					0.19**	20.42
Case Variables Included	Yes	Yes	Yes	Yes	Yes	Yes

Note: In this table, the post-LFA refers to the period after the LFA program was announced. I also did the same analysis using the implementation date, the results are almost the same *p<0.1**p<0.05 ***p<0.01

To test this hypothesis, I assess the effect of legal counsel on sentencing outcomes in cases during the pre-LFA and post-LFA periods, separately. Table 4-10 shows that before the LFA program, retaining a private lawyer could reduce the sentence by 7.4%. Surprisingly, in the meantime, a court-appointed lawyer had a larger effect——Table 4-10 indicates that a court-appointed lawyer could decrease the sentence by 19.05% before the LFA program. However, things changed after the LFA program was carried out. While the private lawyer could still reduce the sentence by 10.71%, the effect of the court-appointed lawyers on sentence disappeared. To further indicate the relationship between the LFA program and the effect of counsel, I use a difference-in-differences model to assess the change of overall sentence length of defendants being represented by

a certain type of attorney before and after the LFA program relative to the change of sentence length of defendants without an attorney. The last three columns in Table 4-10 show that, while the LFA program had a null effect on the performance the private counsel on sentence, defendants represented by a court-appointed lawyer *after* the LFA program could increase the sentence by 20% compared to those represented by a court-appointed lawyer *before* the LFA.

In summary, Table 4-10 suggests that the LFA program had a negative effect on the performance of court-appointed lawyers. In contrast, the effect of private lawyers remained relatively stable over both periods. This supports my hypothesis that the criminal justice system may have sacrificed the quality of legal aid services to meet the quantity requirement of the LFA program.

4.5.3 Caseload Pressure or Incompetent Lawyers?

My difference-in-differences analysis conclude that the court-appointed attorney's influence on sentencing outcomes significantly decreased after the LFA program. Because I find that private lawyers had almost the same effect on case outcomes after the LFA program as they did before the program, I tend to attribute the disappearing effect of court-appointed lawyers to their own behaviors rather than other extra factors such as changes in courtrooms. Therefore, in this section, I propose and test two explanations of this phenomenon.

A. Caseload Pressure?

Previous literature argued that the overwhelming caseload of court-appointed lawyers could place indigent defendants at a disadvantage with regard to case outcomes (Barak, 1975; Anderson & Heaton, 2012; Williams, 2002). In my context, court-

appointed attorneys, as a group, need to undertake a lot more cases during the post-LFA period. If the number of lawyers did not increase correspondingly, a group of court attorneys could have high caseload pressure. They had to invest little time in preparing for each case. Consequently, they were not able to provide better case outcomes for defendants.

Table 4-11 Caseload of Different Types of Attorneys

		Full Sample	Pre-LFA	Post-LFA
	Time Duration	36 months	21 months	15 months
Full Sample	No. of Cases with Attorneys	1563	787	776
	No. of Different Attorneys	1260	670	675
	No. of Different Firms	749	456	456
Private Market	No. of Cases	1118	689	429
	No. of Attorneys	920	586	391
	No. of Firms	611	418	304
Legal Aid Service	No. of Cases	445	98	347
	No. of Attorneys	381	86	305
	No. of Firms	257	59	217

To test this explanation, I coded the lawyer's name and their firms in each case and analyzed the distribution of caseloads in the legal market before and after the LFA program. Table 4-11 shows the results. Overall, the legal market in Guangdong is super sparse. In my sample, 1,260 lawyers undertook 1,563 robbery cases. And most attorneys usually handled one robbery case during this three-year time period. Moreover, very few lawyers took cases both before and after the LFA program. Among 670 lawyers who accepted cases before the LFA program, only 85 of them undertook cases after the LFA program. I find this pattern in the legal aid service market as well. Before the LFA program, 86 court-appointed lawyers handled 98 cases. And after the LFA program, 305 lawyers handled 347 cases. Among these 305 lawyers, only 10 lawyers had handled a

case before the LFA program and all of them just undertook one single case after the LFA program. For the remaining 295 lawyers, they did not provide any legal aid service during the pre-LFA period and most of them just undertook one case after the LFA program. In summary, Table 4-11 suggests that in such a sparse legal market, the increased coverage of legal representation was achieved mainly through introducing more new lawyers in the system rather than assigning a group of lawyers more cases. Therefore, I tend to believe that caseload pressure was not the main cause of the worse performance of court-appointed lawyers.

B. Less Competent Lawyers?

Table 4-11 presented that a large number of lawyers who did not undertake legal aid service before began to represent indigent defendants after the LFA program was carried out. Consequently, another possible explanation for the reduced quality of legal aid service is that these lawyers were relatively less competent, and they were not able to provide high-quality legal representation.

My data do not include information concerning each lawyer's competency. I link my data to several online databases.[49] I searched for each lawyer's name and firm online and found their bar number. Digits between the sixth digit to the ninth digit in each lawyer's bar number indicate when this lawyer began to practice law.[50] I use this information to create a new variable, which is, years of working experience of each

[49] These databases are usually created by local ACLAs or MOJs and include information on all lawyers' names, law firms and bar numbers in its jurisdiction. For example, the database created by the Shenzhen ACLA can be found on http://www.szlawyers.com/integrity

[50] For example, given a lawyer's bar number is 14453199511562938, four numbers between the sixth digit and ninth digit indicate that this lawyer began to practice law in 1995. And the bar number 14453201510834381 indicates that this lawyer started to practice law in 2015.

lawyer. It is admitted that experienced lawyers are not necessarily competent lawyers. However, quantitively, this could be a good proxy to measure the competency of lawyers.

Figure 5 presents the distributions of work experience of court-appointed lawyers during different time periods. Before the LFA program, the mean years of court-appointed working experience in my sample was 10.2 years. However, it decreased to 7.4 years after the LFA program was carried out. In addition, the histogram shows that a lot more inexperienced lawyers who had less than five years working experience undertook a considerable portion of cases during the post-LFA period. This finding offers a possible explanation of why the lawyers' quality of legal aid service may decrease after the LFA program was carried out.

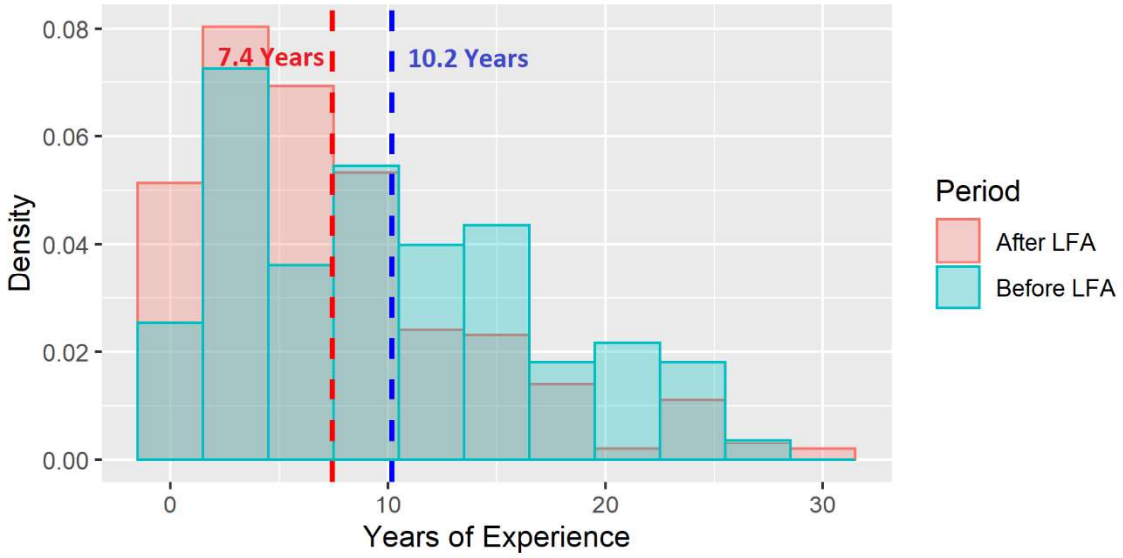

Figure 4-5 Distributions of Work Experience of Court-appointed Attorneys before and after the LFA program

4.6 Discussion

The modern history of the criminal justice system is linked to the emergence of

the right to counsel in defense. However, the extent to which these lawyers should influence the final case outcomes is controversial. While most scholars regard the better case outcomes brought by lawyers as an integral part of legal services (Feeney & Jackson, 1991; Hartley, Miller, & Spohn, 2010), others argue that this may contradict the goals of equal justice and compromise the preciseness of punishment (Anderson & Heaton, 2012) . Previous studies, mostly using cross-sectional analysis, show mixed results on whether legal representation produces positive results and whether the type of attorney matters.

Using Guangdong province in China as my research setting, the present study assesses whether a pilot program that expanded the provision of legal counsel to indigent defendants could truly bring better case outcomes. My results show that although this program increased the rate of indigent defendants being represented by a court-appointed lawyer from less than 10% to near 50%, overall case outcomes regarding the pretrial decision, conviction decision, as well as the sentencing outcome, did not change after the LFA program was carried out.

Some scholars may intuitively argue that this null effect is no surprise at all given China has a reputation for its unbalanced justice system in favor of the police and prosecutors. In such a system, lawyers are believed to be essentially non-adversarial and therefore powerless to change any case outcomes. However, things are not that simple. It is true that my results regarding the pretrial detention show that both retained and appointed lawyers are not able to make a difference. One possible interpretation is that it is almost impossible for lawyers to change the pretrial trial status for their defendants in a system where almost everyone is detained before trial (in my sample, only 3.3% percent of defendants were released before trial). Nevertheless, regarding other case outcomes,

my results suggest that lawyers in China are able to bring some better case outcomes for defendants. For example, I find being represented by a retained lawyer increases the likelihood of defendants having their primary charge reduced by a factor of 1.7, and reduces the sentence length on average by 10%. While the being represented appointed lawyer had no significant effect on the conviction decision, defendants with a court-appointed attorney still have a 7% decrease in sentence length compared to defendants without an attorney.

Therefore, there should be other explanations to interpret the null effect. Using a difference-in-differences analysis, I compare the change in sentence length among defendants with court-appointed attorneys or retained attorneys with the change in sentence length among defendants without an attorney before and after the LFA program. My results show that the influence of retained attorneys on sentencing outcomes did not change after the LFA program. But the LFA program significantly lessens the effect of the court-appointed attorneys on case outcomes. Notably, court-appointed lawyers' effect on sentence length totally disappeared after the LFA program was carried out. Considering that the LFA program increased the coverage of indigent defense, this finding provides some support for the "quantity over quality" explanation, that is, the whole system compromises the quality of legal services in individual cases in order to assure the quantity requirement of the LFA program.

Finally, I plot the caseload distribution before and after the LFA program and exclude the "caseload pressure" explanation. Then I compare the distributions of the years of working experience of court-appointed lawyers before and after the LFA

program and find that more inexperienced lawyers started to undertake legal counsel during the post-LFA period.

My findings provide at least two policy implications both in and outside of China. First, for policymakers in China, while this program is regarded as significant progress in protecting civil rights in criminal justice, the extent to which it brings substantial benefits for defendants is questionable. It is true that SPC and MOJ took an effort to ensure that this program was implemented; A number of compulsory rules forced local courts to assign more cases to appointed lawyers. My research suggests, however, that despite the growing number of court-appointed attorneys representing indigent defendants, these attorneys help little to bring beneficial outcomes. Notably, the disparity in certain case outcomes between indigent defendants (with or without a court-appointed attorney) and other defendants with a retained lawyer remains compelling. The fact that a defendant's case outcomes may dramatically change as a function of his financial status raises troubling questions about the fairness of the current criminal justice system.

Second, in a broader sense, my study supports the argument that, scarcity of resources can drastically undermine the quality of legal representation (Anderson & Heaton, 2012; Feeney & Jackson, 1991). The LFA program suddenly expanded the coverage of indigent defense but it did not provide enough supporting resources. As some Chinese studies have pointed out, criminal defense systems in many jurisdictions experienced deficiencies in financial and personnel resources after the LFA program was carried out (Chen, Dong, & Tang, 2018; Li L. , 2017). Consequently, the quality of legal services could deteriorate through various mechanisms. In Guangdong's case, without adequate resources, more inexperienced lawyers began to undertake a large portion of

caseloads. These inexperienced lawyers without supervision, without access to necessary support, and paid low wages are certain to provide services cheaper than experienced attorneys. Therefore, the quality of the indigent defense system cannot be guaranteed unless enough financial investments and training programs are developed according to the expansion of legal service provision.

This study is subject to several limitations. First, because Guangdong is the only jurisdiction expanding the LFA program to the whole province, I could not find a proper control province when assessing the main effect of the LFA program. Several external events that happened in courtrooms might have affected overall case outcomes in either direction. For example, in October 2018, two months before the end of my sample period, China amended its criminal procedure law. However, in the mechanism section, I used defendants without a lawyer and defendants with a retained lawyer as my control groups. My difference-in-differences analysis suggests that the effect of retained lawyers on case outcomes remained consistent across the pre and post-LFA periods. This suggests that judges did not treat a defendant with an attorney differently after the LFA program was announced. This provides me the confidence that the decreased performance of court-appointed attorneys should be the main reason for the null effect of the LFA program.

Second, I provide an explanation for the decreased performance of court-appointed attorneys: more inexperienced lawyers have undertaken legal services. However, there could exist other possible explanations, which cannot be easily tested. For example, during the pre-LFA period, many court-appointed lawyers were provided upon request. The legal aid center might have a screening process and prefer to offer publicly financed lawyers to defendants whom they believed should have a reduction in

sentence length. This mechanism, if it existed, could also explain why court-appointed attorneys were more likely to have a significant effect on case outcomes during the pre-LFA period. It is also possible that, before the LFA program, most cases assigned to court-appointed attorneys were serious cases. Following the LFA program, the composure of cases changed to include less serious offenses such as simple robberies or attempted robberies. This may have led to a reduced ability of defense attorneys to achieve a significant reduction in sentence time for their clients as the possible sentence was already near the minimum threshold.

Third, as mentioned in the data section, local courts may fail to release a certain portion of cases due to various reasons (Roberts, Liebman, Stern, & Wang, 2017). To my knowledge, there is no outside source providing information on the scale of data missingness across time periods. However, the missing data issue causes biased outcomes unless its distribution varies before and after the policy change and is associated with case outcomes. As Table 1 suggests, the distributions of variables regarding the overall culpability and seriousness of conduct remain consistent for defendants adjudicated before and after the LFA program. Therefore, I tend to believe that local courts' mode of decision-making of choosing which type of cases to release is time-invariant.

Finally, my analysis focuses on one jurisdiction and one type of crime, which suggests the need for broader analyses focusing on other crimes or other places. Specifically, I expect that jurisdictions with greater investments in the indigent defense system may experience a larger effect from the LFA program. In future studies, researchers could identify the effect of the LFA program by selecting appropriate comparison groups. For example, researchers can compare the LFA program's effect on

case outcomes of crimes like robbery to its effect on white-collar crimes where most defendants do not need publicly financed lawyers. Also, the interpretation of results could be more convincing if future studies combine quantitive research with qualitative research. Interviews with judges, attorneys, and prosecutors may provide new insights in understanding possible explanations of the null effect of the LFA program.

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