

Table XII

Significance Test for Plea Negotiation  
Rate by Judge Among Part I  
Dispositions in Selected  
Pennsylvania Counties  
July-December 1976

| County One Judge | Number of Cases | Percent of Negotiated Pleas | Mean Percent of Negotiated Pleas | Significance |
|------------------|-----------------|-----------------------------|----------------------------------|--------------|
| A                | 8               | 12.5                        | 34.4                             | *-2.33       |
| B                | 3               | 0.0                         | 34.4                             | -1.28        |
| C                | 7               | 0.0                         | 34.4                             | *-2.00       |
| D                | 21              | 42.9                        | 34.4                             | 0.93         |
| E                | 8               | 50.0                        | 34.4                             | 0.97         |
| F                | 8               | 0.0                         | 34.4                             | *-2.15       |
| G                | 12              | 58.3                        | 34.4                             | 1.87         |
| H                | 23              | 43.5                        | 34.4                             | 1.06         |
| Total:           | 90              |                             |                                  |              |

| County Two Judge | Number of Cases | Percent of Negotiated Pleas | Mean Percent of Negotiated Pleas | Significance |
|------------------|-----------------|-----------------------------|----------------------------------|--------------|
| A                | 34              | 38.2                        | 27.7                             | 1.65         |
| B                | 5               | 0.0                         | 27.7                             | -1.42        |
| C                | 56              | 28.6                        | 27.7                             | 0.21         |
| D                | 16              | 6.3                         | 27.7                             | *-2.07       |
| E                | 1               | 100.0                       | 27.7                             | 1.62         |
| Total:           | 112             |                             |                                  |              |

| County Three Judge | Number of Cases | Percent of Negotiated Pleas | Mean Percent of Negotiated Pleas | Significance |
|--------------------|-----------------|-----------------------------|----------------------------------|--------------|
| A                  | 11              | 45.5                        | 69.8                             | -1.94        |
| B                  | 3               | 33.3                        | 69.8                             | -1.41        |
| C                  | 30              | 73.3                        | 69.8                             | 0.58         |
| D                  | 19              | 84.2                        | 69.8                             | 1.63         |
| Total:             | 63              |                             |                                  |              |

| County Four Judge | Number of Cases | Percent of Negotiated Pleas | Mean Percent of Negotiated Pleas | Significance |
|-------------------|-----------------|-----------------------------|----------------------------------|--------------|
| A                 | 12              | 25.0                        | 25.0                             | 0            |
| B                 | 3               | 25.0                        | 25.0                             | 0            |
| Total:            | 15              |                             |                                  |              |

Table XII

Significance Test for Plea Negotiation  
Rate by Judge Among Part I  
Dispositions in Selected  
Pennsylvania Counties  
July-December 1976  
(Continued)

| County Five Judge | Number of Cases | Percent of Negotiated Pleas | Mean Percent of Negotiated Pleas | Significance |
|-------------------|-----------------|-----------------------------|----------------------------------|--------------|
| A                 | 5               | 20.0                        | 54.5                             | -1.57        |
| B                 | 38              | 68.4                        | 54.5                             | *1.98        |
| C                 | 70              | 50.0                        | 54.5                             | -1.02        |
| D                 | 43              | 53.5                        | 54.5                             | -0.15        |
| Total:            | 156             |                             |                                  |              |

| County Six Judge | Number of Cases | Percent of Negotiated Pleas | Mean Percent of Negotiated Pleas | Significance |
|------------------|-----------------|-----------------------------|----------------------------------|--------------|
| A                | 21              | 19.0                        | 20.5                             | -0.22        |
| B                | 23              | 21.7                        | 20.5                             | 0.22         |
| Total:           | 44              |                             |                                  |              |

| County Seven Judge | Number of Cases | Percent of Negotiated Pleas | Mean Percent of Negotiated Pleas | Significance |
|--------------------|-----------------|-----------------------------|----------------------------------|--------------|
| A                  | 11              | 27.3                        | 30.8                             | -0.28        |
| B                  | 9               | 33.3                        | 30.8                             | 0.18         |
| C                  | 8               | 62.5                        | 30.8                             | *2.11        |
| D                  | 24              | 20.8                        | 30.8                             | -1.44        |
| Total:             | 52              |                             |                                  |              |

| County Eight Judge | Number of Cases | Percent of Negotiated Pleas | Mean Percent of Negotiated Pleas | Significance |
|--------------------|-----------------|-----------------------------|----------------------------------|--------------|
| A                  | 8               | 75.0                        | 76.5                             | -0.13        |
| B                  | 9               | 77.8                        | 76.5                             | 0.13         |
| Total:             | 17              |                             |                                  |              |

\*Difference is significant at the .05 level (1.96).

SOURCE: Observations from case files in selected counties.  
(See methodology)

The results of the significance test in Table XII identify four counties where statistically significant differences occur with respect to the rate at which a particular judge hears negotiated pleas. The formula used to analyze these data is designed to account for significant differences given low numbers of cases processed. Thus, aberrant results based upon limited cases are minimized.

The data suggest that within four of the eight counties observed, there is a propensity for certain judges to be the focal point for the tendering of negotiated pleas. This observation is consistent with the aforementioned comments of local prosecutors who maintain that the judge before whom a defendant will appear is a meaningful element in the negotiations incident to a plea agreement.

Summary

What are the processing characteristics which contribute to a propensity to negotiate a plea? The observations of Part I dispositions contained in this section suggest that there are no significant differences in the rates at which whites and non-whites plea bargain. Further, the type of offense (violent vs. property) does not support a greater likelihood for plea bargaining.

The factors that were found to be significant were the extent and severity (felony/misdemeanor) of the charges on the indictment and the type of legal representation. Defendants charged with multiple offenses where a felony was involved were more likely to negotiate a plea as were defendants represented by a public defender.

It was further disclosed that, in some counties, there was a disproportionate tendency for particular judges to handle plea negotiations. This fact suggests that the particular judge before whom a defendant will appear is a significant factor in the plea negotiation process.

Outcomes

In order to assess the impact of plea negotiation on the defendant, one must consider the outcome of a case involving a negotiated plea compared to other dispositions for like defendants. This information may help to explain why a defendant plea bargains, and in so doing, foregoes his constitutional right to a trial before his peers. Does the defendant who plea bargains fare better than defendants who do not? In order to answer this question, the data obtained from the case file research phase of this study were organized for comparative purposes by defendant. The validity of such comparisons, however, depends upon the ability to establish a defendant's prior criminal history. Of the 1,700 defendants originally considered, in only 308 cases was it possible to determine, with reasonable accuracy, the defendant's prior criminal history. This condition is due to the lack of a complete statewide criminal history file. (According to the Governor's Task Force on Criminal Justice Information Systems, only approximately 50% of misdemeanants and felons are fingerprinted by local police. Further, dispositions are reported in only about 35% of these arrests.) Consequently, what appeared to be a substantial data base (1,700 defendants) at the outset of this project, was considerably diluted by the absence of criminal history data. The effect of this shrinkage was that the data base for defendants whose criminal history could be established was reduced to 308 cases. This group was further differentiated by type and number of charges on the indictment and by outcome (sentence type and sentence term). The result is that there is an insufficient number of defendants in the sample

to support an analysis of comparative outcomes. Thus, this consideration must be deferred until such time as an adequate criminal history file is established for criminal defendants in this state.

NOTE: One encouraging action relative to an improved criminal history file has been the passage in the General Assembly of the Criminal History Record Information Act on November 26, 1978. This law mandates the fingerprinting and reporting to the central repository of all misdemeanants and felons arrested effective July 1, 1979. The law further mandates the reporting of all criminal dispositions incident to arrests made after the effective date of the act.

## CONCLUSION

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## CONCLUSION

This report has observed the concept of plea negotiation from the perspective of the local prosecutor and explored relationships on a state-wide basis. It has been found that there is considerable variation in the extent to which prosecutors rely on plea bargaining to dispose of criminal cases. The most significant factor related to the extent of its use appears to be the rate at which prosecutors accept cases for prosecution. While one prosecutor barely negotiates pleas, his rate for dismissing cases is much higher than the prosecutor who has a high plea bargain rate. It appears, then, that the practice serves as an adjustment mechanism for those prosecutors who choose to consider more cases for prosecution. The issue becomes - which is more desirable: 1) to prosecute more cases with plea bargaining or 2) to prosecute less cases without it? In the Alaska Judicial System, where plea bargaining has ostensibly been abolished, the effect of the abolition appears to have been an increased dismissal rate.<sup>82</sup> The greater selectivity on the part of the prosecution in that state has led to complaints by the police element that the new system of dismissing all but the best cases is worse than the former system of extensive plea bargaining. The resolution of the issue in Pennsylvania is at least partly dependent upon the analysis of comparative outcomes for plea bargains vs. other modes of disposition, an analysis which is precluded by the current recordkeeping procedures relative to criminal defendants.

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<sup>82</sup> Anderson, David C. You Can't Cop a Plea in Alaska Anymore. Police Magazine, January 1979. pp. 5-13.

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The mechanics of negotiating pleas in Pennsylvania do not differ substantively from the practice outside the Commonwealth. The absence of formal written policies, the existence of judicial participation, and general attitudes toward the practice parallel the observations made elsewhere. Perhaps the most significant observation relative to the practice in Pennsylvania finds a significant number of counties in which an objective review of the negotiated plea is impeded by the current recordkeeping procedures. In twenty of the forty-five counties which participated in the study, 45%, plea negotiations are not recorded beyond the court reporter's untranscribed notes. This condition renders negotiated pleas practically indistinguishable from straight pleas, thus complicating efforts to examine the nature and extent of the practice. While the overt disclosure of the negotiated agreement via the formats offered in Appendix B may be considered an administrative burden, the advantages incident to the increased visibility of the practice overshadow concerns for time spent completing the form. Further, the fact that the jurisdictions currently recording pleas include high volume courts dilutes the "time spent" argument for resisting such efforts. The entrenched status of the negotiated plea in Pennsylvania's judicial system demands a greater degree of visibility than is currently evident.

The negotiated plea continues to be one of the most complex aspects of the judicial process. This report has been intended as the first statewide study of the practice in Pennsylvania. While the information submitted contributes to a greater understanding of the practice, there are many questions which remain unanswered. Do those who plea bargain fare better

than those who do not? What are the recidivistic effects of negotiating pleas? Should plea negotiation be encouraged or discouraged? The answers to these questions remain as considerations for future research. The conclusion of this report maintains that such questions are unanswerable given the current availability of data. Until such time as the improvements in data collection intimated in this report occur, the more critical issues surrounding the negotiated plea will remain unresolved.

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***APPENDICES***

Appendix A

Questionnaire

PLEA NEGOTIATION QUESTIONNAIRE

Comment

We realize that replies to most of the questions below cannot be treated in the absolute and recognize that each case is distinct. However, we are interested in the general practice as it pertains to your day-to-day administration of cases.

You will find that some of the questions are of a sensitive nature. We appreciate your candor and assure you that all replies will be reported collectively, rather than by jurisdiction.

Definition

A negotiated plea, for the purpose of this report, entails a discussion between the prosecution and defense which precipitates an agreement by the defendant to plead to one or more charges in exchange for some concession.

1. Approximately what % of all guilty pleas are negotiated? \_\_\_\_\_

2. Do any written policies exist which govern the handling of negotiated pleas in your jurisdiction? If yes, please attach a copy.

Yes \_\_\_\_\_ No \_\_\_\_\_

3. Four conditions are commonly cited as influential in the decision to bargain. Please rank the following as they affect your office. (1 to 4 ranking 1 = High)

- Strength of the Case \_\_\_\_\_
- Nature of Charge(s) (Seriousness) \_\_\_\_\_
- Prior Record of Defendant \_\_\_\_\_
- Caseload Considerations \_\_\_\_\_
- Other: Please Specify \_\_\_\_\_

4. Common Concessions to obtain a plea include:

- \_\_\_\_\_ Sentence Recommendation to the Court
- \_\_\_\_\_ Dismissal of Charges
- \_\_\_\_\_ Reduction of Charges

Check those activities which commonly occur in your jurisdiction.

Other Concessions \_\_\_\_\_

5. Who actually participates in the negotiations? Please Check:

- Defense Attorney \_\_\_\_\_ Judge \_\_\_\_\_
- Defendant \_\_\_\_\_ Victim \_\_\_\_\_
- Police Officer \_\_\_\_\_ Other \_\_\_\_\_

6. Are there any crimes for which you refuse to negotiate?

Please list: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

7. Is a record of the plea agreement reduced to writing (beyond steno notes)?

Yes \_\_\_\_\_ No \_\_\_\_\_

- If yes, in what manner?
- Transcribed Notes \_\_\_\_\_
  - Specific Form\* \_\_\_\_\_
  - Notation on File Jacket \_\_\_\_\_
  - Other (Specify) \_\_\_\_\_
- (\*please attach a copy of form used)

8. In your opinion, would the number of guilty pleas decrease if plea negotiation were eliminated?

Yes \_\_\_\_\_ No \_\_\_\_\_

9. Does defendant who pleads guilty receive a lesser sentence than a comparable defendant who elects trial?

Yes \_\_\_\_\_ No \_\_\_\_\_

10. In your opinion, should he?

Yes \_\_\_\_\_ No \_\_\_\_\_

Comments: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

11. Do you feel that the current Pennsylvania Rules of Criminal Procedure regarding plea agreements should be revised?

Yes \_\_\_\_\_ No \_\_\_\_\_

Comments: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

12. What affect, if any, has Rule 1100 of the Pennsylvania Rules of Criminal Procedure had on the frequency or depth of negotiated pleas in your jurisdiction?

\_\_\_\_\_ None \_\_\_\_\_ Marginal \_\_\_\_\_ Moderate \_\_\_\_\_ Serious

Comments: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

13. What do you feel are the greatest assets/deficiencies in the practice of plea negotiation?

Assets

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Deficiencies

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

14. The file research relative to this study has concentrated on negotiated pleas among defendants who have been involved in at least one Part I offense. Part I offenses generally include homicide, rape, robbery, aggravated assault, burglary, larceny, and auto theft. What % of defendants committing these crimes in your jurisdiction reach disposition as a result of a plea negotiation?

\_\_\_\_\_

Please return survey to: Division of Criminal Justice Statistics  
Box 1167, Federal Square Station  
Harrisburg, PA. 17120

Appendix B

Guidelines



## GUIDELINES TO PLEA BARGAINING

### INTRODUCTION

Our sworn duty is to effectively prosecute each matter before us, and to aim for a solution which will be just.

Three major considerations must be taken into account. First, there is the goal of protecting law abiding citizens of the county from future criminal conduct by the defendant involved; second there is the welfare of the defendant; and third, there is the necessity to dispose of cases quickly so that we might meet the requirements of Rule 1100.

I recognize that each case assigned to you will present a unique set of circumstances. I further understand that each assistant differs philosophically.

But it must be remembered that each time you agree to a plea bargain you are telling the world that, under the circumstances, this agreement is fair and just to the people.

### MAJOR CONSIDERATION

The major consideration handling any criminal matter shall be the successful prosecution and imposition of an effective sentence in that matter. By effective sentence is meant a sentence which has as its major purpose the twin goals of protecting the law abiding citizens of this county from future criminal conduct and the deterrence of future criminal conduct by the defendant in question. While a

consideration in the determination of any effective sentence will be the welfare of the defendant in question, should there be a conflict this consideration should not outweigh the twin goals just mentioned. Further, although the avoidance of lengthy trials and appeals will assist us in meeting the standards of Rule 1100, expediency should not outweigh our goals of protection of law abiding citizens and deterrence of future criminal conduct.

### Examples

- A. Defendant is charged with the sale of a bundle of heroin. Since this sale he is successfully participating in a drug treatment program. While it may be in the defendant's best interest for us to agree to a probationary sentence, such sentence is not in keeping with the office's major consideration.
- B. Defendant is charged with an armed robbery. While an agreement for probation may well avoid a lengthy trial and appeal, such a sentence does nothing to protect our citizens or deter future conduct and must be avoided.
- C. Defendant is charged with a series of burglaries. Unless probation is agreed to, defense counsel threatens to try each case with a jury. While such a bargain may serve to avoid litigation and thus allow the more rapid disposition of other matters involving other defendants, it serves no purpose in the major consideration outlined.

#### SUBSIDIARY CONSIDERATIONS

1. Avoid bargaining for sentences you consider grossly lenient solely on the basis that "that's all the Judge will give him anyway." Such a situation leaves us in the position of saying a sentence is fair on the record and unfair off the record. Furthermore, our recommendation in one case undoubtedly influences our Judges for all cases and can be used as justification for a lenient sentence at a latter date.

2. Generally, avoid a plea bargain where we have an airtight case against a defendant. Such cases should be submitted on an open plea with the plea District Attorney free to recommend whatever seems appropriate after hearing the witnesses' testify if justified under the A.B.A. Standards. If defense counsel concedes our winning the position but protests about problems with his client, suggest a non-jury trial or the nolle prosequing of the lesser counts to preserve our free hand.

#### STEPS TO BE TAKEN PRIOR TO FINALIZING A PLEA BARGAIN

1. No plea bargain should be agreed to without first speaking to the prosecuting officer. While periodically it may be necessary to override his wishes, such a step should be taken only as a last resort, and after full discussion with him.

2. All plea bargaining discussions, even where an agreement is not reached, should be noted on the jacket to avoid "District Attorney shopping" by defense counsel. Note

on the jacket what offer defense counsel made which you refused, and what offer you made and he refused.

3. Always note on Defendant's jacket whether a sentence is imposed pursuant to a plea bargain to review sentencing patterns in which event we should be able to tell whether sentences were imposed on open pleas or on our recommendations.

4. Always note the fact that a plea bargain was agreed to on a co-defendant's jacket. This avoids the situation of one District Attorney trying to hammer a defendant only to find defense counsel informing the court that our office had agreed to a lenient sentence for a co-defendant. If you feel, in entering with a plea bargain for one defendant, that a co-defendant should be treated differently, note the reason on the co-defendant's jacket.

5. It is bad practice to enter into a plea bargain unless full restitution to the victim is a part of the sentence. Full restitution includes compensation not only for valuables stolen and not returned but also for "break in" damages, medical bills, etc.

6. Never agree to a deal which another member of the office has refused. If you feel circumstances have changed, talk the matter over with the other Assistant District Attorney first.

7. Never refuse a plea bargain which another member of the office has made. Talk the matter over with the other Assistant District Attorney and the District Attorney, if

necessary, after the plea. Failure to follow this practice impunes the integrity of the office.

8. All plea bargains involving cases which have attracted substantial news media attention should be cleared with the District Attorney, his First Assistant, or the Chief of Prosecution. This policy is necessary in order that the District Attorney has full notice of the reasons for the plea in the event he is called upon for comment.

#### PLEA BARGAINING - SPECIFIC CRIMES

The following guidelines must be observed by all members of this office unless the District Attorney, his First Assistant or the Chief of Prosecution indicates to the contrary in a particular case.

1. This office should not agree to probation in any crime of violence where the victim is injured.
2. This office should not agree to probation in any cause wherein the defendant was armed with a firearm in the commission of a crime other than carrying a firearm without a license.
3. This office should not agree to probation in any case involving the sale of drugs or in any case involving the possession of drugs wherein the quantity involved indicates clearly that the defendant was a trafficker.
4. This office should not agree to probation in any case involving misconduct in office by a public official without the express approval of the District Attorney.

5. This office should not agree to probation in any robbery, forcible rape (or other forcible sex crimes), arson of occupied buildings, murder, or voluntary manslaughter.

6. All plea bargains of any kind in murder cases must be approved by the District Attorney.

INTER-OFFICE CORRESPONDENCE  
COURT HOUSE

January 15, 1976

FROM

TO ALL ASSISTANT DISTRICT ATTORNEYS

District Attorney

SUBJECT

RE: PLEA BARGAINING - POLICY

Hereafter, the general policy of this office with regard to plea bargaining is that the same is to be used by the Commonwealth of Pennsylvania as a prosecutorial tool. It is to be used only for substantive legal reason based upon the facts and circumstances present in each individual case. It is never to be used for the sole purpose of reducing the number of criminal cases to be tried nor for the purpose of making a defendant eligible for participation in the ARD program. The full extent of any plea bargain is to be placed upon the record in open court.

No plea bargains are to be entertained in the following types of cases without the express concern of the Chief Deputy of the Trial Division:

1. Driving while under the influence of intoxicants.
2. Gambling related cases.
3. Public corruption cases.
4. Homicide and rape cases.

All attorneys with less than six months experience are to discuss the terms of a plea bargain with the Chief Deputy of the Trial Division prior to agreeing to any plea bargain.

Should an attorney have any doubt concerning entering into a plea bargain for whatever reason, the proposed bargain should be discussed with the Chief Deputy of the Trial Division.

Appendix C

Forms

COMMONWEALTH OF PENNSYLVANIA : IN THE COURT OF COMMON PLEAS  
VS : CHESTER COUNTY, PENNSYLVANIA  
: CRIMINAL ACTION  
: NO.

PLEA BARGAIN

The following agreement is entered between the above-named defendant and his attorney and the District Attorney of Chester County through his subscribing representative. By agreeing hereto the defendant acknowledges:

1. That he understands the nature of the charges to which he is pleading guilty.
2. That by pleading guilty he admits committing certain acts which constitute the crime charged.
3. That he has the ~~right~~ to a trial by jury, or to a trial by a judge without a jury, at which he is presumed innocent until he is found guilty and that the Commonwealth must prove that guilt beyond a reasonable doubt.
4. That by pleading guilty he is severely limiting any appeal rights he may have and generally may appeal only the legality of the sentence of whether his plea was voluntarily and intelligently entered.
5. That he has been advised of the maximum permissible sentences for the crimes with which he is charged.
6. That he has consulted with his counsel before entering this plea and has authorized his counsel to conduct plea bargaining on his behalf.
7. That the Court has not participated in negotiations leading to this agreement and it is not binding until approved

Forms Currently  
in Use  
in the  
Commonwealth

by the Court.

8. That the Court may refuse to approve the bargain, leaving the defendant in the same position as though no negotiations or bargain had taken place.

Acknowledgment:

Defendant

The parties hereby agree to the following, which is to be submitted to the Court for approval:

INDICTMENT TERM AND NO. :
CHARGE :
MAXIMUM SENTENCE :
OTHER AGREED DISPOSITION :

SENTENCE
FINE AND COSTS :
PROBATION OR IMPRISONMENT :

INDICTMENT TERM AND NO. :
CHARGE :
MAXIMUM SENTENCE :
OTHER AGREED DISPOSITION :

SENTENCE
FINE AND COSTS :
PROBATION OR IMPRISONMENT :

INDICTMENT TERM AND NO. :
CHARGE :
MAXIMUM SENTENCE :
OTHER AGREED DISPOSITION :

SENTENCE
FINE AND COSTS :
PROBATION OR IMPRISONMENT :

INDICTMENT TERM AND NO. :
CHARGE :
MAXIMUM SENTENCE :
OTHER AGREED DISPOSITION :

SENTENCE
FINE AND COSTS :
PROBATION OR IMPRISONMENT :

TERMS OR CONDITIONS:

- 1. To meet your family responsibilities.
2. To refrain from frequenting unlawful or disreputable places or consorting with disreputable persons.
3. To refrain from having in your possession a firearm or other dangerous weapon unless granted written permission by the court or parole officer.
4. To remain within the jurisdiction of the court and to notify the court or probation officer of any change in your address or your employment.
5. To report as directed to the court or the probation officer and to permit the probation officer to visit your home and place of employment at any time.
6. To refrain from using alcoholic beverages and/or drugs.
7. To refrain from violating any Municipal, County, District, State or Federal Laws, Ordinances and Orders and otherwise conduct yourself as a good citizen.
8. To notify the probation office within 72 hours if you are arrested or involved in any other trouble.
9. To pay above fine(s)/sums to the use of the County and costs within months from date of approval of this Plea Bargain by the Court.
10. Additional conditions and terms:

Defendant

WILLIAM H. LAMB, ESQUIRE
District Attorney

Attorney for Defendant

Assistant District Attorney

COURT ACTION:

DATE:

COMMONWEALTH OF PENNSYLVANIA : IN THE COURT OF COMMON PLEAS OF  
 : BRADFORD COUNTY, PENNSYLVANIA  
 VS : CRIMINAL ACTION ----- LAW  
 :  
 : NO. \_\_\_\_\_ TERM, 19  
 :  
 : .....

MOTION PURSUANT TO RULE 319 (b)(2)  
 OF THE PENNSYLVANIA RULES OF CRIMINAL PROCEDURE

TO THE HONORABLE EVAN S. WILLIAMS, PRESIDING JUDGE OF THE ABOVE NAMED COURT:

The Commonwealth of Pennsylvania and the defendant respectfully state:

1. The following criminal charge(s) are pending against the defendant: \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

2. A plea agreement has been negotiated between the Commonwealth of Pennsylvania and the defendant, and its terms, as stated in the attached "Plea Agreement", have been fully executed.

3. Attached hereto is a general background report on the defendant from the Bradford County Probation Office.

WHEREFORE, it is requested that pursuant to Rule 319 (b)(2) of the Pennsylvania Rules of Criminal Procedure, the court consider and approve the said plea agreement as its terms are stated in the attached "Plea Agreement".

\_\_\_\_\_  
 Attorney for the Commonwealth of Pennsylvania

\_\_\_\_\_  
 Attorney for the Defendant

COMMONWEALTH OF PENNSYLVANIA : IN THE COURT OF COMMON PLEAS OF  
 : BRADFORD COUNTY, PENNSYLVANIA  
 VS : CRIMINAL ACTION ----- LAW  
 :  
 : NO. \_\_\_\_\_ TERM, 19  
 :  
 : .....

PLEA AGREEMENT

Defendant shall plead to the following: \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

Defendant shall receive as a sentence:

( ) Probation: \_\_\_\_\_  
 ( ) Confinement: \_\_\_\_\_  
           Minimum \_\_\_\_\_ Maximum \_\_\_\_\_  
           Total \_\_\_\_\_ Partial \_\_\_\_\_  
           Place of confinement \_\_\_\_\_

( ) Comment: \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

( ) Fine: \_\_\_\_\_

( ) Costs: \_\_\_\_\_  
 \_\_\_\_\_

( ) Restitutions: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Should the Court disapprove this Plea Agreement, the defendant ( ) shall ( ) shall not be allowed to withdraw any and all pleas of guilt made by the defendant, either in open court or on any indictment(s).

For this Plea Agreement to be binding on and enforceable against the Commonwealth of Pennsylvania, the defendant must on or before the \_\_\_\_ day of \_\_\_\_\_, 19 \_\_, either in open court or through a written plea placed on an applicable indictment(s), plead guilty consistent with this plea agreement.

For this Plea Agreement to be binding on and enforceable against the defendant, the Commonwealth of Pennsylvania through an authorized agent, must on or before the \_\_\_\_ day of \_\_\_\_\_, 19 \_\_, agree to this Plea Agreement by signing the endorsement below.

ENDORSEMENT

On the \_\_\_\_ day of \_\_\_\_\_, 19 \_\_, as an authorized agent of the Commonwealth of Pennsylvania, I commit the Commonwealth of Pennsylvania to the terms of the above foregoing Plea Agreement.

IN THE COURT OF COMMON PLEAS OF CRAWFORD COUNTY, PENNSYLVANIA  
Criminal Division

COMMONWEALTH OF PENNSYLVANIA:  
VS

No. \_\_\_\_\_ of 1977

PLEA AGREEMENT

The Defendant and the Prosecuting Attorney hereby submit the following Agreement to the Court which was reached pursuant to the discussions initiated by them. The defendant consents to the Court receiving evidence in aggravation and mitigation in advance of the tender of this plea. The Agreement is as follows:

A. The defendant is charged with:

- |          |          |
|----------|----------|
| 1. _____ | 4. _____ |
| 2. _____ | 5. _____ |
| 3. _____ | 6. _____ |

B. The defendant agrees to plead guilty to:

- |          |          |
|----------|----------|
| 1. _____ | 4. _____ |
| 2. _____ | 5. _____ |
| 3. _____ | 6. _____ |

C. The Prosecuting Attorney agrees to Nolle Pros:

- |          |          |
|----------|----------|
| 1. _____ | 4. _____ |
| 2. _____ | 5. _____ |
| 3. _____ | 6. _____ |

D. The Prosecuting Attorney agrees to make the following recommendations:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

E. The defendant fully understands that these recommendations are not binding and may not be accepted by the sentencing judge.

F. Restitution in this case is owing to the following persons in the following amounts:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

G. The defendant has been advised of the maximum possible penalties for the charges to which he intends to plead guilty.

H. The defendant has been advised by his attorney of the consequences of pleading guilty and of his trial rights if he pleads not guilty.

Date: \_\_\_\_\_ (Defendant)

\_\_\_\_\_  
(Prosecuting Attorney) (Defense Counsel)

Presented to Judge \_\_\_\_\_ on \_\_\_\_\_  
19\_\_.

ACCEPTED \_\_\_\_\_ REJECTED \_\_\_\_\_

IN THE COURT OF COMMON PLEAS, CRIMINAL, OF CAMBRIA COUNTY, PENNSYLVANIA

COMMONWEALTH OF PENNSYLVANIA ) No. C—

VS. )

PLEA BARGAIN

The District Attorney's Office, the above named defendant and his attorney agree that a plea bargain has been agreed to in this case, the terms of which are as follows:

\_\_\_\_\_  
District Attorney's Office

\_\_\_\_\_  
Defendant

\_\_\_\_\_  
Attorney for Defendant

Schuylkill 1

In The Court of Common Pleas of the County of Schuylkill  
Criminal Division

COMMONWEALTH OF PENNSYLVANIA

Nos. ....

Vs.

..... Term, 19.....

Charge: .....

Defendant

MEMORANDUM OF PLEA AGREEMENT

In the event Defendant enters a Plea of Guilty (nolo contendere) to the charges contained in count.....  
of the above indictment, the District Attorney will recommend the following to the sentencing Judge:

It is understood that this recommendation has no binding effect upon the sentencing Judge and that he may elect to be guided by or not to be guided by this recommendation.

District Attorney

Defendant

Attorney for Defendant

ORIGINAL

PLEA BARGAIN

Lancaster 1

The subscribing parties certify that the following facts are accurate and the plea bargain to be voluntarily and intelligently executed with full knowledge of the maximum possible sentences:

DEFENDANT: \_\_\_\_\_

If represented by counsel, defendant authorized plea bargain negotiations on his behalf YES \_\_\_\_\_ NO \_\_\_\_\_

| OFFENSES | PLEA  | APPROVED | PENDING |
|----------|-------|----------|---------|
| 1. _____ | _____ | _____    | _____   |
| 2. _____ | _____ | _____    | _____   |
| 3. _____ | _____ | _____    | _____   |
| 4. _____ | _____ | _____    | _____   |
| 5. _____ | _____ | _____    | _____   |

| OFFENSE  | AGREED SENTENCE |           |       |                         |
|----------|-----------------|-----------|-------|-------------------------|
|          | JAIL            | PROBATION | FINE  | DEF. TO PAY COSTS REST. |
| 1. _____ | _____           | _____     | _____ | _____                   |
| 2. _____ | _____           | _____     | _____ | _____                   |
| 3. _____ | _____           | _____     | _____ | _____                   |
| 4. _____ | _____           | _____     | _____ | _____                   |
| 5. _____ | _____           | _____     | _____ | _____                   |

Sentences To Be: CONSECUTIVE \_\_\_\_\_ CONCURRENT \_\_\_\_\_  
with \_\_\_\_\_

Date This Agreement Executed \_\_\_\_\_

DEFENDANT \_\_\_\_\_

DEFENSE COUNSEL \_\_\_\_\_

DISTRICT ATTORNEY \_\_\_\_\_

Presented To Judge \_\_\_\_\_ or \_\_\_\_\_

ACCEPTED \_\_\_\_\_ REJECTED \_\_\_\_\_

Erie 1

COMMONWEALTH OF PENNSYLVANIA )  
vs. ) IN THE COURT OF COMMON PLEAS  
 ) OF ERIE COUNTY, PENNSYLVANIA  
 ) CRIMINAL DIVISION  
 ) NO. OF 197\_

DEFENDANT'S STATEMENT OF UNDERSTANDING OF RIGHTS  
PRIOR TO GUILTY PLEA

I, \_\_\_\_\_, the defendant in the within matter, do hereby state that I desire to plead guilty in the above captioned matter, that my plea is made voluntarily by me, and that I fully understand my rights as follows:

1. I understand that I am charged with the crime of:

2. I understand that in pleading guilty, I am admitting that I performed the acts complained of which constitute the crime charged.

3. I understand that I have a right to a trial by jury if I plead not guilty.

4. I understand that I am presumed innocent until found guilty, in the event that I should plead not guilty, and that the Commonwealth must establish my guilt beyond all reasonable doubt.

5. I understand that I have the right to not incriminate myself and that no adverse comment could be made if I exercised such right.

6. I understand that I have the right to confront my accuser and have them come into open court and give sworn testimony against me, and that I would have the right of cross-examining them.

7. I understand that the maximum sentence for the crime to which I am pleading guilty is \_\_\_\_\_.

8. I certify and understand that no plea bargain was made that led to this plea of guilty, that no promise has been made to me as to the probable sentence of the Court, that no promises or threats of any kind have been made to me by anyone, nor have any inducements of any kind been offered to encourage me to enter this plea, EXCEPT \_\_\_\_\_.

9. I certify and understand that I have reviewed this matter thoroughly with my attorney, including this Statement Of Understanding Of Rights, and on the basis of these discussions I hereby voluntarily desire to plead guilty.

10. I certify and understand that I have a right to appeal from the plea of guilty and to have counsel appointed to represent me on such appeal, free of charge to me, if I cannot afford to hire such appeal counsel.

Defendant: \_\_\_\_\_

Date: \_\_\_\_\_

Witness:

Judge

Attorney for Defendant

Attorney for Commonwealth

Butler-1

IN THE COURT OF COMMON PLEAS OF BUTLER COUNTY, PENNSYLVANIA

COMMONWEALTH OF PENNSYLVANIA

vs.

Defendant

: C. A. No. \_\_\_\_\_

: TERM, 19 \_\_\_\_\_ BOOK \_\_\_\_\_ PAGE \_\_\_\_\_

PLEA AGREEMENT

The subscribing parties certify that the following facts are accurate and the plea negotiation as set forth has been voluntarily and intelligently executed with full knowledge of the maximum possible sentences.

If represented by counsel, defendant authorized plea negotiations on his behalf:

YES \_\_\_\_\_ NO \_\_\_\_\_

OFFENSES:

PLEA (Guilty or Not Pros)

(a) \_\_\_\_\_

(b) \_\_\_\_\_

(c) \_\_\_\_\_

AGREED SENTENCE

OFFENSE:

JAIL

PROBATION

FINE

COSTS

(a) \_\_\_\_\_

(b) \_\_\_\_\_

(c) \_\_\_\_\_

Sentences to be: Consecutive \_\_\_\_\_ Concurrent \_\_\_\_\_  
with \_\_\_\_\_

Date this agreement executed: \_\_\_\_\_, 19 \_\_\_\_\_

Restitution in this case is owing to the following persons in the following amounts:

Signatures:

Defendant \_\_\_\_\_

Defense Counsel \_\_\_\_\_

Prosecuting Attorney \_\_\_\_\_

Presented to Judge \_\_\_\_\_, on \_\_\_\_\_, 19 \_\_\_\_\_

Accepted: \_\_\_\_\_ Rejected: \_\_\_\_\_

The Defendant acknowledges that the foregoing Plea Agreement is subject to a pre-sentence investigation and the Court may reject the Plea Agreement at the time of sentencing. In that event, the Defendant may withdraw the plea.

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON FOR KING COUNTY

STATE OF WASHINGTON, )  
Plaintiff, )  
vs. )  
\_\_\_\_\_, )  
Defendant. )

STATEMENT OF DEFENDANT ON PLEA  
OF GUILTY

1. My true name is \_\_\_\_\_.
2. My age is \_\_\_\_\_.
3. My lawyer is \_\_\_\_\_.
4. The court has told me that I am charged with the crime of \_\_\_\_\_, the maximum sentence for which is \_\_\_\_\_.

5. The court has told me that:
  - (a) I have the right to have counsel (a lawyer) and that if I cannot afford to pay for counsel, one will be provided at no expense to me.
  - (b) I have the right to a trial by jury.
  - (c) I have the right to hear and question witnesses who testify against me.
  - (d) I have the right to have witnesses testify for me. These witnesses can be made to appear at no expense to me.
  - (e) The charge must be proved beyond a reasonable doubt.
  - (f) I have the right to appeal.
  - (g) By entering a plea of guilty, I give up the rights listed in (b) through (f) and I will be sentenced on the basis of my plea.

6. I plead \_\_\_\_\_ to the crime of \_\_\_\_\_ as charged in the information, a copy of which I have received.

7. I make this plea freely and voluntarily.
8. No one has threatened harm of any kind to me or to any other person to cause me to make this plea.
9. No person has made promises of any kind to cause me to enter this plea except as set forth in this statement.
10. I have been told the prosecuting attorney will take the

Forms Currently  
in Use  
in the  
Other States

following action and make the following recommendation to the court:

\_\_\_\_\_

11. I have been told and fully understand that the court does not have to follow the Prosecuting Attorney's recommendation as to sentence. The court is completely free to give me any sentence it sees fit no matter that the Prosecuting Attorney recommends.

12. The court has told me that if I am sentenced to prison the judge must sentence me to the maximum term required by the law, which in this case is \_\_\_\_\_. The minimum term of sentence is set by the Board of Prison Terms and Paroles. The judge and Prosecuting Attorney may recommend a minimum sentence to the board but the board does not have to follow their recommendations. I have been further advised that the crime with which I am charged carries a mandatory minimum of \_\_\_\_\_ years. If not applicable, this sentence shall be stricken and initialed by the defendant and the judge.

13. I understand that if I am on probation or parole, a plea of guilty to the present charge will be sufficient grounds for a judge or the parole board to revoke my probation or parole.

14. The court has asked me to state briefly in my own words what I did that resulted in my being charged with the crime in the information. This is my statement: \_\_\_\_\_

\_\_\_\_\_

15. I have read or have had read to me all of the numbered sections above (1 through 15) and have received a copy of "Statement of Defendant on Plea of Guilty." I have no further questions to ask of the court.

The foregoing statement was read by or read to the defendant and signed by the defendant in the presence of his attorney \_\_\_\_\_  
\_\_\_\_\_. Prosecuting Attorney \_\_\_\_\_  
and the undersigned judge in open court.

DATED this \_\_\_\_\_ day of \_\_\_\_\_, 197 \_\_\_\_.

\_\_\_\_\_

IN THE CIRCUIT COURT OF THE STATE OF OREGON  
FOR MULTNOMAH COUNTY

THE STATE OF OREGON, )  
Plaintiff, ) No. C \_\_\_\_\_  
v. ) DA \_\_\_\_\_  
 )  
Defendant. )

I. DISCLOSURE BY PLAINTIFF

A. Witness List: The plaintiff presently intends to call the following witnesses at trial:

- 1. \_\_\_\_\_ 5. \_\_\_\_\_
- 2. \_\_\_\_\_ 6. \_\_\_\_\_
- 3. \_\_\_\_\_ 7. \_\_\_\_\_
- 4. \_\_\_\_\_ 8. \_\_\_\_\_

The plaintiff does not presently intend to call at trial the following persons, who are known to the plaintiff as potential trial witnesses, but may subsequently decide to do so (at which time the plaintiff will notify the defense): (List informants either as "informants" or confidential reliable informants," as appropriate)

- 1. \_\_\_\_\_ 4. \_\_\_\_\_
- 2. \_\_\_\_\_ 5. \_\_\_\_\_
- 3. \_\_\_\_\_ 6. \_\_\_\_\_

B. Defense counsel has been provided with the addresses of the above persons: \_\_\_ yes \_\_\_ no

C. Defense counsel has been provided with a copy of all police reports, presently known by the plaintiff, in this case: \_\_\_ yes \_\_\_ no (If "no," list those reports not provided on reverse side)

Defense counsel has been afforded the opportunity to verify his copy of police reports with plaintiff's copy: \_\_\_ yes \_\_\_ no

D. Defense counsel has been provided with copies of all written or recorded statements or memoranda of any oral statements of the above persons and of the defendant or codefendant: \_\_\_ yes \_\_\_ no (If "no," list those not provided on reverse side)

E. The plaintiff intends to offer the following physical evidence, scientific reports and photographs:

- 1. \_\_\_\_\_ 3. \_\_\_\_\_
- 2. \_\_\_\_\_ 4. \_\_\_\_\_

(1) Defense counsel has been provided with a copy of all documents and reports pertaining to the above: \_\_\_ yes \_\_\_ no (If "no," list exceptions on reverse side)

F. Defense counsel has been given rap sheets on the following persons:

- 1. \_\_\_\_\_ 3. \_\_\_\_\_
- 2. \_\_\_\_\_ 4. \_\_\_\_\_

II. DISCLOSURE BY DEFENSE

A. Witness List: (1) The defense intends to call the following witnesses at trial:

- 1. \_\_\_\_\_ 5. \_\_\_\_\_
- 2. \_\_\_\_\_ 6. \_\_\_\_\_
- 3. \_\_\_\_\_ 7. \_\_\_\_\_
- 4. \_\_\_\_\_ 8. \_\_\_\_\_

(2) The defense intends to call the defendant as a witness: \_\_\_ yes \_\_\_ no

B. The plaintiff has been provided with the addresses of the above persons: \_\_\_ yes \_\_\_ no

C. The plaintiff has been provided with copies of all written or recorded statements or memoranda of any oral statements of the above persons (other than the defendant): \_\_\_ yes \_\_\_ no (If "no," list those provided on reverse side)

D. The defense intends to offer the following physical evidence, scientific reports, photographs and/or other documents:

- 1. \_\_\_\_\_ 3. \_\_\_\_\_
- 2. \_\_\_\_\_ 4. \_\_\_\_\_

Copies of the above have been provided to the plaintiff: \_\_\_ yes \_\_\_ no (If "no," list those not provided on reverse side)

E. The defense intends to rely on the following defenses:

- \_\_\_ Alibi \_\_\_ Diminished Responsibility \_\_\_ Lack of Mental Responsibility
- \_\_\_ Entrapment \_\_\_ Duress \_\_\_ Self Defense
- \_\_\_ Justification Other: \_\_\_\_\_

F. The following motions will be filed:

- \_\_\_ (a) Motion to Controvert -- \_\_\_ Dispositive \_\_\_ Nondispositive
- \_\_\_ (b) Motion to Suppress -- \_\_\_ Dispositive \_\_\_ Nondispositive
- \_\_\_ Other: \_\_\_\_\_

III. PLEA NEGOTIATION

A. The following plea offer has been tendered by the plaintiff:

(1) List charge(s) to which defendant will plead guilty:

(2) List all charge(s) which plaintiff will move to dismiss upon sentence of defendant on above charge(s): (Those charges not listed are not included in the plea negotiation agreement.)

(3) Will plaintiff make a sentence recommendation:  yes  no  
(If "yes," state what the recommendation will be.)

(4) Will plaintiff request court to order restitution?  yes  no  
(If "yes," list amount and claimant)

(5) The defense  accepts  rejects  is considering the above plea offer.

(6) The above plea offer remains open until \_\_\_\_\_,  
at which time it is withdrawn.

I have reviewed the above entries. They are correct to the best of my knowledge. I will immediately notify opposing counsel of any change in the status of the above information.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Defense Counsel

\_\_\_\_\_  
Date

\_\_\_\_\_  
Deputy District Attorney

Distribution:  
1-Chief Criminal Clerk  
1-District Attorney  
1-Defense Atty.

Form No. 441 - Defendant's Request for Action

COUNTY CRIMINAL COURT NO.  
OF  
DALLAS COUNTY, TEXAS

Case No. \_\_\_\_\_

Defendant: \_\_\_\_\_

Date: \_\_\_\_\_ 19 \_\_\_\_\_

To The Court: The State and Defendant request fol-  
lowing action on this case (Check and Complete:)

\_\_\_\_ Defendant in Court.

\_\_\_\_ Defendant not in Court.

\_\_\_\_ Passed at Request of Defendant. State waives  
written motion.

\_\_\_\_ Passed at Request of State. Defendant waives  
written motion.

\_\_\_\_ Passed by Agreement of both Defendant and State.

\_\_\_\_ Pass to \_\_\_\_\_, 19 \_\_\_\_\_  
to enter plea of guilty.

\_\_\_\_ Pass to \_\_\_\_\_, 19 \_\_\_\_\_  
for Trial Before the Court.

\_\_\_\_ Pass to \_\_\_\_\_, 19 \_\_\_\_\_  
for Trial by Jury.

\_\_\_\_ Pass generally.

\_\_\_\_ Passed Announcement.

On plea District Attorney recommends:

\_\_\_\_\_ and \$ \_\_\_\_\_ with  
probation; or

\_\_\_\_\_ and \$ \_\_\_\_\_ with-  
out probation.

\_\_\_\_\_  
Asst. Crim. District Attorney

\_\_\_\_ Defendant understands and agrees to accept  
the above recommendation of the State on  
a plea.

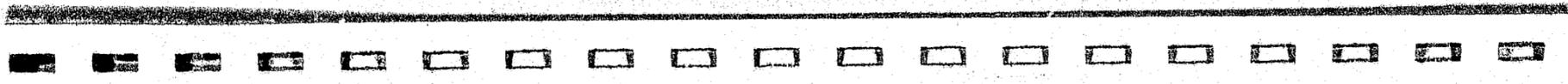
\_\_\_\_ Defendant does NOT agree to accept the above  
recommendation of the State on a plea.

\_\_\_\_\_  
ATTORNEY FOR THE DEFENDANT

\_\_\_\_\_  
Address

\_\_\_\_\_  
Telephone No.

Texas 1



AGREED RECOMMENDATION

DEFENDANT \_\_\_\_\_ NO. \_\_\_\_\_

OFFENSE \_\_\_\_\_

PENALTY \_\_\_\_\_

DATE OF OFFENSE \_\_\_\_\_ DATE OF ARREST \_\_\_\_\_

THE DETAILS OF ANY AGREEMENT REACHED AS A RESULT OF PLEA NEGOTIATIONS:

\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
DEFENDANT

\_\_\_\_\_  
ATTORNEY FOR DEFENDANT

\_\_\_\_\_  
ASSISTANT DISTRICT ATTORNEY  
DALLAS COUNTY, TEXAS

COUNTY OF SAN BERNARDINO, STATE OF CALIFORNIA

COURT

THE PEOPLE OF THE STATE OF CALIFORNIA, )  
Plaintiff, )  
vs. )  
Defendant )

PLEA BARGAIN AGREEMENT

Case No. \_\_\_\_\_

A plea bargain has been reached in this case between Deputy District Attorney \_\_\_\_\_ and defendant.

PLEA: The Defendant pleads guilty to \_\_\_\_\_

TERMS:

I. A. \_\_\_\_\_ withheld/suspended and probation for a period of \_\_\_\_\_

B. FINE \_\_\_\_\_ P.A./P.O.T. \_\_\_\_\_ TOTAL \_\_\_\_\_

Payment Terms: \_\_\_\_\_

C. TRAFFIC SCHOOL: Notice of completion to be filed by \_\_\_\_\_

D. ALCOHOL PROGRAM: Defendant to attend \_\_\_\_\_

E. JAIL TERM: \_\_\_\_\_ Defendant to appear at San Bernardino County Central Jail, 630 Cardiff, San Bernardino at \_\_\_\_\_ m. on \_\_\_\_\_

II. OTHER: \_\_\_\_\_

I consent and agree to the terms of the PLEA BARGAIN and to the entry of same in the minutes of said Court, and acknowledge receipt of a copy of this document.

I realize that willful violation of the terms of this agreement may be a misdemeanor and therefore subject to Bench Warrant and further penalties.

Dated \_\_\_\_\_ District Attorney

\_\_\_\_\_  
Attorney for Defendant

By \_\_\_\_\_  
Deputy District Attorney

APPROVED:

\_\_\_\_\_  
Defendant

\_\_\_\_\_  
Judge

Distribution:

- White-Court
- Green-District Attorney
- Yellow-Probation
- Pink-Defendant's Attorney
- Goldenrod-Defendant

END