MINNESOTA

CRIME CONTROL PLANNING BOARD

STATISTICAL ANALYSIS CENTER

RESEARCH REPORT

57404

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May 2, 1979

Debra A. Hormby
Acquisitions Dept.
NCJRS
Box 6000
Rockville, Md 20850

Dear Ms. Hormby:

Enclosed please find two copies of our recent report PLEA BARGAINING IN MINNESOTA. We would like to have these documents included in the NCJRS data base and to have them considered for possible inclusion in the Selective Notification of Information Service.

Thank you very much.

Sincerely,

Marilyn S. Mills
Librarian

The Final Report

of the

Plea Negotiation Study

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Produced by the
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PLEA BARGAINING
IN MINNESOTA

EXECUTIVE SUMMARY

This is the final report of the Plea Negotiation Study. It is intended to provide descriptive information concerning plea bargaining in Minnesota's district courts to interested persons and practitioners in the field. The data presented were collected from county attorney and district court files and represent approximately 18 percent of the criminal dispositions filed in 1975.

The major findings of this report are as follows:

- Approximately two-thirds of all cases involve a plea agreement. Roughly 90 percent of all convictions are the result of a guilty plea, and three-fourths of all guilty pleas are the result of a plea bargain.
- The proportion of cases that are plea bargained varies greatly across the sampled counties.
- There is no relationship between county population and the amount of plea bargaining.
- There is no relationship between criminal caseload and the amount of plea bargaining.
- The most frequently occurring type of plea agreement involves a prosecutorial sentence recommendation. The most common type of sentence agreement is when the prosecution recommends a sentence which is less than the statutory maximum sentence.
- One-third of all plea agreements involve charge bargaining. Charge bargains are associated with multiple count cases and crimes against persons.
- Public defenders and privately retained defense attorneys have similar rates of plea bargaining, and there is no significant relationship between type of attorney and the type of plea agreement reached.
- Higher rates of plea bargaining are associated with multiple count cases, cases involving the use of a firearm, and instances in which the defendant has more than one case pending.
- Defendants who plea bargain receive sentences which are more lenient than those of similarly situated defendants who are convicted at trial or by their non-negotiated pleas of guilty.

- Different factors operate to explain sentence severity for male and female defendants.
- For females, roughly fifty percent of the variance in sentence severity can be explained by use of a firearm, prior conviction record, number of counts and involvement in additional criminal cases.
- For males, roughly forty percent of the variance can be explained by the statutorily prescribed maximum sentence, type of conviction, type of crime, use of a firearm, and prior conviction record.
- For males, race, type of defense attorney, number of counts, and involvement in outside cases are insignificant factors in explaining variations in sentence severity.
- For females, race, type of defense attorney, type of conviction, and type of crime are insignificant factors in explaining variations in sentence severity.

The Sentencing Guidelines Commission is presently in the process of developing sentencing guidelines; therefore, recommendations which stem from this research are best directed toward the Commission. On the basis of the information contained herein, the recommendations to the Sentencing Guidelines Commission are as follows:

- *That the Commission be aware of the prevalence of sentence bargaining and anticipate changes in the type of plea bargaining as a result of the guidelines.* Analysis indicates that the most common type of plea agreement is the sentence agreement, and that in most cases this involves a prosecutorial recommendation which places an upper limit on the maximum sentence which is less than the statutory maximum sentence. Thus knowing, the Commission would be well-advised to consider the possible impact of the guidelines on plea bargaining, anticipating a decrease in sentence bargaining as it currently exists.
- *That the Commission address the use of a stay of imposition of sentence.* Analysis indicates that persons who plea bargain receive proportionately more sentences which involve a stay of imposition than defendants convicted by other means. Thus, the Commission should not overlook the use of a stay of imposition of sentence in its examination of present sentencing practices and in its formulation of sentencing guidelines.

- *That the Commission consider the influence of a defendant's plea on judicial determination of sentence.* Analysis indicates that similarly situated male defendants receive harsher sentences if convicted at trial when compared to defendants who plead guilty. Therefore, any schema which formalizes and standardizes the factors to be weighted by judges at sentencing must address this sentencing differential.

- *That the Commission acknowledge that different factors are considered in the sentencing of male and female defendants and consider this in the promulgation of sentencing guidelines.* Analysis shows that different factors operate to explain variations in sentence severity for male and female defendants. Sentencing guidelines can provide the mechanism through which to address this issue.

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I. INTRODUCTION

A. BACKGROUND AND PURPOSE OF PLEA NEGOTIATION STUDY

In 1976 the Governor's Commission on Crime Prevention and Control initiated a statewide study of plea negotiations that occur in Minnesota's district courts.[1] At that time, little or no information was available concerning the types of cases going through district court, the delay involved from arrest to disposition, the percentage of cases that involved negotiated guilty pleas, and the types of sentences accorded convicted defendants.[2] Statewide court information was limited to caseload figures which were compiled annually by the State Court Administrator. Because more detailed court information is essential to an understanding of Minnesota's entire criminal justice system, this study represents a serious attempt to obtain and compile such information. The Plea Negotiation Study was designed to meet two major objectives: 1) to describe the frequency and types of plea negotiations, and 2) to provide descriptive information concerning the defendants and criminal cases in district courts. It was initiated in response

[1] In August of 1977 the Governor's Commission on Crime Prevention and Control became the Crime Control Planning Board.

[2] Since 1976 data from the Minnesota Offender Based Transaction Statistics (OBTS) have become more readily available and provide some of the above-mentioned information. Additionally, the State Judicial Information System (SJIS) and the Offender Based State Corrections Information System (OBSCIS) provide some statewide information. At the time the Plea Negotiation Study began, however, these systems were not yet fully operational.

to the unavailability of data in both areas.[1]

It was a secondary objective of the study to examine the impact of the Minnesota Rules of Criminal Procedure on court processing time.[2] The study has a built-in comparison of cases filed prior to implementation of the Rules and cases filed after the Rules became effective. Because the study was designed to accommodate the analysis of a broad range of topics, two preliminary reports were generated. Each deals with a limited aspect of the adjudication process. In September of 1977 the first preliminary report was released. It addresses the issue of court delay and examines the impact of the Rules on court processing time.[3] The second preliminary report was released in April of 1978 and contains descriptive information concerning sentencing practices.[4] This document is the final report and will focus on plea negotiations.

B. LIMITATIONS AND SCOPE OF PLEA NEGOTIATION STUDY

In the administration of criminal justice, the vast majority of cases are settled by a plea of guilty. In Minnesota, of the persons prosecuted on felony charges and convicted, ninety-three percent are

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[1] For additional information regarding the purpose and scope of the study, see "Research Design--Plea Negotiation Study" which is available upon request at the Crime Control Planning Board.

[2] *Minnesota Rules of Court-1975* (St. Paul: West Publishing Co., 1975), for *Rules of Criminal Procedure*, see pp. 281-643.

[3] *Court Delay in Minnesota District Courts,* Crime Control Planning Board (September, 1977).

[4] *Sentencing in Minnesota District Courts,* Crime Control Planning Board (March, 1978).

convicted by plea and seven percent by trial.[1] While this fact may be somewhat shocking to the general public, it is common knowledge among practitioners in the field.

Plea negotiations occur when the prosecution and defense counsel arrive at a mutually satisfactory agreement which results in the entry of a guilty plea. In exchange for the guilty plea, the defendant is granted certain prosecutorial concessions. These concessions may include charge reduction, charge dismissals or a promise of a sentence recommendation to the judge. Throughout this report the terms "plea agreement," "plea negotiation," and the less neutral term "plea bargaining" will be used synonymously. All terms refer to instances in which the guilty plea entered is the result of a previous agreement between the prosecution and defense counsel with the knowledge of the defendant.

In *Brady v. U.S.*, the United States Supreme Court upheld the practice of plea negotiation in recognition of its importance in the disposition of criminal cases, the facilitation of rehabilitating the accused, and its importance in allowing the defendant and defense counsel a voice in the determination of the appropriate sanction.[2] Again in *Santobello v. New York*, the practice of plea negotiation received further official recognition.[3] Chief Justice Burger, in delivering the opinion of the court, stated:

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[1] *Sentencing in Minnesota District Courts*, Crime Control Planning Board (March, 1978).

[2] *Brady v. U.S.*, 397 U.S. 742 (1970).

[3] *Santobello v. New York*, 404 U.S. 257 (1971).

> "The disposition of criminal charges by agreement between the prosecutor and the accused, sometimes loosely called 'plea bargaining,' is an essential component of the administration of justice. Properly administered, it is to be encouraged. If every criminal charge were subjected to a full scale trial, the States and the Federal Government would need to multiply by many times the number of judges and court facilities."

Plea bargaining has long been a practice shrouded in controversy.[1] On the one hand it is argued that it is advantageous in that, 1) the courts don't have the time or resources to take all cases to trial, 2) there are some cases that should not go to trial, 3) it screens out those cases in which there is no basis for dispute, 4) it allows for those cases requiring trial a reduction in the amount of delay, and 5) it allows for the prompt application of correctional measures.[2] The proponents of plea bargaining argue that it is essential to the administration of criminal justice.

On the other hand, plea bargaining has received criticism in that, 1) it may represent a subtle form of coercion especially in the case of

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[1] For a thorough discussion of the plea bargaining process see: Donald J. Newman, *Conviction: The Determination of Guilt or Innocence Without Trial* (Boston: Little, Brown & Co., 1966); Donald J. Newman and Edgar C. NeMoyer, "Issues of Propriety in Negotiated Justice," *Denver Law Journal* 47 (1970); Arthur Rosett and Donald Cressey, *Justice by Consent* (Philadelphia: J. B. Lippincott Co., 1976).

[2] For articles that emphasize the advantages and necessity of plea bargaining, see generally: Donald R. Cressey, "Negotiated Justice," *Criminologica* 5 (1968); Donald T. Felkenes, "Plea Bargaining: It's Pervasiveness on the Judicial System," *Journal of Criminal Justice* 4 (1976); John R. Wheatley, "Plea Bargaining--A Case for Its Continuance," *Massachusetts Law Quarterly* 59 (1974); "The Role of Plea Negotiation in Modern Criminal Law," *Chicago-Kent Law Review* 46 (1969); James F. Parker, "Plea Bargaining," *American Journal of Criminal Law* 1 (1972); Carmen L. Gentile, "Fair Bargains and Accurate Pleas," *Boston University Law Review* 49 (1969).

an inexperienced and unsophisticated defendant who may be induced to plead guilty when he is, in fact, innocent, 2) the system of criminal justice has departed from the adversary system to a marketplace model, 3) persons who demand their constitutional right to trial by jury are sentenced more harshly than those who plead, 4) a conviction should rest upon the evidence available to convict, and such evidence is rarely put to its test, 5) plea bargaining may create the impression for the defendant that he has been "conned" by the system, 6) it complicates the role of correctional authorities in that they are unable to determine what the conduct of the defendant actually was, and 7) the determination of guilt or innocence rests largely upon strategical and tactical factors.[1] In short, some critics think that plea bargaining is inappropriate in courts of law and presents dangers that, if left unchecked, seriously threaten the constitutional and due process guarantees of defendants.

In terms of addressing these types of issues, the first preliminary report established the somewhat obvious finding that plea bargained cases are disposed of more quickly than cases which go to trial. This report deals with the question of whether defendants convicted at trial receive harsher sentences than defendants who plea bargain. This will be done in attempt to answer the broader question, "What benefits do defendants who plea bargain receive in terms of sentence leniency and

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[1]See generally: "The Unconstitutionality of Plea Bargaining," *Harvard Law Review* 83 (1970); James M. Dean, "The Illegitimacy of Plea Bargaining," *Federal Probation* 38 (1974); Moise Berger, "The Case Against Plea Bargaining," *ABA Journal* 62 (1976); Jay H. Folberg, "The 'Bargained for' Guilty Plea--An Evaluation," *Criminal Law Bulletin* 4 (1968); John Barbara, June Morrison and Horace Cunningham, "Plea Bargaining--Bargain Justice?" *Criminology* 14 (1976).

record of conviction?"

This study will not be concerned with a discussion of the merits or demerits of plea bargaining. Rather it provides descriptive information (based on sample data) about how plea bargaining works in Minnesota. It presents information that is presently lacking concerning the most predominant method of non-trial adjudication. Accordingly, this study will *not* conclude that plea bargaining is inherently good or evil, constitutional or unconstitutional, protective or violative of due process guarantees. Issues concerning the propriety or impropriety of plea negotiations are beyond the scope of this study.

The Plea Negotiation Study does not concern itself with the attitudes of criminal justice practitioners about what constitutes proper plea bargaining procedures. (Data were gathered from court files, *not* questionnaires or surveys.) It is not the intent of this study to describe differing policies of prosecutors' offices concerning when it is or is not appropriate to enter into plea discussions. Because decisions concerning how to negotiate are based on the facts, circumstances, and evidentiary strength of an individual case, we will not describe the process by which a bargain is made, but rather focus on general types of plea agreements and the results thereof. We assume (and indeed discovered while on-site during data collection) that different prosecutors' offices have varying policies and attitudes toward what to bargain, when to bargain, and how to bargain. However, it was not part of the research design to document and categorize plea bargaining policies within the different offices evaluating them in terms of "quality of prosecutions." This study will use information gathered from records

to describe quantitatively plea bargaining across the state. It will not, therefore, define what constitutes the proper or improper handling of cases. This study will not yield sweeping policy recommendations concerning how prosecutors might better manage their offices, nor will it set forth standarized plea bargaining guidelines. Again, the purpose is description.

II. SAMPLING METHODOLOGY

A. STAGE ONE--SAMPLE SIZE

Minnesota has ten judicial districts which range in size from one to seventeen counties. Each district has three or more district judges who travel to the counties within the district to hold district court. The populations of the districts range from 180,000 to 924,000.[1]

District court is the court of original jurisdiction in all felony and gross misdemeanor (criminal) cases, and in civil matters where the amount in dispute exceeds $1,000. Appeals from county courts are heard in district court.

In 1975 there were 7,453 criminal dispositions in Minnesota's district courts.[2] Given the diversity of the judicial districts in Minnesota, in terms of population and community type, it was decided that the sample must be large enough to reflect those differences. Therefore, a sample representing approximately one-sixth of all criminal dispositions

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[1] *Minnesota Pocket Data Book--1975*, Minnesota State Planning Agency, Development Planning Division, Planning Information Base (August, 1975).

[2] *Twelfth Annual Report--1975 Minnesota Courts*, Office of the State Court Administrator (1976), p. 22.

was drawn (1,276 cases).

In July, 1975, Minnesota implemented Rules of Criminal Procedure which altered the sequence of court appearances and provided written guidelines where none had previously existed.[1] It is an additional intent of the study to examine the impact of the Rules on the processing of cases; hence the year 1975 was selected in order to facilitate such comparisons.[2]

The sample is limited in scope to cases (both felony and gross misdemeanor) that had proceeded to arraignment in district court. Accordingly, cases that were plea bargained prior to district court arraignment are not included in this sample. The sample consists of cases that were arraigned in district court and excludes appeals from county court, cases that were on appeal at the time of data collection, escape from custody and fugitive cases. Prior to the Rules, cases that were dismissed as the result of a probable cause hearing are not included since the sample is limited to felony cases which proceed to district court arraignment. Similarly, cases that were dismissed as the result of an Omnibus hearing are excluded from the post-Rules sample.

B. STAGE TWO--DISTRICT SELECTION

With the total sample size set at 1,276, the next step was to determine how many cases should be drawn from each distict. In order to

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[1] *Minnesota Rules of Court--1975* (St. Paul: West Publishing Co., 1975). For the Rules of Criminal Procedure, see pp. 281-643.

[2] The preliminary report of the Plea Negotiation Study, entitled *Court Delay in Minnesota District Courts*, addressed the impact of the Rules on court processing time and the length of time involved from arrest to disposition.

do this the percentage of total dispositions that each district represents was determined (see Table 1). The technique used was proportionate sampling whereby the number of dispositions drawn from each district was based on the percentage of total dispositions from that district. Table 1 presents the figures utilized. The first column presents the total number of dispositions from each district and the second column is the corresponding percentage of total dispositions. The last three columns of the table show the proportionate contribution of each judicial district to the sample.

TABLE 1
SAMPLING[a]

JUDICIAL DISTRICT	1975 Criminal Dispositions	Percent of Total	Ideal Sample Size	Actual Sample Size	Percent of Total Sample
1	576	7.7%	97	100	7.8%
2	970	13.0	163	214	16.8
3	527	7.1	89	84	6.6
4	2,067	27.7	347	286	22.4
5	412	5.5	69	75	5.9
6	477	6.4	80	83	6.5
7	584	7.8	98	106	8.3
8	261	3.5	44	50	3.9
9	835	11.2	140	113	8.9
10	744	10.0	125	165	12.9
TOTAL:	7,453	99.9%	1,252	1,276	100.0%

[a]The discrepancy in sample size noted in the first reports and this report is due to cases that were eliminated from the sample, when upon closer analysis it was apparent that the amount of missing information they contained was too great to merit their inclusion.

The discrepancy between the ideal and actual sample size is due to the nuances of sampling and the deviations are not major, with the exception of the second and fourth districts. At the time of data collection in these districts, 1975 figures were not yet available. Therefore, the

sample size for these two districts was based on 1974 information.[1]

C. STAGE THREE--SELECTION OF COUNTIES WITHIN DISTRICTS

Once the quota for each district was determined there remained the selection of counties within each district. Districts range in size from one to seventeen counties. Due to the unfeasibility of traveling to all of Minnesota's eighty-seven counties, a proportionate sampling technique could not be utilized. Therefore, selection of counties was based upon those counties within each district which had an ample number of dispositions to accommodate the district quota. The implication of this is that only those counties with relatively large caseloads were sampled. However, this bias was weighed against the practical considerations involved in any alternative method. The exception to this is in the Ninth District in which there was no one county with a caseload large enough to fulfill the district quota. Therefore, out of the counties that could meet at least one-half of the quota, two counties were randomly selected.

D. STAGE FOUR--SELECTION OF CASES WITHIN COUNTIES

A primary consideration in the selection of cases is the study's focus on the Minnesota Rules of Criminal Procedure. In order to measure the adjudication process before and after the Rules became effective, approximately one-half of the sample contains cases handled before

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[1]The second and fourth districts are the most populated and metropolitan districts in the state. Combining the ideal and actual sample sizes for these two districts, the results are 510 and 500 cases, respectively. Because these cases represent approximately the same proportion of total cases, the observed deviations within the two districts should not have a significant effect on the representativeness of the sample.

the Rules and one-half after the Rules. The sample was stratified on the Rules with July 1, 1975, as the date they became effective.

Generally, the method of case selection was based upon the random selection of two months before July and two months including and after July. Cases were selected from these months commencing with the first case filed and continuing until one-quarter of the quota was met. In counties where the number of dispositions was too small to accommodate this method, selection began with January and continued until one-half of the quota was met, and likewise post-Rules cases were collected beginning with July.

The source of information was primarily county attorney files supplemented by district court files and sheriff's records as necessary. In the smaller jurisdictions district court files were the primary source for data collection, supplemented by sheriff's records and county attorney files as necessary. These differences in sources were the result of varying methods and systems of record keeping across counties.

E. REPRESENTATIVENESS OF THE SAMPLE

Given the fact that data were drawn from a sample of cases, a question can appropriately be raised concerning their representativeness. To what extent does the sample data approximate the population data? Are the sample data characteristic of all cases that went through district courts in 1975?

An attempt was made to answer these questions using OBTS (Offender

Based Transaction Statistics) data from 1975.[1] Although this data set has shortcomings in terms of inaccurate and incomplete reporting, it is the most complete data base in the state with information about the prosecution of felonies. While it is far from a complete, precise and accurate enumeration of all felonies filed in 1975, it is the best available estimate.[2] Therefore, OBTS was used as a basis of comparison for the study (sample) data.

Comparisons were made between OBTS and sample data using the variables of race, sex, type of crime, means of adjudication, type of sentence, and court processing time.

This analysis was performed once comparing the sample data to the OBTS statewide totals, and again, comparing the sample data to a subset of OBTS data that consists of information from just those counties contained in the study. In both instances a close correspondence was found between the sample and the OBTS data. We observe that both data sets, arrived at independently, approximate each other in terms of the above-mentioned variables. From this we conclude that the sample data is indeed representative of all felonies and gross misdemeanors filed in

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[1]The Minnesota Offender Based Transaction Statistics (OBTS) data are a set of data which "track" the flow of information on all criminal defendants in the state arrested on felonies or gross misdemeanors. This "tracking" commences with the filing of an arrest report and finishes with the filing of a sentencing report. These reports are then sent to the Bureau of Criminal Apprehension (BCA) who enters them on the state's computer system. For more information on this set of data see Stephen Coleman and Donald Genadek, *An Introduction to the Analysis of Minnesota's Offender Based Transaction Statistics,* Crime Control Planning Board (January, 1978).

[2]In 1975 the OBTS had an eighty percent reporting rate, which means that information is missing for twenty percent of the actual cases filed.

1975.[1]

III. RESULTS

A. INTRODUCTION

The preliminary reports contain some information about the frequency of plea negotiations, and those results will be highlighted here. This report commences with a further discussion of the frequency of plea bargaining and its variation across counties. The types of plea agreements are defined and county variations in the types of plea agreements are discussed.

Then follows a presentation of findings concerning the relationship between plea bargaining and other case-related variables. The effect of a private vs. a public defense attorney on the type of agreement is discussed, and the extent to which judges concur with prosecutorial sentence recommendations. In short, the first part of this section contains largely descriptive information about the types of plea agreements.

It has been stated that one of the things which perpetuates and encourages the guilty plea process is the notion that people who readily confess their guilt (thus saving the court the cost and time of trial) are treated more leniently because of it.[2] The idea is that defendants

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[1]This conclusion is based on the assumption that OBTS data are an accurate indicator of the 1975 population of felony and gross misdemeanor cases filed across the state. Establishing the inferential leap between OBTS and "real" cases is beyond the scope of this study.

[2]See "The Influence of a Defendant's Plea on Judicial Determination of Sentence," *Yale Law Journal* 66 (1956); Donald J. Newman, *Conviction: The Determination of Guilt or Innocence Without Trial* (Boston: Little, Brown & Co., 1966).

are more or less "rewarded" for their guilty plea with sentences more lenient than the ones they would receive if convicted at trial.[1] Donald J. Newman and Edgar C. NeMoyer summarize this issue as follows:

> "Judges who have threatened defendants with long prison sentences unless they pleaded guilty have had the convictions reversed and, in the process, have been chastized by appellate courts for having 'coerced' the guilty plea by threats of severity. The more subtle framing of the commonly stated position today is not that a defendant who demands his full constitutional rights to a trial is treated severely simply because of the effort and cost of the trial, but rather that the defendant who has 'cooperated' and by his plea of guilty has shown 'repentence' is a more deserving candidate for leniency. . . . There is then supposedly no threat to or added punishment for the defendant who demands trial; there is merely a break for the person who has 'thrown himself on the mercy of the court'."[2]

This question is the focus of the second part of this section. An analysis is performed comparing the sentences of persons who plea bargain to the sentences of persons convicted at trial. Then follows a comparative analysis of sentences received by defendants who plea bargain and the sentences of defendants who enter non-negotiated pleas of guilty. Generally, this section examines the effect of plea bargaining on sentencing and records of conviction. How much sentence leniency does a defendant who plea bargains receive compared to a person convicted at trial? Is there a significant sentencing differential between plea

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[1] "ABA Standards Relating to Pleas of Guilty," *American Bar Association Project on Standards for Criminal Justice* (Approved Draft--1968); "Pilot Institute on Sentencing," 26 *Federal Rules Decisions* 231 (1959).

[2] "Issues of Propriety in Negotiated Justice," *Denver Law Journal* 47 (1970), p. 379.

bargain and trial defendants?[1]

The final part of this section will consist of a multiple regression analysis explaining which factors or combinations of factors account for variations in sentence severity.

Preliminary analyses revealed that significant differences exist between male and female defendants in terms of case-related characteristics and sentencing. Therefore, the two groups will receive separate attention throughout this report. Female defendants account for roughly ten percent of the sample defendants.[2] Accordingly, due to the small number of cases involving women, statistical techniques used in the analysis of cases involving males cannot always be duplicated for cases involving females. Wherever possible, findings will be presented for both men and women. However, the reader is cautioned that findings on women have been eliminated in instances where the number of cases is insufficient for meaningful statistical analyses and/or valid comparisons.

B. HIGHLIGHTS OF PRELIMINARY REPORTS

The two preliminary reports contain information about plea bargaining, the presentation of which will not be repeated here. Yet because those results establish the context for this final report, the findings

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[1] Unfortunately due to the constraints of the data this will be limited to selected types of crimes where a large enough number of cases exist to facilitate meaningful comparisons.

[2] There are 131 female defendants and 1,145 male defendants.

on plea bargaining will be summarized below.[1]

1. Eighty-three percent of the cases are settled by the entry of a guilty plea.
2. Approximately three-fourths of the cases settled by guilty plea involve plea agreements.[2]
3. The percentage of guilty pleas that are negotiated is higher for cases that carry higher maximum penalties. In other words, the higher the statutory maximum penalities, the more likely a negotiated (vs. straight) guilty plea.[3]
4. The percentage of guilty pleas that are negotiated is highest for cases involving crimes against persons.[4]
5. Cases alleging the use of a firearm have a higher rate of plea bargaining than similar cases not involving gun charges.

Additional findings of the previous reports will be incorporated into this report as necessary.

C. DESCRIPTIVE INFORMATION

The following is a presentation of bivariate relationships between plea bargaining and a series of case-related variables. The general purpose is to provide descriptive information concerning the types of cases plea bargained and the types of plea agreements reached. County variations in the frequency and types of plea agreements will be

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[1] As previously mentioned, the two preliminary reports are entitled *Court Delay in Minnesota District Courts* and *Sentencing in Minnesota District Courts* and are available upon request at the Crime Control Planning Board.

[2] For male defendants 76.8 percent of all guilty pleas are the result of a plea agreement. For females 69.4 percent of the guilty pleas are the result of a plea agreement.

[3] This relationship was not apparent for female defendants.

[4] For female defendants there were not enough cases involving crimes against persons to accommodate a meaningful comparison.

discussed as well as the relationship between plea bargaining and other case-related variables.

1. Definition and Frequency of Plea Negotiations

Prior to the presentation of findings it is necessary to clarify the meaning of the terms "plea negotiation," "plea agreement," and "plea bargain." As mentioned earlier, these terms will be used interchangeably throughout the report. All of them refer to instances in which the prosecution and defense counsel reach an agreement concerning the disposition of the case. This agreement generally culminates in the entry of a guilty plea and accordingly the defendant receives certain prosecutorial concessions. Typically, these concessions are in the form of charge reductions, charge dismissals, sentence recommendations, or combinations thereof. (The types of agreements will be more thoroughly explained later in the report.) At any rate, a plea bargain is the agreement between the prosecution and defense counsel which results in a plea of guilty. Similarly, a "negotiated plea" is a guilty plea which is the result of a plea agreement. For the purpose of this descriptive analysis, this definition of plea bargaining is expanded to include also a small number of instances in which the agreement results in the dismissal of charges.[1]

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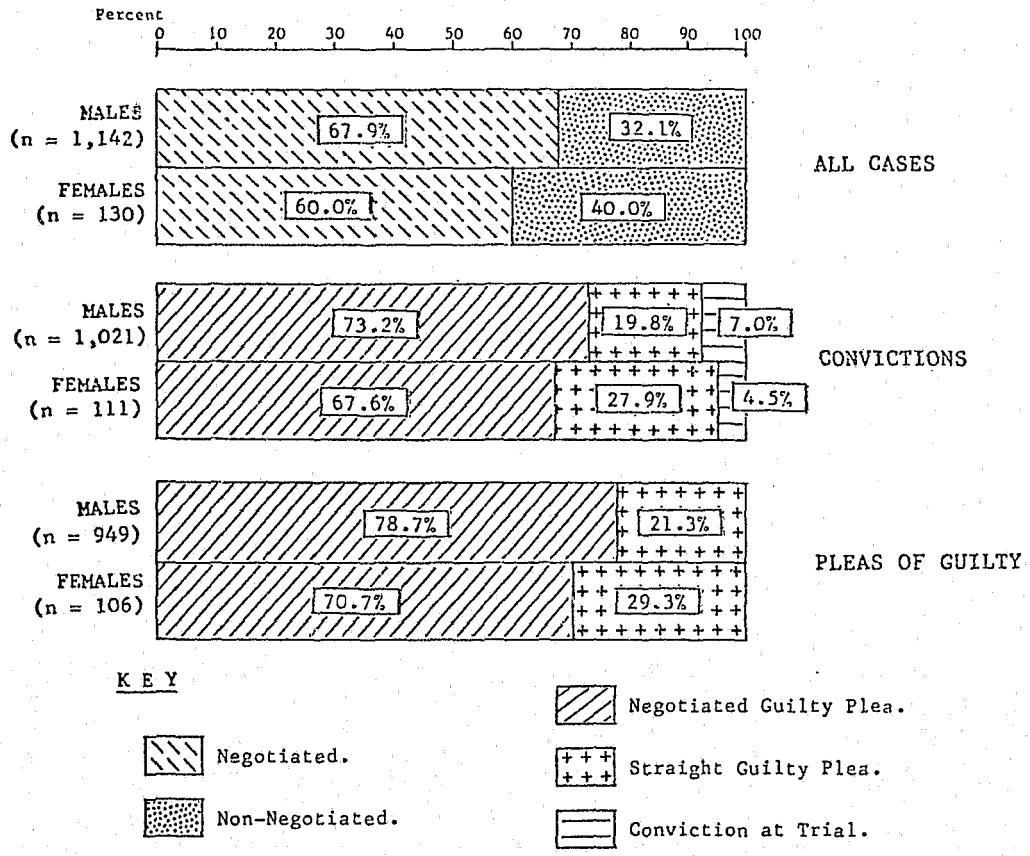
[1] Under such circumstances, the prosecution may agree to dismiss a case in exchange for the defendant's testimony (which may aid in the prosecution of another) or the prosecution may dismiss one entire case for a plea to a second case. This would occur, for example, when a defendant awaiting disposition of one case is prosecuted on another case. Under these conditions it could be in the interest of the administration of criminal justice to allow the dismissal of one case with the understanding that the defendant will enter a plea in another case. It should be noted that there are 28 cases dismissed pursuant to a plea agreement for the sampled male defendants (2 percent of all male cases). For females there are 3 such cases representing 2 percent of all female cases.

In this section plea bargaining is examined under three different conditions as illustrated in Figure 1. The first set of bar graphs is a comparison of negotiated cases vs. all other types of cases (those settled by straight guilty pleas, trials, and dismissals).[1] The next set is a breakdown of convicted cases (i.e., negotiated guilty pleas, straight guilty pleas, and convicted at trial). The final set of bar graphs is limited to cases settled by a plea of guilty and a comparison is made between negotiated and straight guilty pleas. Each set of graphs contains the percentage breakdown for male and female defendants.

FIGURE 1: METHODS OF ADJUDICATION



[1] A "straight guilty plea" refers to a guilty plea that is not the result of a plea negotiation.

Nearly two-thirds of all sampled cases involve a plea negotiation (see Figure 1, "ALL CASES"). This percentage is higher for male defendants. Sixty-eight percent of all cases involving males are settled via plea negotiations, compared to 60 percent for cases involving female defendants.[1]

In regard to those cases in which a conviction was attained, there are two major findings. First, over two-thirds of the convictions are the result of a plea negotiation. For males and females respectively, negotiated guilty pleas account for approximately 73 and 68 percent of all convictions. Second, combining negotiated and straight guilty pleas, it's apparent that over 90 percent of all convictions are the result of a guilty plea.[2] Of the females convicted 96 percent enter a plea of guilty while 93 percent of the male convictions are the result of a guilty plea.

Directing attention to just those cases settled by guilty plea (see Figure 1, "PLEAS OF GUILTY"), it can be seen that roughly three-fourths are the result of a plea negotiation. The percentage of all guilty pleas that are negotiated is slightly higher for cases involving males (79 percent vs. 71 percent for cases involving females). At any rate, the vast majority of guilty pleas are the result of a plea bargain.

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[1] For a breakdown of the various means of adjudication (e.g., dismissals, trials, straight guilty pleas, negotiated guilty pleas) see *Sentencing in Minnesota District Courts*, pp. 13 and 49, for males and female defendants, respectively.

[2] This finding corresponds with that of Donald J. Newman who states, "Roughly 90 per cent of all criminal convictions are by pleas of guilty. . ." See *Conviction: The Determination of Guilt or Innocence Without Trial* (Boston: Little, Brown & Co., 1966), p. 3.

2. County Variations in the Frequency of Plea Negotiations

In this section, the extent to which the rate of plea bargaining varies by county will be discussed.[1] The research question is whether or not some counties have a higher rate of negotiated dispositions than others. A comparison will be made between negotiated cases and all other types of cases (those settled by straight guilty plea, trials, and dismissals). Up to this point, figures have been presented on the overall rate of plea negotiations (see Figure 1), and now attention is directed toward rates within the sampled counties. Do some counties resolve cases by negotiation more often than others? Does the rate of plea bargaining vary by county?

During the initial phases of this study an agreement was made with the participating county attorneys such that the names of the individual counties would not be identified in subsequent analyses and reports. Therefore, throughout the report counties will be identified by letters of the alphabet (e.g., A, B, C, etc.), as necessary.

Figure 2 displays the breakdown of negotiated cases by county.

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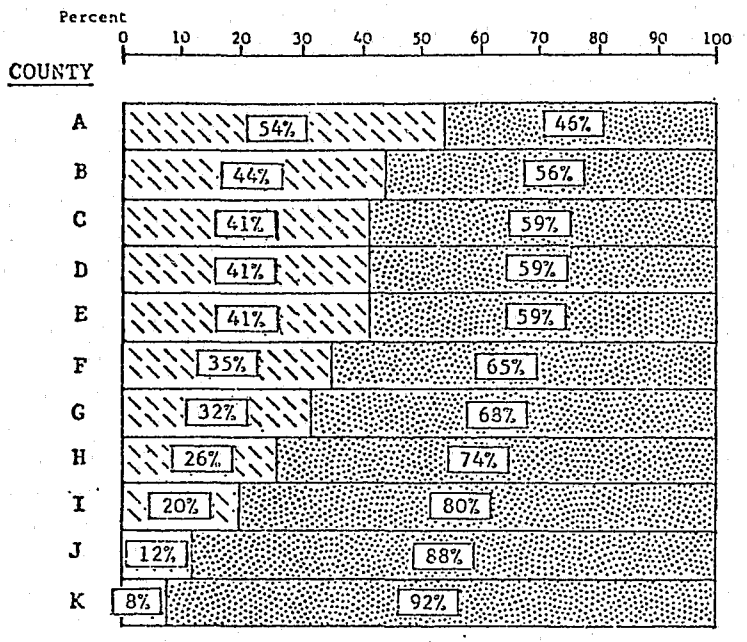
[1] Due to the small number of women sampled, this section will deal only with the sample of male defendants. The number of cases involving women is too small to accommodate meaningful comparisons across the eleven counties.

FIGURE 2: PERCENTAGE OF NEGOTIATED AND NON-NEGOTIATED CASES BY COUNTY



[a]The frequency of cases for each county is not presented because of confidentiality and identification agreements discussed earlier. However, the sample size from each county ranges from 39 to 248, which is a sufficient number for the comparisons made.

The proportion of cases plea bargained within the sampled counties varies greatly.[1] Plea bargaining rates range from a low of 46 percent to a high of 92 percent for cases in the sampled counties. In three counties over 80 percent of all cases are settled by negotiation, whereas less than half of the cases in one county involve plea agreements.

Given these substantially different rates of plea bargaining across counties, an attempt was made to determine what factors (other than county) could explain such variation. In other words, could other

[1]The association between plea bargaining and county is significant at the .001 level using the Chi-square test for significance.

variables associated with the adjudication process possibly account for the varying rates of plea bargaining across counties? The control variables introduced and tested are prior adult conviction record, type of crime, number of counts charged, race, type of defense counsel, number of offenses reported by the police, and use of a firearm.[1]

Analysis reveals that even with the introduction of these control variables no discernible pattern emerges which can account for the variation in plea negotiation rates across counties.[2] Thus, after examining and controlling for the effects of these variables (factors) that could theoretically have a bearing on the frequency of plea negotiations, we do not find any relationships that can account for the differential rate of plea negotiations across counties. This county variation in the frequency with which plea negotiations occur remains intact even with the introduction of numerous control variables.

In addition, it was thought that the population or relative caseload of a county could be related to the rate of plea negotiations. Literature in the area suggests that crowded metropolitan jurisdictions are prone to plea negotiations (vs. other forms of adjudication) more than

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[1] "Use of a firearm" is indicated by the presence of *Minnesota Statute*, Chapter 609.11 on the criminal information.

[2] The technique employed in this analysis is partialling. Basically, partialling involves an examination of the original table (in this case plea bargaining by county) under the different conditions of the control variables (e.g., crime type, race, type of defense counsel, etc.). A series of comparisons are made between the original tables and the conditionals (partial tables) examining any changes in the measures of association, statistical significance levels, and the percentaged marginals. For further discussion see: Herman J. Loether and Donald G. McTavish, *Descriptive Statistics for Sociologists* (Boston: Allyn and Bacon, Inc., 1974), Chapter 8; and Hubert M. Blalock, Jr., *Social Statistics* (New York: McGraw-Hill Book Co., 1972), Chapter 15.

less populated, rural jurisdictions.[1] To test this hypothesis, the cases were categorized into two groups on the basis of county population. Cases from counties with populations exceeding 125,000 comprise the first group, while cases from counties with populations less than 125,000 are in the second group.

The larger counties have a negotiation rate similar to that of the smaller counties. The percentage difference between the two groups is slight.[2] Thus, it does not appear that county population is related to the rate of plea negotiations.

In examining the caseload question, the caseloads were standarized to accommodate meaningful comparisons across counties. For each county, we constructed a ratio between the number of district court criminal cases terminated in 1975 and the number of full-time criminal county attorneys available to handle these cases.[3] The resulting figure represents the number of criminal cases per attorney for the year 1975. The hypothesis was that the greater the number of cases per prosecutor, the

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[1] A study of plea bargaining in Oregon found that plea negotiations were more extensive in the more populous areas of the state. See James Klonoski, Charles Mitchell, Edward Gallagher, "Plea Bargaining in Oregon: An Exploratory Study," *Oregon Law Review* 50 (1971).

[2] For the group of larger counties 66.9 percent of all cases are negotiated compared to 69.6 percent for the group of smaller counties.

[3] Each participating county attorney reported the number of full-time and the number of part-time attorneys working on criminal cases in his/her office in 1975. For the purpose of this analysis two part-time attorneys are equivalent to one full-time attorney.

greater the rate of plea negotiations.[1]

Contrary to expectations, analysis revealed that the rate of plea negotiations is *not* consistently higher in counties where the prosecutors have higher caseload demands. In other words, the counties with the higher rates of plea negotiations are not necessarily the counties with the greater number of cases per prosecutor. Thus, there is no apparent association between the rate of plea negotiations and the caseload demands of the prosecution.[2]

We conclude, therefore, that the rate of plea negotiations varies greatly according to the counties within which the cases are heard. Moreover, this variation cannot be attributed to the singular effects of case-related variables, the county populations, or the caseload within each county.

In order to explain fully the county variation in the rate of plea negotiations, further, more comprehensive analyses are necessary. Due to the restraints of these data, such analyses are not feasible and we can only hypothesize about possible explanations. First, it could be that the effects of the case-related variables when viewed in combination with each other can account for the differential rates of plea negotiations

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[1]This hypothesis is based on the assumption that prosecutors with relatively heavy caseload demands are less likely to take cases to trial than prosecutors with lighter caseloads. This hypothesis is also based on literature which suggests that plea bargaining is simply a response to overcrowded court dockets, implying that less crowded courts would have less plea bargaining.

[2]It should be noted that caseloads could also be standarized or "weighted" according to the number of judges per county. However, this is not feasible given the restrictions of this data and the rotation of judges within judicial districts.

across counties.[1] A second possible explanation could involve the practices or informal relationships (between defense attorneys, prosecutors, and judges) found within the sampled counties.[2] A final possible explanation could include both of the above options as well as any additional factors that may, in fact, affect the rate of plea bargaining or the adjudication process within any or all of the sampled counties. In short, possible explanations for the county variations may be found in the examination of additional variables not contained in this study or in the examination of different combinations of variables contained herein (given more cases). At any rate, additional research is necessary if this county variation is to be fully explained.

3. Types of Plea Agreements

This section will focus on the various types of plea agreements found in the sample data. Basically, there are three types of plea agreements: those that involve the offenses charged, those that involve sentence recommendations, and those that involve both. These will be more thoroughly explained and the frequencies presented. Then, attention will be directed toward charge and sentence agreements examining the different forms they may take. The frequency with which different types of charge and sentence agreements occur will be displayed and discussed.

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[1] The limited size of this sample prohibits the examination of joint effects when attempting to explain variations across eleven counties.

[2] For a discussion of relationships between the defense and prosecution see Jackson B. Battle, "Comparison of Public Defenders' and Private Attorneys' Relationships with the Prosecution in the City of Denver," *Denver Law Journal* 50 (1972).

a. Definitions and Frequencies of Types of Plea Agreements

Plea agreements can take a variety of forms. In exchange for a plea of guilty, the prosecution may provide a variety of things. The plea agreement is the mutual understanding between the prosecution, defense counsel, and the defendant which results in the entry of a guilty plea and specifies any changes in the offense(s) charged and/or recommendations concerning sentence. The terms of the agreement are defined as those things which the prosecution agrees to do pursuant to the plea agreement.

Prior to the presentation of findings, the three types of plea agreements will be defined. For the purpose of this study, charge agreements are defined as negotiations that focus upon the offense(s) charged, in the absence of a sentence recommendation. These include instances in which the offense(s) charged are reduced, dismissed or both.[1] For example, if a defendant is originally charged with one count of aggravated robbery and pursuant to a plea agreement the prosecution allows him to enter a plea of guilty to the lesser included offense of simple robbery,

[1] In some cases, the only charge agreement is to remove from the criminal information *Minnesota Statute* 609.11. This statute alleges the use of a firearm and carries with it, upon conviction, a mandatory minimum term of imprisonment. (Procedurally, the statute may be orally deleted in open court, or in writing by amending the criminal information.) Although the effect of this is the elimination of a possible mandatory minimum term of imprisonment, this is considered to be a charge bargain by merit of the fact that it is accomplished by the charging process (vs. sentence recommendations per se). For a discussion of 609.11 and plea bargaining, see *Sentencing in Minnesota District Courts*, pp. 35-47.

this constitutes a charge reduction.[1] An example of a count dismissal is when an information alleges multiple counts, and the prosecution agrees to dismiss some of them if the defendant enters a guilty plea to one or more.[2] In this instance, the number of counts to which the defendant pleads is less than the number with which he was originally charged. Still another form of charge agreement is when a defendant is arrested and prosecuted on a second felony case prior to the disposition of a former felony case. In this situation, an agreement could specify the dismissal of one case in exchange for a plea of guilty to another. Another form of charge agreement occurs when the prosecution agrees not to press formally one or more charges against the defendant if he in turn pleads guilty to the major offense. The above situations are examples of charge agreements where the terms of the plea agreement involve

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[1] Procedurally, the entry of a guilty plea to a lesser included offense may be accomplished in a number of ways. To illustrate this, consider a defendant who is originally charged with burglary with a tool (an offense which carries a 20 year statutory maximum sentence). Should the prosecution agree to reduce the charge, a) the original criminal information may be amended to read burglary of an occupied dwelling (an offense which carries a 10 year maximum statutory sentence), b) the original criminal information may remain the same and in open court the defendant may be allowed to plead to the lesser included offense of burglary of an occupied dwelling, or c) the original charge may be dismissed and the defendant charged with the new charge of burglary of an occupied dwelling. These are different ways of acheiving a charge reduction, although the end result is the same in all instances. For further information see *Minnesota Statutes*, Chapter 609.04 on convictions to lesser offenses, and the *Minnesota Rules of Criminal Procedure* (St. Paul: West Publishing Co., 1975), Rules 15.07 and 15.08 (previously cited as *Minnesota Rules of Court-1975*).

[2] A criminal information may charge multiple counts when the defendant's behavior constitutes more than one offense under law. All such offenses may be included in one prosecution stated as separate counts. It should be noted that in cases with multiple counts, punishment may be imposed for only one count, and that a conviction or acquittal to any one count is a bar to prosecution for any other of them. See *Minnesota Statutes*, Chapter 609.035 and 609.585.

alterations in the number and/or severity of charges. Some charge agreements involve both the reduction of a charge and the dismissal of other charges.

The second type of plea agreement is one that exclusively involves sentence recommendations. This occurs when the prosecution agrees to recommend a specific type or length of sentence (in the absence of a charge reduction or dismissal).[1] In cases where incarceration is likely, the recommendation of the prosecution may involve a sentence length which is less than the statutory maximum. A sentence recommendation may also take the form of a prosecutorial recommendation concerning a certain type of sentence (e.g., probation, jail time as a condition of probation, prison, etc.) with or without a recommendation concerning length of time. Other examples of sentence recommendations include: 1) a stay of imposition of sentence, 2) a stay of execution of sentence, 3) fines, 4) treatment under *Minnesota Statute* 152.18,[2] 5) jail time or a fine, 6) restitution, and 7) combinations of the above. Generally speaking, sentence agreements refer to agreements which do not alter the number or severity of charges, but rather specify a prosecutorial sentence recommendation. The recommendation may refer to a general type of sentence, the length of sentence or both.

The third type of plea agreement is one that involves both the

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[1] It must be noted that sentence recommendations are not binding on the court. The responsibility for sentencing remains within the realm of the judge. The final sentence may or may not be in accordance with the sentence recommendation.

[2] This refers to that chapter of the *Minnesota Statutes* which provides for a special type of stayed sentence for drug offenders.

charge and the sentence. This occurs, for example, when there is a charge reduction in addition to a recommendation concerning sentence. In other words, an agreement is reached in which the charges are reduced (and/or counts or offenses dismissed) *and* the prosecution agrees to make a sentence recommendation.

In short, there are three categories of plea agreements: charge agreements, sentence agreements, and those that involve both the charge and the sentence. A percentage frequency distribution of the types of plea agreements found in the sample data is presented in Figure 3.

In reference to the sample of male defendants, the most frequently occurring type of plea agreement is the sentence agreement. Forty percent of the negotiated cases involve negotiations concerning sentence.[1] The next most common type of agreement is the charge agreement. Thirty-four percent of the negotiated cases involve charge agreements. The least frequent type of plea agreement for the sampled male defendants is the agreement that involves both the charge and the sentence. Approximately one-fourth of the negotiated cases contain this type of agreement.

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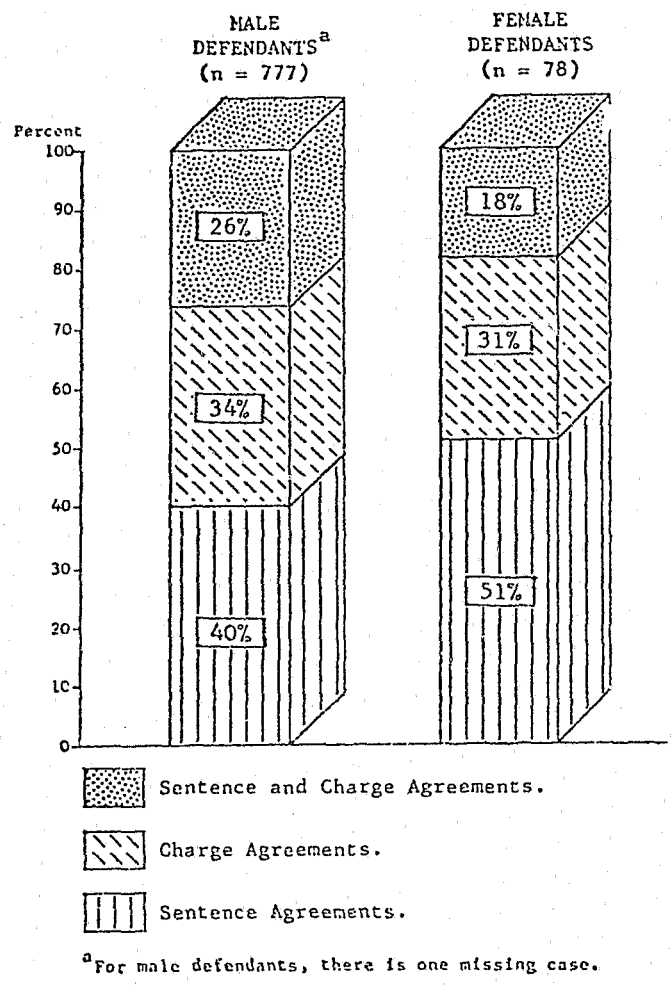
[1]This finding is contrary to some of the literature in the area which suggests that charge bargaining is the most prevalent and/or best known type of plea bargaining. See George Beall, "Principles of Plea Bargaining," *Loyola University Law Journal* 9 (1977), p. 175.

FIGURE 3: TYPES OF PLEA AGREEMENTS
(Male and Female Defendants)



[a]For male defendants, there is one missing case.

For female defendants, a similar pattern emerges. Again, the most frequently occurring type of negotiation is the sentence agreement. In fact the majority of plea agreements (51 percent) are sentence agreements. Not unlike the cases involving male defendants, approximately one-third (31 percent) of the plea agreements are charge agreements. The least frequent type of plea agreement for the sampled female defendants is the agreement that involves both the charge and the sentence. Roughly one-fifth of the negotiated cases involve this type of plea agreement.

b. Types of Sentence Agreements

Sentence agreements refer to a general type of plea agreement in which the prosecution makes a sentence recommendation to the court at the time of sentencing. Sentence agreements are the most common type of plea agreement for both men and women in the sample. This section will look at the various types of sentence agreements and the frequency with which they occur.

Table 2 presents the types of sentence agreements for male and female defendants.

TABLE 2

TYPES OF SENTENCE AGREEMENTS
(Male and Female Defendants)

	MALE DEFENDANTS[a]		FEMALE DEFENDANTS[b]	
TYPES OF SENTENCE AGREEMENTS	Percent	Frequency	Percent	Frequency
Type of Sentence	36.2%	113	35.0%	14
Type and Length of Sentence	16.0	50	22.5	9
Length of Sentence	44.6	139	40.0	16
State to Stand Silent	3.2	10	2.5	1
TOTAL	100.0%	312	100.0%	40

[a]Concurrent sentences were recommended for twenty-two male defendants.

[b]Concurrent sentences were recommended for three female defendants.

The various types of sentence agreements are grouped into four categories (see Table 2) and defined as follows:

1) Recommendations Concerning Types of Sentence
This type of sentence agreement occurs when the prosecution recommends a general type of sentence. Types of sentence include: probation, jail time, prison time, fines, and jail as a condition of probation. In these cases the prosecutorial recommendation concerns a general type of sentence and does not specify exact

periods of time.[1] This type of sentence agreement accounts for approximately 35 percent of all sentence agreements for both male and female defendants. (For males 36.2 percent and females 35.0 percent.) For both male and females this is the second most frequent type of sentence agreement.

2) Recommendations Concerning Type and Length of Sentence
This type of sentence agreement occurs when the recommendation concerning type of sentence is accompanied by a recommendation concerning length of sentence. For example, if the prosecution agrees to recommend five years probation (vs. simply probation), this is a recommendation concerning both the type and length of sentence. The length of time specified may be in reference to probation time or incarceration time or both depending on the circumstances of the case. This is the most specific type of sentence recommendation and is found in large proportions within the sample of female defendants (vs. male defendants). For females, 22 percent of all sentence agreements are of this type, compared to 16 percent for male defendants.

3) Recommendations Concerning Length of Sentence
In some instances, the sentence agreement results in a prosecutorial recommendation of a certain length of time, without regard to a type of sentence. The prosecution, in effect, recommends the placement of an upper limit on the maximum possible penalty without specifying a type of sentence. (This is sometimes referred to as "capping" the sentence.) This type of recommendation occurs, for example, when the offense carries a possible ten year maximum statutory penalty and the prosecution recommends a seven year sentence limit. The prosecution makes no recommendation as to type of sentence and simply recommends to the judge a seven year limit on whatever type of sentence the judge chooses to impose. Another example is when, upon conviction to a felony offense, the prosecution recommends a sentence not to exceed ninety days (a sentence that

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[1]There are some cases in which the prosecution simply agrees to recommend that the defendant not serve any incarceration time, or in other cases that he not serve any prison time. Because no specific length of time is mentioned (in the first example in regard to probation time, and in the second example in regard to jail or probation time or both) these cases are placed within this category of sentence recommendations. Also included in this category are cases in which the prosecutorial sentence recommendation is for a certain type of stayed sentence (a stay of execution or a stay of imposition), treatment under *Minnesota Statute*, Chapter 152.18 (a special sentence statute for drug offenders), or a commitment to the Commissioner of Public Welfare.

is within misdemeanor limits).

This is the most common type of sentence agreement found in the sample data. It accounts for approximately 45 percent of the sentence agreements within the sample of male defendants. Within the sample of female defendants 40 percent of the sentence agreements are of this type.

4) Agreement for State to Stand Silent

The final type of sentence recommendation is when the prosecution agrees not to make any formal sentence recommendation. The State agrees to "stand silent" at sentencing and/or to concur with the recommendation contained in the presentence report. The prosecution's recommendation is considered by the court, and although the State has no authority actually to impose sentence, a recommendation of this type is nonetheless a desirable concession. With this type of sentence agreement, the prosecution is, in effect, agreeing to forfeit its opportunity to recommend sentence. Clearly, this is the least common type of sentence agreement for both male and female defendants. (Approximately three percent compared to 2.5 percent of all sentence agreements for males and females, respectively.)

c. Types of Charge Agreements

Charge agreements account for approximately one-third of all plea agreements and are the result of negotiations which concern the number and/or severity of the offenses charged.[1] The following is a presentation and discussion of the various types of charge agreements. Table 3 presents the types of charge agreements for the male and female defendants in the sample.

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[1]Thirty-four and 31 percent of all plea agreements are charge agreements for the sampled male and female defendants, respectively.

TABLE 3

TYPES OF CHARGE AGREEMENTS
(Male and Female Defendants)

TYPES OF CHARGE AGREEMENTS	MALE DEFENDANTS[a]		FEMALE DEFENDANTS[b]	
	Percent	Frequency	Percent	Frequency
Charge Reduction	31.0%	81	37.5%	9
Count Dismissal	33.7	88	41.7	10
Charge Reduction and Count Dismissal	11.1	29	8.3	2
Case Dismissal	10.0	26	12.5	3
Related Dismissals Outside of Case	14.2	37	---	--
TOTAL	100.0%	261	100.0%	24

[a]Concurrent sentences were recommended for thirty-six male defendants.

[b]A concurrent sentence was recommended for one female defendant.

As seen in Table 3 there are five types of charge agreements. These are defined and discussed as follows:

1) Charge Reductions
These are cases in which the defendant enters a plea of guilty to a lesser included offense of the original offense charged. The original offense is "reduced" to an offense which carries a statutory maximum sentence less than that of the original charge. Charge reductions account for 31 percent of all charge agreements for male defendants and 37.5 percent for female defendants.

2) Count Dismissals
In these instances the defendant is initially charged with more than one offense. (In the criminal information each separate offense is stated as a count.) A charge agreement involving count dismissals occurs when the prosecution allows for the dismissal of some of the counts in exchange for a plea of guilty to one (or more) of the counts. *This is the most common type of charge agreement.* For male defendants, 33.7 percent of all charge agreements involve count dismissals. This compares to 41.7 percent for female defendants.

3) Charge Reductions and Count Dismissals
This type of charge agreement occurs when the plea agreement provides for the reduction of a charge in addition to the dismissal of one or more counts. Charge reductions with count dismissals account for 11.1 and 8.3 percent of all charge agreements for male and female defendants, respectively.

4) Case Dismissals

As mentioned earlier in this report there are some instances in which an agreement between the prosecution and defense counsel culminates in the dismissal of the entire case. The circumstances may be such that the defendant is involved in more than one case and if he pleads to one the other will be dismissed. Additionally, the circumstances could be such that the case is dismissed in exchange for the defendant's testimony concerning the apprehension or prosecution of others. For male defendants, agreements that result in the dismissal of the case account for 10 percent of all charge agreements. This compares to 12.5 percent of the charge agreements for female defendants.

5) Related Dismissals Outside of Case

Prior to the disposition of a first case, a defendant may be prosecuted on a second case. Cases included within this category of charge agreements are those in which the prosecution agrees to dismiss the second case in exchange for a plea of guilty to the first case. In other words, a case (outside of the case at hand) is dismissed in exchange for a plea of guilty. There are 37 such cases found in the sample and these all involve male defendants. This type of charge agreement accounts for 14.2 percent of the charge agreements for male defendants.

d. Plea Agreements Which Involve Both the Charge and the Sentence

The preceding pages have discussed and displayed the various types of charge and sentence agreements, yet there are some cases where the plea agreement concerns both the charge and the sentence. One out of every four plea agreements is of this type (within the sample of male defendants). For female defendants, 18 percent of the negotiated cases involve agreements of this type.

A breakdown of the various types of agreements that involve both the charge and the sentence would involve the presentation of all possible combinations of charge agreements and sentence agreements. Since this yields relatively low numbers of cases across a great number of categories,

the resulting information is of little use and therefore is not presented.

4. County Variations in the Types of Plea Agreements

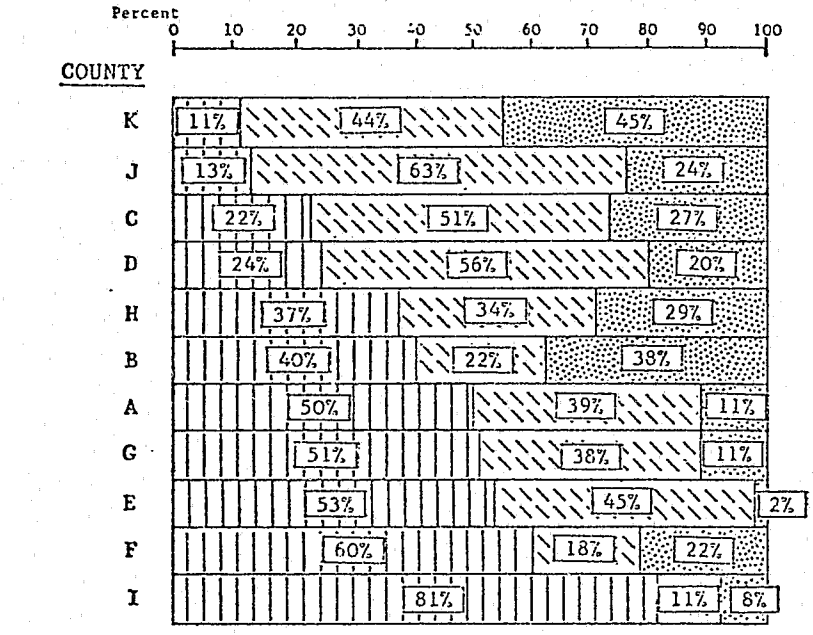
This section will look at the types of plea agreements within each county.[1] Is there variation across counties in the types of plea agreements? Do certain counties engage in one type of plea bargaining more than another?

Figure 4 presents the types of plea agreements for each of the sampled counties.

As illustrated in Figure 4, there is a substantial amount of variation in the types of plea agreements found within each county. Charge agreements account for 11 percent of all plea agreements in one county (County K) and 81 percent of all agreements in another county (County I). Likewise in one county (County I) 11 percent are sentence agreements compared to 63 percent in another county (County J). The percentage of agreements that involve both the charge and the sentence ranges from 2 percent in County E to 45 percent in County K. In short, there are large differences in the frequency of various types of agreements across counties.

[1] Due to the small number of sampled female defendants, this section will deal only with sample of male defendants. The number of negotiated cases involving women is too small to accommodate meaningful comparisons of three types of agreements across eleven counties.

FIGURE 4: TYPES OF PLEA AGREEMENTS BY COUNTY[a]
(Male Defendants)[b]



Sentence and Charge Agreement.

Charge Agreement.

Sentence Agreement.

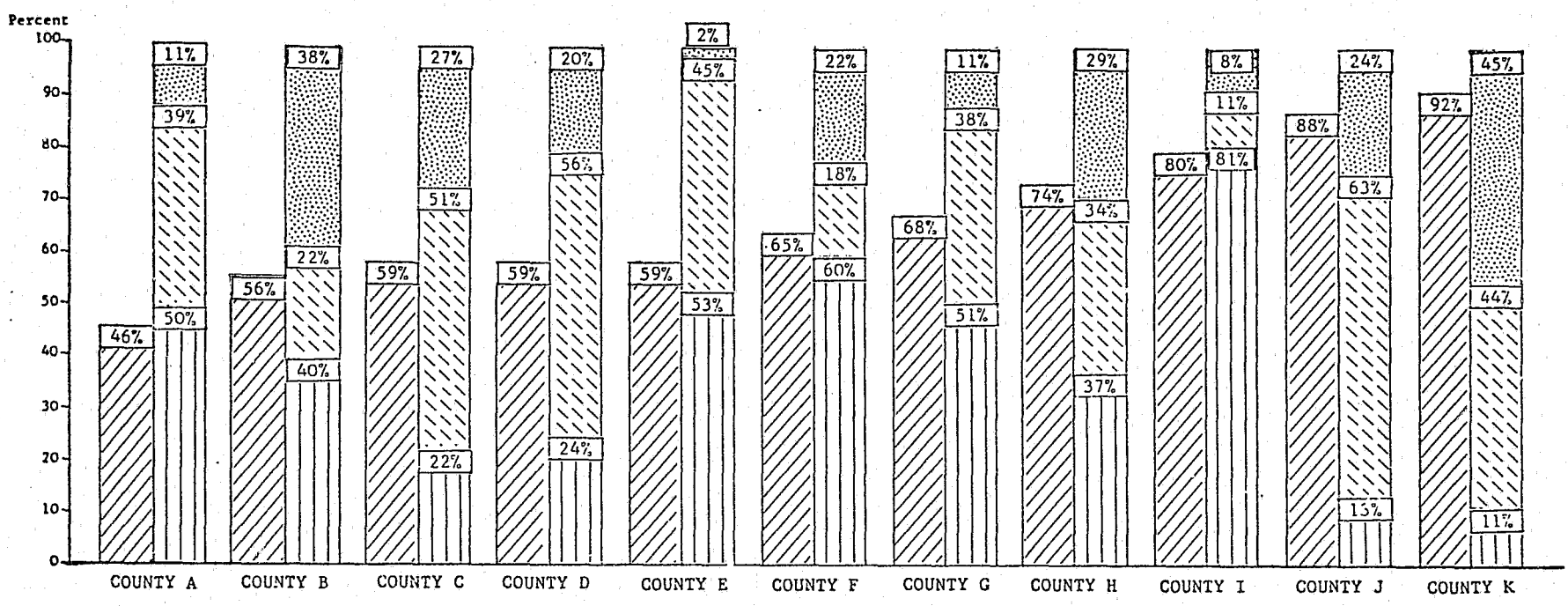
[a]The frequency of cases for each county is not presented because of confidentiality and identification agreements. The sample size from each county ranges from 18 to 146.

[b]Missing cases = 1.

The first question that can be asked in regard to this finding concerns the relationship between the amount of plea bargaining and the types of plea bargains. For example, do counties with relatively more plea bargaining engage in one type of bargaining more or less often than counties with less plea bargaining? Does the amount of plea negotiations affect the type of plea agreements?

Figure 5 displays the percentage of negotiated cases and the percentage of types of plea agreements for each sampled county.

FIGURE 5: PERCENTAGE OF NEGOTIATED CASES AND TYPES OF PLEA AGREEMENTS BY COUNTY[a]
(Male Defendants)



K E Y

Negotiated Cases.

Charge Agreements.

Sentence Agreements.

Charge and Sentence Agreements.

[a]The frequency of cases within each county is not presented because of confidentiality and identification agreements. For the percentage of negotiated cases, the county frequencies range from 39 to 248. For the types of agreements, frequencies range from 18 to 146.

There is no pattern which suggests a relationship between the amount of negotiated cases and any particular type of plea agreement (see Figure 5). Among the three counties with the highest rates of plea negotiations (counties I, J, and K with over 80 percent), we find both the highest and lowest proportions of charge agreements (81, 13, and 11 percent, respectively). The county which ranks highest in the proportion of sentence agreements (County J with 63 percent sentence agreements) ranks second in the amount of plea agreements (88 percent plea agreements). Conversely, County I which has the lowest proportion of sentence agreements (11 percent) has the third highest plea negotiation rate (over 80 percent of the cases are negotiated). Finally, when looking at agreements that involve both the charge and the sentence, we find that County K has the highest proportion and the highest rate of plea negotiations. However, County B which has the second highest proportion of agreements involving both the charge and the sentence, has the second lowest plea negotiation rate. Thus, there is no discernible association between the amount and types of plea agreements.

Examining the variation in types of plea agreements across counties, we have thus far established that considerable differences exist. For any given type of agreement, the proportions vary greatly across counties (see Figure 4). Furthermore, this differentiation cannot be attributed to variations in the rate of plea negotiations (see Figure 5). Due to the constraints of the data and the limited numbers of negotiated cases within each county, further analysis is not feasible and our conclusions are limited to the above statements.

5. The Relationship Between Plea Negotiations and Case-Related Variables

This section will examine a series of bivariate relationships between plea negotiations and other variables related to the case. Does the rate of plea negotiations vary according to the type of offense charged? What effect does the number of counts have on the probability of a negotiated disposition? Is there an association between the prior conviction record of the defendant and the likelihood of a plea agreement? These are some of the questions that will be discussed below. The intent is to provide descriptive information concerning the types of cases plea bargained.

The reader is cautioned that these relationships may be due to the influence(s) of other variables. These relationships may strengthen or disappear with the introduction of additional (control) variables. However, due to the descriptive nature of this study, these bivariate relationships are presented because of the general information they provide concerning the practice of plea negotiations. An examination of multivariate relationships will occur in the later sections of this report. Inferences and interpretations made on the basis of the following tables must be viewed in light of the above.

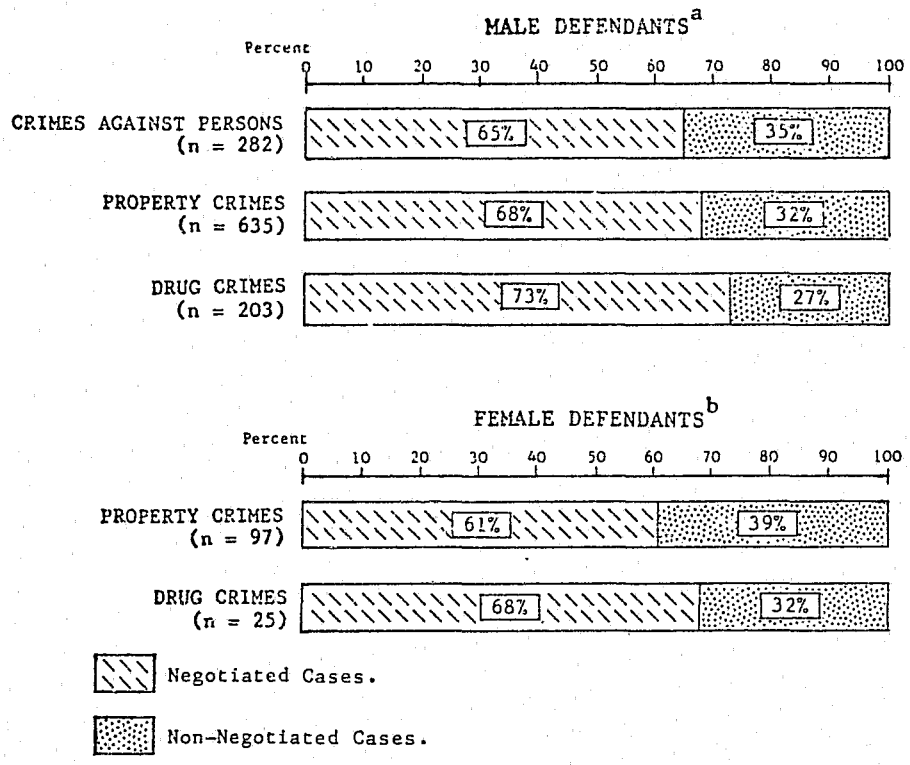
a. Type of Crime

The offenses charged in a case are grouped into three categories: crimes against persons, property crimes, and drug crimes.[1]

[1] For male defendants there are 22 cases in which the offense charged does not fall into any of the three categories. For female defendants there are 2 such cases. Appendix Tables G and N present a breakdown of the specific offenses contained in this "other" category, for males and females respectively.

Figure 6 presents a percentage breakdown of negotiated and non-negotiated cases according to the types of crimes.

FIGURE 6: PERCENTAGE OF NEGOTIATED AND NON-NEGOTIATED CASES BY TYPE OF CRIME
(Male and Female Defendants)



[a]For male defendants, missing = 3.

[b]For female defendants, crimes against persons are excluded because there are only six cases. There are two cases where the type of crime does not fit into any of the three categories (see Appendix Table N). For the females represented in this figure, missing = 1.

For both male and female defendants, there is no significant relationship between the type of crime and the rate of plea negotiations. The differences in the rate of plea negotiations are slight when compared across categories. It is interesting to note, however, that drug crimes are the most likely to result in a negotiated disposition for both male and female defendants.

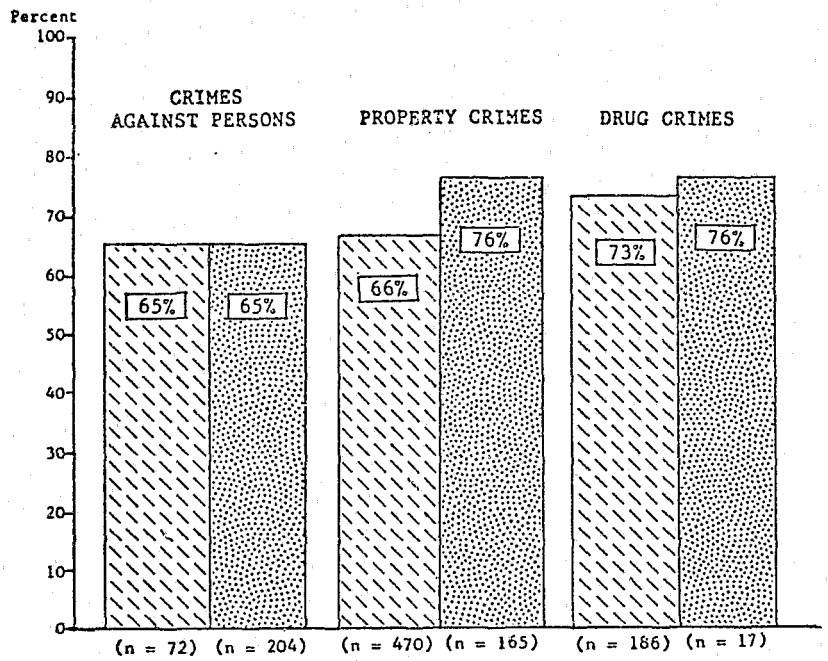
b. Type and Seriousness of Crimes

Within each general category of crime type (person, property, drug) the cases have been further broken down according to statutory maximum sentences. The most serious offense in a case is the one that carries with it the highest statutory maximum sentence. The cases are categorized into groups that reflect whether the statutory maximum sentence (of the most serious offense) is less than ten years, or ten or more years. (Appendix Tables A – N present the breakdown of the individual offenses contained in each category for male and female defendants.)

Figure 7 presents the percentage of negotiated cases according to the type and seriousness of the most serious crime charged.

The relationship between plea bargaining and the type and statutory maximum sentence of the most serious crime charged does not meet the conditions of statistical significance. However, for drug and property crimes the more serious cases are more likely to be resolved via negotiation than the less serious cases. This is most apparent for property crimes (see Figure 7).

FIGURE 7: PERCENTAGE OF NEGOTIATED CASES BY TYPE AND SERIOUSNESS OF CRIME (Male Defendants)[a]



[a]Missing cases = 9.

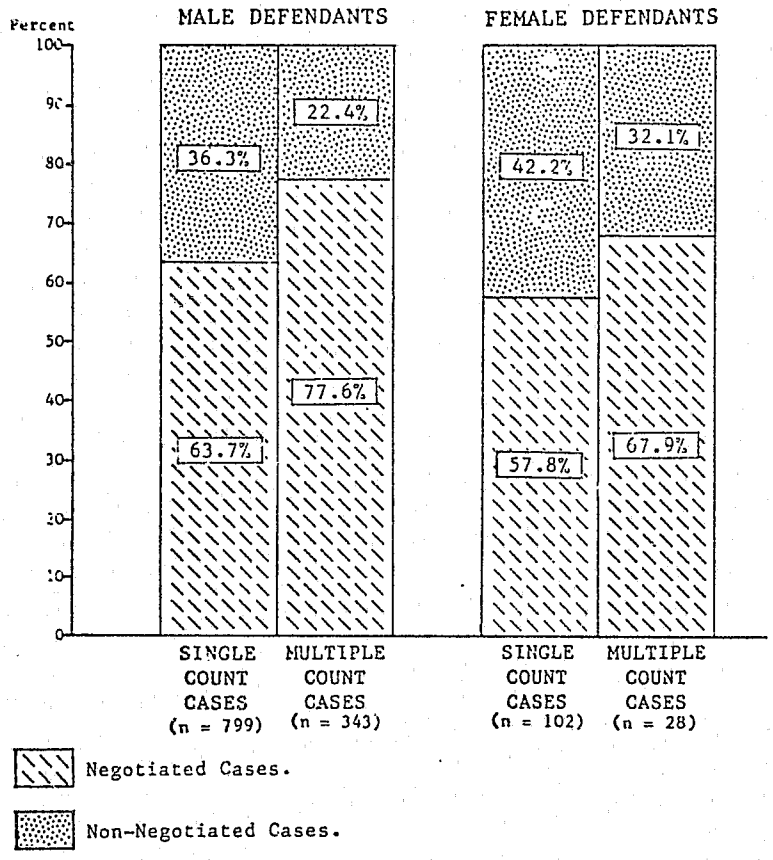
For females, property crimes are the only category with adequate numbers of cases for analysis.[1] The difference in the rate of negotiations for the less serious vs. the more serious property crimes is slight (60 percent vs. 62 percent). Thus, it appears that no strong association exists between the type and seriousness of the offense charged and the probability of a negotiated disposition for female defendants.

[1]There are 47 less serious and 50 more serious cases involving property crimes.

c. Number of Counts

Minnesota law allows for multiple counts to be charged on one criminal information when the defendant's conduct (during one behavioral incident) constitutes more than one offense.[1] Figure 8 presents the percentage of negotiated and non-negotiated cases according to whether or not the case involves multiple counts.

FIGURE 8: PERCENTAGE OF NEGOTIATED AND NON-NEGOTIATED CASES BY NUMBER OF COUNTS CHARGED (Male and Female Defendants)[a]



[a]For male defendants, missing = 3; for female defendants, missing = 1.

[1]*Minnesota Statues*, Chapter 609.035. See also *Minnesota Rules of Criminal Procedure*, Rule 17.03, subd. 1.

For both male and female defendants the percentage of negotiated cases is greater for multiple count cases. For male defendants there is a marked difference in the rate of plea negotiations when comparing single and multiple count cases. Of the single count cases 63.7 percent are negotiated, compared to 77.6 percent of the multiple count cases. Plea agreements are more common for multiple count cases. For women, the same pattern appears although the differences are less dramatic and the relationship between plea bargaining and number of counts is very slight.[1]

d. Use of a Firearm

Minnesota Statute, Chapter 609.11 provides for a mandatory minimum term of imprisonment for persons convicted of the use of a firearm in the commission of a felony and sentenced to imprisonment.[2] When a defendant is convicted of a charge which cites this statute, the defendant may receive either probation or incarceration. Should the sentence be for imprisonment, this statute requires the imposition of a mandatory minimum term. The parole board may not release a person prior

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[1] For males the relationship between plea negotiations and number of counts is statistically significant at the .001 level (Chi-square test). The same relationship, for females, does not meet the conditions of statistical significance.

[2] The 1974 Statute provided for a mandatory three year minimum term of imprisonment. It was amended (effective August 1, 1975) to provide for a mandatory minimum term of not less than one year and one day for commitments following the defendant's first conviction of an offense wherein he used a firearm; and a mandatory minimum term of not less than three years for commitments following the defendant's second or subsequent conviction of an offense wherein he used a firearm. See *Minnesota Statutes 1974* (Chapter 609.11) and *Minnesota Statutes 1975 Supplement*. Since 1975 the law has again changed and now *requires* incarceration upon conviction of a crime specified under 609.11. See *Minnesota Statutes 1977 Supplement* (Chapter 609.135).

to his serving the minimum term.

The second preliminary report examined the relationship between plea bargaining and cases involving the use of a firearm.[1] That analysis examined all cases involving crimes against persons and found that the percentage of cases plea bargained is higher for cases involved with the use of a firearm. In other words, a defendant charged with a crime against a person is more likely to have his case resolved via plea negotiations if the case involves a gun (609.11).[2] In short, gun cases are plea bargained more often than similar cases without guns.

e. Multiple Case Prosecutions

Situations may arise in which a defendant is prosecuted on a second felony case prior to the disposition of the first. The second felony case may or may not occur within the same jurisdiction, but nonetheless it is of primary consideration in the disposition of the first case. In short, these defendants become simultaneously prosecuted on multiple cases, and represent approximately 11 percent of all sampled male and female defendants.[3]

Figure 9 presents the percentage of negotiated and non-negotiated

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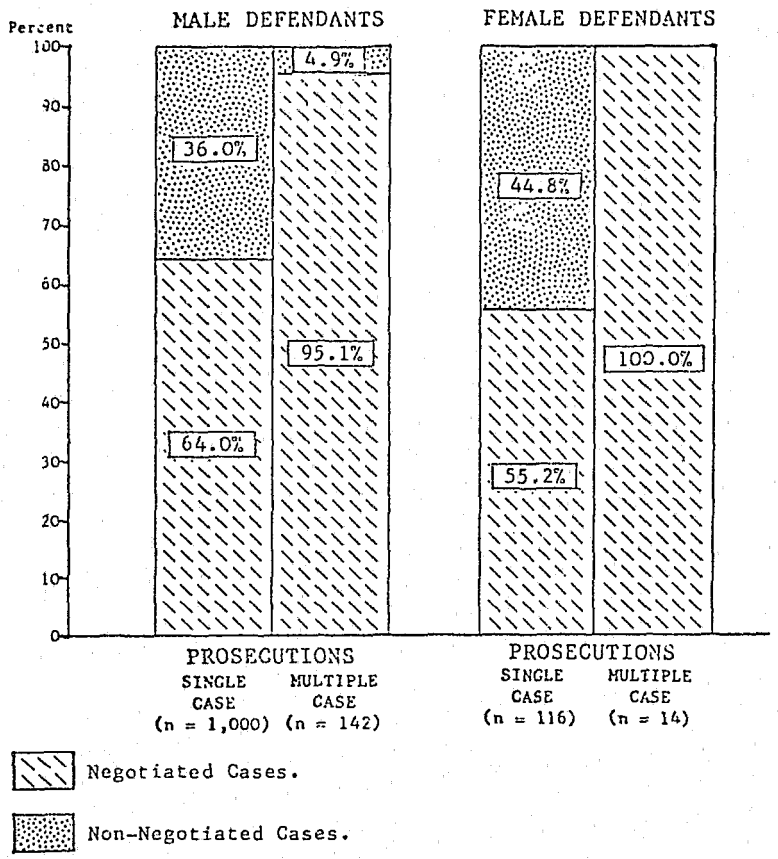
[1] See *Sentencing in Minnesota District Courts*, pp. 35-47. "Use of a firearm" is measured by the citation of *Minnesota Statutes*, Chapter 609.11. The analysis was limited to male defendants only.

[2] Seventy-two percent of the gun cases are negotiated compared to 58 percent for similar cases without the use of a firearm. The relationship between plea bargaining and gun charges (for cases involving crimes against persons) is significant at the .01 level (test for difference of proportions).

[3] One hundred and forty-two of the 1,145 sampled males are involved in multiple prosecutions (12.4 percent). Fourteen of the 131 sampled females are involved in multiple prosecutions (10.7 percent).

cases according to whether or not the defendants are involved in multiple prosecutions.

FIGURE 9: PERCENTAGE OF NEGOTIATED AND NON-NEGOTIATED CASES FOR DEFENDANTS WITH SINGLE OR MULTIPLE CASE PROSECUTIONS (Male and Female Defendants)[a]



[a]For male defendants, missing = 3; for female defendants, missing = 1.

As illustrated in Figure 9, there is a strong relationship between plea bargaining and multiple prosecutions.[1] Almost invariably, defendants who are simultaneously involved in more than one prosecution resolve

[1]For male defendants the phi coefficient equals .22 which is significant at the .001 level. For female defendants the phi coefficient equals .28 which is significant at the .01 level.

their case via plea negotiations. For sampled female defendants, all of the multiple prosecution cases culminate in a plea bargain, compared to 95 percent for the sampled males. If one assumes that the potential for plea bargaining increases as the number of pending cases increases, this finding is to be expected.

f. Prior Conviction Records

The prior adult conviction records of defendants are defined in the following manner:

NONE - no conviction, or convictions for petty misdemeanors (including traffic violations), or one misdemeanor conviction

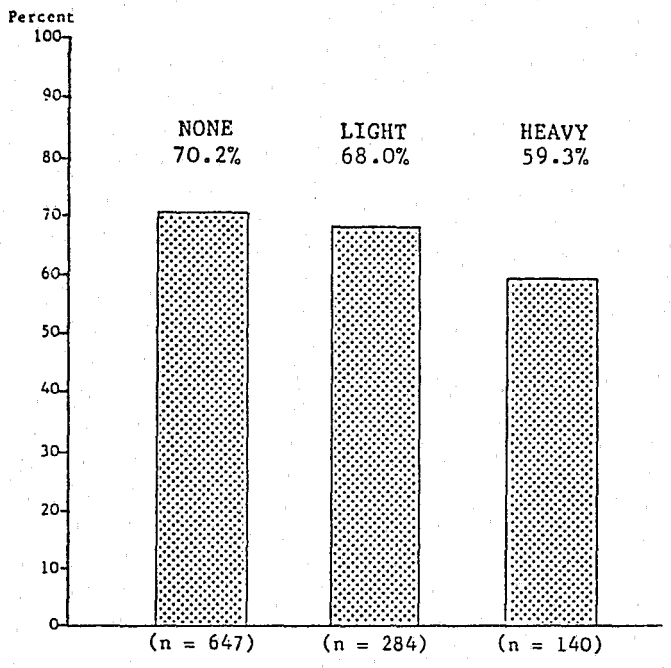
LIGHT - more than one misdemeanor conviction, or one felony conviction

HEAVY - more than one felony conviction

Figure 10 presents the percentage of negotiated cases according to the prior adult conviction records of the male defendants.

Looking at Figure 10, there appears to be a difference in the rate of plea bargaining across the three categories of prior conviction record. There is nearly an 11 percent difference between the negotiation rates for defendants with no prior conviction record (70.2 percent) and defendants with heavy conviction records (59.3 percent). The general pattern is such that the heavier the prior conviction record, the less likely a negotiated case. However, in terms of statistical association, knowledge of prior record does not increase the ability to predict the frequency of plea negotiations. In other words, the association between prior conviction record and plea bargaining is very slight and does not meet the requirements of statistical significance.

FIGURE 10: PERCENTAGE OF NEGOTIATED CASES BY PRIOR ADULT CONVICTION RECORD (Male Defendants)[a]



[a]Missing cases = 74.

Directing attention toward the sample of female offenders, we are faced with a very small frequency of cases within the prior conviction categories. Table 4 presents the frequency and percentages of negotiated and non-negotiated cases according to prior conviction records.

TABLE 4

TYPE OF CASE BY PRIOR ADULT CONVICTION RECORD (Female Defendants)[a]

	NONE		LIGHT		HEAVY	
TYPE OF CASE	Percent	Frequency	Percent	Frequency	Percent	Frequency
Negotiated	61.8%	63	54.5%	6	44.4%	4
Non-Negotiated	38.2	39	45.5	5	55.6	5
TOTAL	100.0%	102	100.0%	11	100.0%	9

[a]Missing cases = 9.

As illustrated in Table 4 all but 20 women have no prior adult conviction record. Therefore, we are unable to make statistically significant conclusions about the relationship between plea bargaining and prior record, due to the small number of cases. Table 4 is presented only to illustrate the small number of women across prior record categories and for the limited information it provides.

6. Relationships Between the Type of Plea Agreement and Case-Related Variables

This section examines a series of bivariate relationships between the types of plea agreements and other case-related variables. Do certain characteristics related to the case influence the types of agreements reached? What factors are associated with the type of plea agreement? As discussed earlier there are three types of plea agreements: those that involve the charge, those that involve the sentence, and those that involve both.

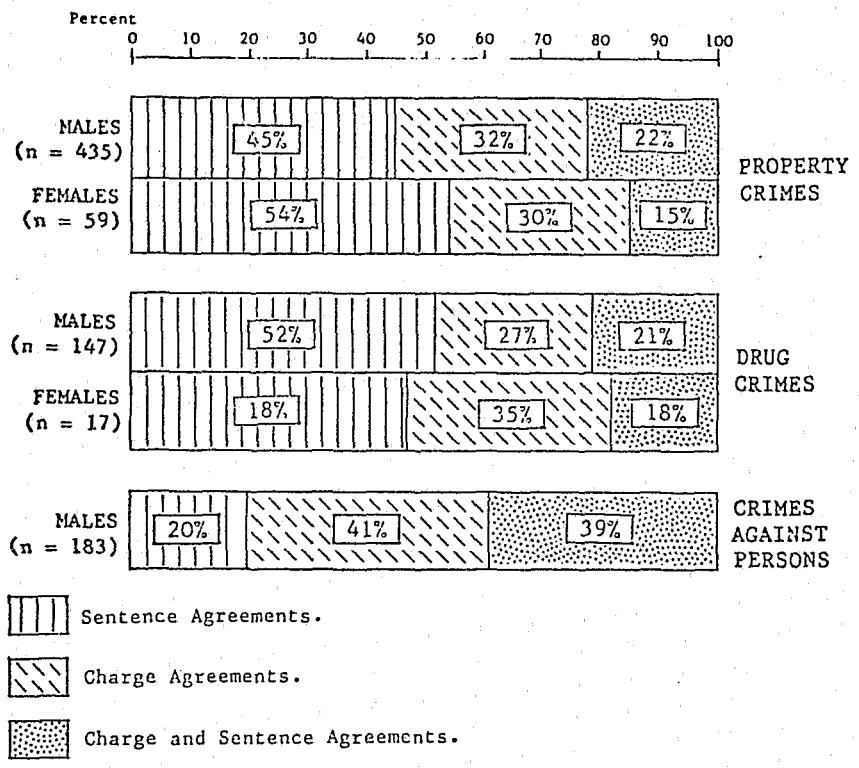
These bivariate relationships may be due to the influences of other variables. In other words, they may strengthen or weaken with the introduction of additional variables. These bivariate relationships are presented because of the general information they provide concerning the practice of plea bargaining. Examination of multivariate relationships will occur later in the report. The reader is cautioned that inferences and interpretations made from these bivariate tables must be viewed in light of these qualifications.

a. Type of Crime

The offenses charged are grouped into three categories: crimes against persons, property crimes and drug crimes. Figure 11 presents

the types of plea agreements according to the type of crime charged in a case.

FIGURE 11: TYPES OF PLEA AGREEMENTS BY TYPE OF CRIME
(Male and Female Defendants)[a]



[a]Crimes contained in the "other" category are excluded for both men and women (9 cases for males and 2 cases for females). For males, missing = 1. Within the sample of women, there are 2 cases that allege crimes against persons which are excluded from this presentation.

Figure 11 illustrates several interesting findings. First, for property and drug crimes sentence agreements are the most common type of plea agreement (approximately one-half of all negotiations are sentence agreements).[1] The least common type of plea agreement for property and drug crimes is the agreement that involves both the charge and the sentence.

[1]The association between the type of crime and the type of plea agreement is not statistically significant for the females sampled but is significant at the .001 level (Chi-square test) for the males sampled.

Second, whereas sentence agreements are the most common type of plea agreement for property crime and drug cases, they are the least common for cases involving crimes against persons. For cases alleging crimes against persons, approximately 40 percent are charge agreements, and 40 percent are plea agreements that involve both the charge and the sentence. Only 20 percent of the negotiated crimes against person cases involve straight sentence agreements. This is not unusual when one considers that the conviction label may be of more concern to a person convicted of a crime against a person than to a property or drug offender.[1] Assuming that the type of crime for which a defendant is convicted implies a certain degree of social stigma, the labels viewed most undesirable are those denoting crimes against persons and especially sex crimes. Therefore, it is not surprising to discover that some sort of charge bargaining is present in 80 percent of the negotiated cases involving crimes against persons.

b. Type and Seriousness of Crimes

Within each general category of crime type (person, property, drugs) the cases are further broken down according to statutory maximum sentences. The most serious offense in a case is the one that carries with it the highest maximum statutory sentence. The cases are categorized into groups that reflect whether the statutory maximum sentence (of the most serious offense) is less than ten years or ten or more years.

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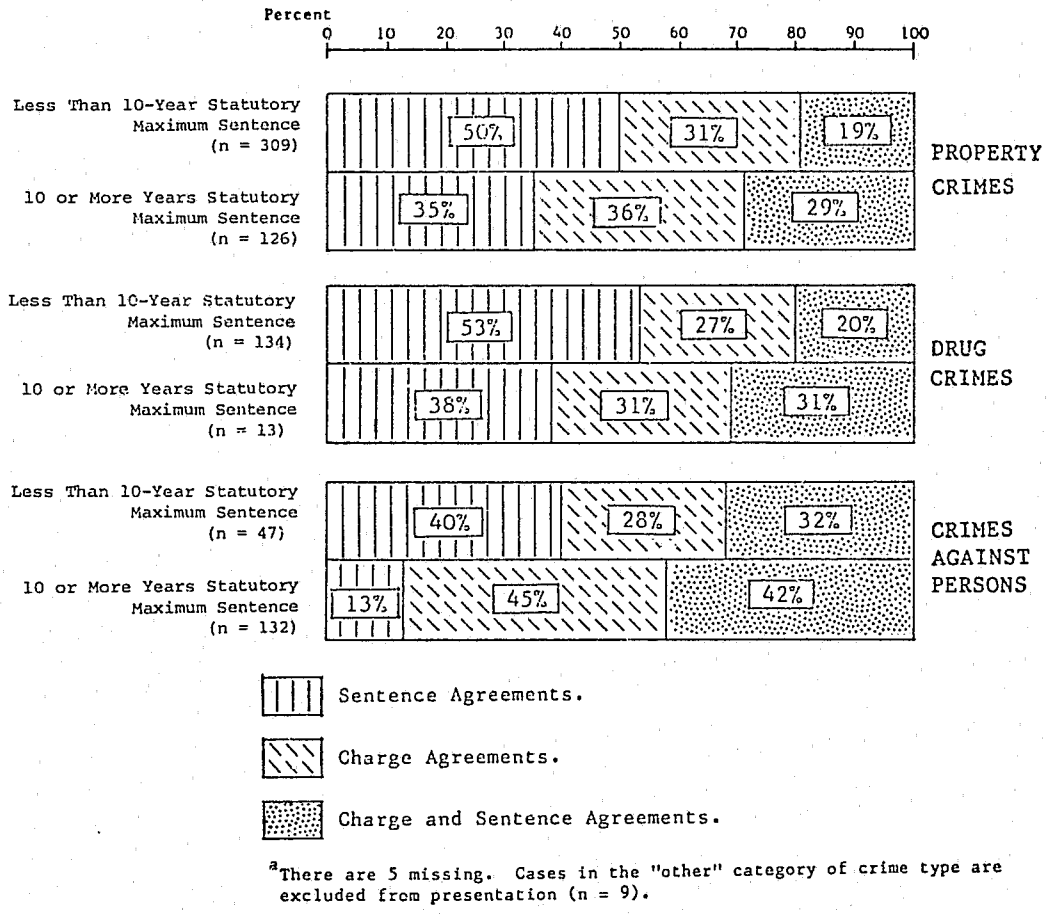
[1] Donald J. Newman refers to this phenomenon (i.e., concern for the conviction label above concern for the sentence) as "lateral" bargaining. See "Reshape the Deal," *Trial Magazine* 9 (1973).

Figure 12 presents a percentage breakdown of the types of plea agreements according to the type and seriousness of the most serious crime charged for sampled male defendants.

FIGURE 12: TYPES OF PLEA AGREEMENTS ACCORDING TO TYPE AND SERIOUSNESS OF CRIME (Male Defendants)[a]



[a]There are 5 missing. Cases in the "other" category of crime type are excluded from presentation (n = 9).

As shown in Figure 12 there is a definite relationship between the type and seriousness of the most serious offense charged and the type of plea agreement reached.[1] Within each category of general crime type a

[1]The association between the type and seriousness of the most serious offense charged and the type of plea agreement is statistically significant at the .001 level (Chi-square test)(males only).

pattern emerges such that sentence agreements are the predominant type of plea agreement for the less serious crimes. As the seriousness of the crime increases, so does the probability of a charge agreement and the probability of an agreement that involves both the charge and the sentence. Observe how the proportions of charge agreements and agreements that involve both the charge and sentence are greater within the more serious categories for all types of crime.

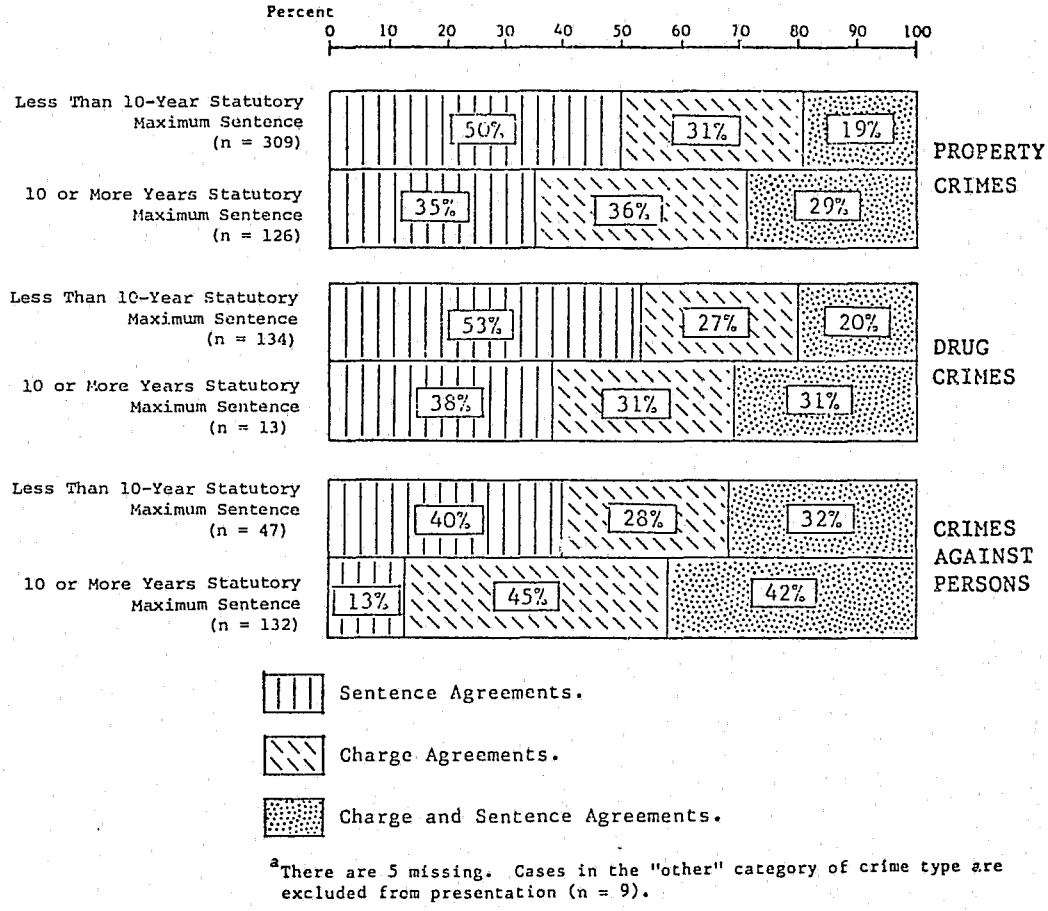
Directing attention toward crimes against persons, it is interesting to note that within the more serious category only 13 percent of the cases involve sentence agreements. The remainder of the cases (in the more serious category of crimes against persons) are almost evenly divided between charge agreements (45 percent) and agreements that involve both the charge and the sentence (42 percent). Thus, in at least 87 percent of these cases some form of charge bargaining occurs.

For the sample of female defendants property crimes are the only category with adequate numbers of cases to perform this analysis.[1] We find patterns unlike those found in the data concerning male defendants. First, sentence agreements are the predominant type of agreement for both the more serious and less serious property crimes (54.8 and 53.6 percent, respectively). Second, as the seriousness of the crime increases, so does the likelihood of a charge agreement. However, unlike the findings for male defendants, very few cases within the more serious

[1]There are 28 less serious and 31 more serious property crimes that are resolved via plea negotiations. The proportions of sentence, charge, and charge and sentence agreements for the less serious property crimes are 53.6, 21.4, and 25.0 percent, respectively. For the more serious property crimes, the percentages of sentences, charge, and charge and sentence agreements are 54.8, 38.7, and 6.5 percent, respectively.

Figure 12 presents a percentage breakdown of the types of plea agreements according to the type and seriousness of the most serious crime charged for sampled male defendants.

FIGURE 12: TYPES OF PLEA AGREEMENTS ACCORDING TO TYPE AND SERIOUSNESS OF CRIME (Male Defendants)[a]



[a]There are 5 missing. Cases in the "other" category of crime type are excluded from presentation (n = 9).

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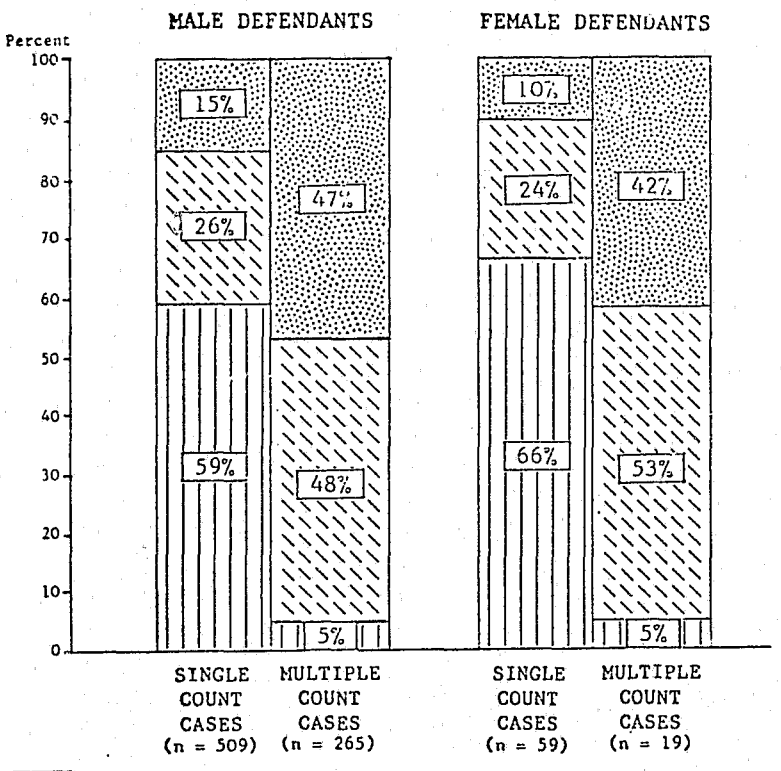
category involve agreements on the charge and the sentence. Thus as the seriousness increases, the probability of an agreement that involves both the charge and the sentence decreases.

c. Number of Counts

Figure 13 presents a percentage breakdown of the types of plea agreements according to whether the case involves a single count or multiple counts.

FIGURE 13: TYPES OF PLEA AGREEMENTS BY NUMBER OF COUNTS CHARGED (Male and Female Defendants)[a]



[a]For male defendants, missing = 1.

As illustrated in Figure 13, there is a marked relationship between the number of counts and the type of plea agreement reached.[1] Sentence agreements are present in well over half of all single count cases. In contrast only 5 percent of the multiple count cases involve sentence agreements. Nearly all of the plea agreements for multiple count cases are charge agreements or agreements that involve both the charge and the sentence. Thus, where there is a greater opportunity for some form of charge agreement (i.e., multiple counts), we find the expected preponderance of charge agreements.

d. Use of a Firearm

Throughout this report "use of a firearm" is indicated by the presence of *Minnesota Statute*, Chapter 609.11 on the criminal information.[2] A defendant convicted of this statute and sentenced to imprisonment is subject to mandatory minimum terms of imprisonment.

Figure 14 presents the types of plea agreements according to whether or not use of a firearm was charged in the case (for male defendants). Since 609.11 is found only within cases involving crimes against persons, the comparison includes only cases that allege crimes against persons. Cases that charge 609.11 are compared to similar types of cases that do not involve the use of a firearm.

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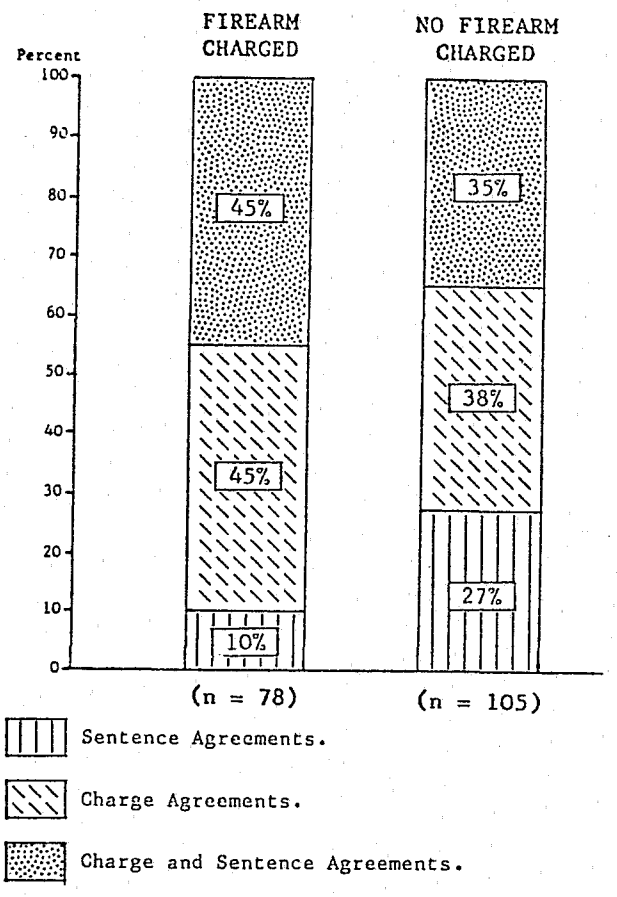
[1] The association between number of counts and type of plea agreement is statistically significant for both the male defendants (.001 level) and the female defendants (.01 level) using the Chi-square test.

[2] A thorough discussion of *Minnesota Statute*, Chapter 609.11 is found on page 45.

FIGURE 14: TYPES OF PLEA AGREEMENTS BY USE OF A FIREARM FOR CRIMES AGAINST PERSONS
(Male Defendants)

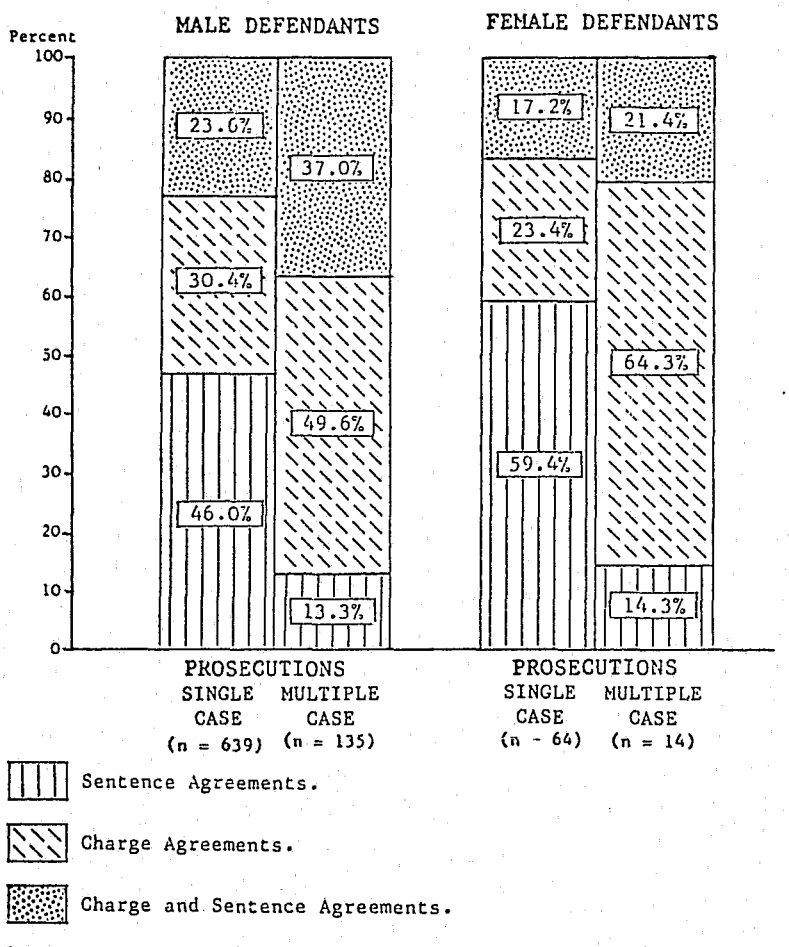


There is not a statistically significant relationship between the type of plea agreement and use of a firearm when looking at cases involving crimes against persons (see Figure 14). However, differences do exist between the two groups of cases (those with a firearm and those without). There is more sentence bargaining for cases not involving firearms (27 percent compared to 10 percent for firearm cases). Moreover, it is interesting to note that at least 90 percent of the firearm cases involve some sort of charge bargaining. This finding is consistent with the notion that given a greater opportunity to charge bargain (i.e., citation of 609.11) more charge bargaining will occur.

e. Multiple Case Prosecutions

Multiple case prosecutions refer to circumstances in which the defendant is prosecuted on a second felony case prior to the disposition of the first. Figure 15 presents a percentage breakdown of the types of plea agreements for defendants involved in single and multiple case prosecutions.

FIGURE 15: TYPES OF PLEA AGREEMENTS FOR DEFENDANTS WITH SINGLE OR MULTIPLE CASE PROSECUTIONS (Male and Female Defendants)[a]



[a]For male defendants, missing = 1.

Similar patterns are found for both male and female defendants (although the actual percentages vary) in terms of the relationship between the types of plea agreements and multiple case prosecutions (see Figure 15).[1] For both male and female defendants involved in multiple prosecutions, charge bargaining is the most common type of plea negotiation. When looking at defendants with single case prosecutions, the most common type of agreement is a negotiation on the sentence. Combining charge agreements and agreements that involve both the charge and the sentence, we see that charge bargaining occurs in approximately 85 percent of all multiple prosecution cases. (This compares to 41 percent for females and 54 percent for males who are involved in single case prosecutions.) Again, where the opportunity for charge bargaining is greater (i.e., multiple prosecutions) more charge bargaining occurs.

f. Prior Conviction Records

The prior adult conviction records of defendants are defined in the following manner:

NONE - no convictions, or convictions for petty misdemeanors (including traffic) or one misdemeanor conviction

LIGHT - more than one misdemeanor conviction, or one felony conviction

HEAVY - more than one felony conviction

Figure 16 presents the percentage breakdown of types of plea agreements according to the prior records of the sampled male defendants.

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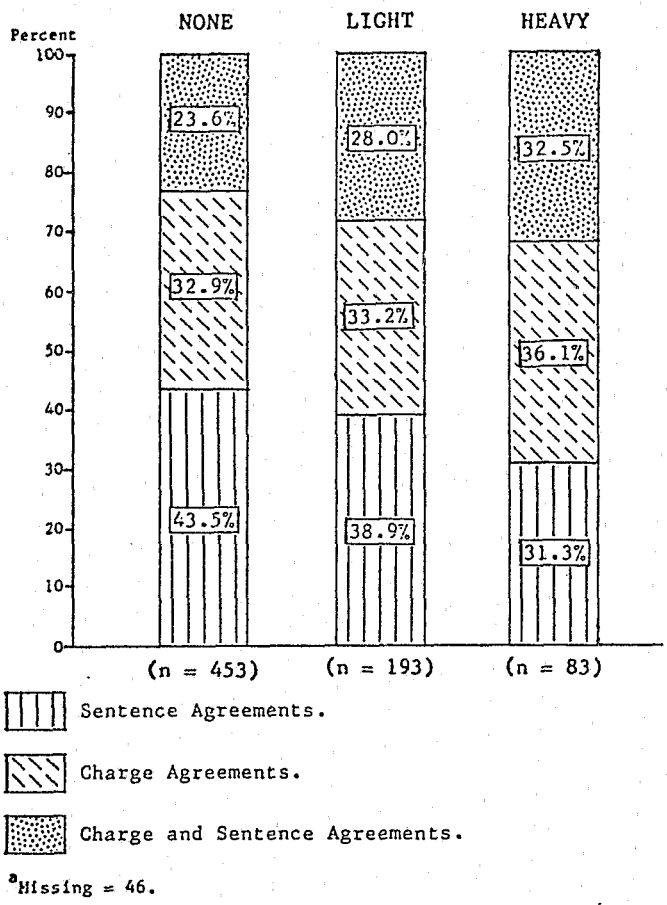
[1] The association between type of plea agreement and multiple prosecutions is statistically significant using the Chi-square test. For males the association is significant at the .001 level and for females at the .01 level.

FIGURE 16: TYPES OF PLEA AGREEMENTS BY PRIOR ADULT CONVICTION RECORD (Male Defendants)[a]



[a]Missing = 46.

As shown in Figure 16 there is no apparent relationship between the type of plea bargaining and the prior convcition record of the defendant. A slight pattern appears, however, whereby persons with heavy conviction records have the highest proportion of agreements that involve both the charge and the sentence, and the lowest proportion of sentence bargains. Conversely, persons with no prior conviction records have the highest proportion of sentence bargains and the lowest proportion of agreements that involve both the charge and the sentence.

Due to the small number of women involved in plea agreements who have prior conviction records, a comparative analysis is not feasible.[1]

7. Defense Counsel and Plea Bargaining

This section examines how the type of defense counsel influences the frequency of plea negotiations and the types of agreements reached. There are two general categories of defense attorneys: public defenders and privately retained attorneys.[2] First, we will discuss what differences, if any, exist between the rate of plea negotiations for public vs. private defense counsel. Then the discussion will explore what differences, if any, exist between the types of plea agreements (for public vs. private counsel). Control variables will be introduced to examine what impact they may have on the first-order bivariate relationships between plea bargaining and type of defense counsel. Approximately 68 percent of the sampled male defendants are represented by a public defender.[3] Within the sample of female defendants, approximately 65 percent

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[1] For cases involving plea bargains there are 6 women with light prior records and 4 women with heavy prior conviction records.

[2] In districts that operate under an appointed counsel system, appointed attorneys are included in the public defender category. There are also a handful of cases in which the defense counsel was from a Legal Aid Society and these are also included in the public defender category. Thus, the term "public defender" refers to a salaried lawyer (whose job consists of representing indigent defendants), appointed attorneys, and a handful of private defenders whose services are the result of a Legal Aid Society and are supported by charitable organizations (or other sources).

[3] Of all males sampled 781 out of 1,141 had a public defender. Three hundred and sixty out of 1,141 had privately retained defense attorneys. Missing = 4.

have a public defender.[1,2]

a. Type of Defense Attorney and the Rate of Plea Negotiations

The first question deals with the extent to which public defenders and private attorneys engage in plea negotiations. Public defenders serve an important role in providing defense to indigent defendants. Yet, public defender systems have received criticism because the relationships between the public defenders and the prosecution may be cooperative rather than combative or adversarial. David Sudnow, who studied a public defender's office in a metropolitan California community, notes:

> "Whatever the reasons for its development, we now find, in many urban places, a public defender occupying a place alongside judge and prosecutor as a regular court employee. . . . While the courtroom encounters of private attorneys are brief, businesslike and circumscribed, interactionally and temporally, by the particular cases that bring them there, the P.D. attends to the courtrooms as his regular work place and conveys in his demeanor his place as a member of its core personnel. . . . The D.A. and P.D. are on a first name basis and throughout the course of a routine day interact as a team of coworkers. While the central focus of the private attorney's attention is his client, the courtroom and affairs of court constitute the laws of involvements for the P.D."[3]

Additional literature in the area generally tends to support Sudnow's

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[1]Of all females sampled 85 out of 131 had a public defender. Forty-six out of 131 had privately retained defense attorneys.

[2]An examination of a Public Defender's Office in a metropolitan community in California also revealed that roughly 65 percent of all criminal cases were handled by a Public Defender. See David Sudnow, "Normal Crimes: Sociological Features of the Penal Code in a Public Defenders Office," *Social Problems* 12 (1965), p. 264.

[3]David Sudnow, "Normal Crimes: Sociological Features of the Penal Code in a Public Defenders Office," *Social Problems* 12 (1965), pp. 264-265.

observations.[1] In light of the above comments, and in view of the fact that the bulk of criminal cases are handled by public defenders, one might anticipate that they settle more cases by negotiation than do private attorneys. The implication is that public defenders are concerned with the speedy disposition of cases and in addition have a greater opportunity to negotiate due to the structural organization and the daily encounters with the prosecution. The data do not support this hypothesis.

Figure 17 presents the percentage of negotiated and non-negotiated cases according to the type of defense attorney.

As seen in Figure 17 there is no significant relationship between the type of defense attorney and the likelihood of a negotiated disposition. Regardless of the type of defense counsel, approximately 68 percent of the cases involving males result in a plea negotiation. For females there is a slight difference in the rate of plea negotiations,

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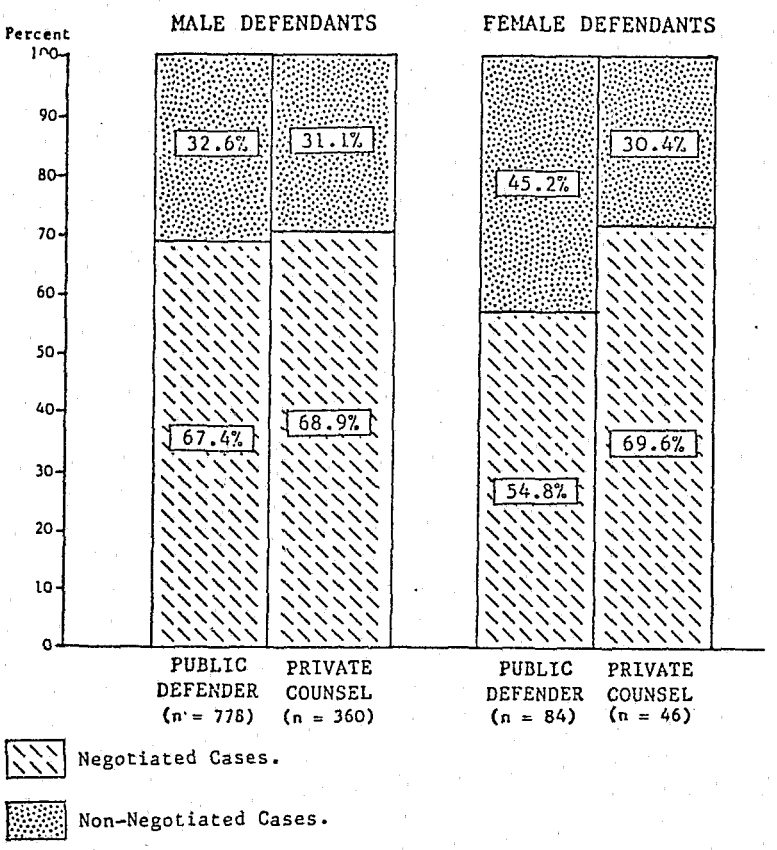
[1]For a discussion of public defenders and privately retained defense attorneys, see generally: Albert W. Alschuler, "The Defense Attorney's Role in Plea Bargaining," *Yale Law Journal* 84 (1975); Alan F. Arcuri, "Lawyers, Judges, and Plea Bargaining: Some New Data on Inmates' Views," *International Journal of Criminology and Penology* 4 (1976); Jackson B. Battle, "In Search of the Adversary System--The Cooperative Practices of Private Criminal Defense Attorneys," *Texas Law Review* 50 (1971); Jackson B. Battle, "Comparison of Public Defenders' and Private Attorneys' Relationships with the Prosecution in the City of Denver," *Denver Law Review* 50 (1973); Abraham S. Blumberg, "Covert Contingencies in the Right to the Assistance of Counsel," *Vanderbilt Law Review* 20 (1967); Jonathan D. Casper, *Criminal Courts: The Defendant's Perspective--Executive Summary*, National Institute of Law Enforcement and Criminal Justice, Law Enforcement Assistance Administration, U.S. Department of Justice, (1978); Donald C. Dahlin, "Toward a Theory of the Public Defender's Place in the Legal System," *South Dakota Law Review* 19 (1974); Dennis E. Eckart and Robert V. Stover, "Public Defenders and Routinized Criminal Defense Processes," *Journal of Urban Law* 51 (1974); Jerome H. Skolnick, "Social Control in the Adversary System," *Journal of Conflict Resolution* 11 (1967); Glen Wilkerson, "Public Defenders as Their Clients See Them," *American Journal of Criminal Law* 1 (1972).

but the association does not meet the conditions of statistical significance. This finding is supported by previous research.[1,2]

FIGURE 17: PERCENTAGE OF NEGOTIATED AND NON-NEGOTIATED CASES BY TYPE OF DEFENSE COUNSEL (Male and Female Defendants)[a]



[a]For male defendants, missing = 7; for female defendants, missing = 1.

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[1]Jerome H. Skolnick found the cooperative practices of public defenders similar to those of cooperative private defense attorneys. He notes: "Most private defense attorneys usually operate on a theory of defense similar to that of the public defender, and 'bargain' as willingly as he." "Social Control in the Adversary System," *Journal of Conflict Resolution* 11 (1967), p. 62.

[2]Albert W. Alschuler notes the existence of various patterns and states: ". . . in most jurisdictions, public defenders enter guilty pleas for their clients as frequently as private attorneys, and in some jurisdictions, more often." "The Defense Attorney's Role in Plea Bargaining," *Yale Law Journal* 84 (1975), p. 1,206.

To further test the existence of this relationship, analysis was performed utilizing a series of control variables. We found that even when controlling for the effects of other variables known to be related to plea bargaining (e.g., number of counts, use of a firearm and multiple case prosecutions) no association emerged between type of defense counsel and the rate of plea bargaining.

Thus we conclude that the type of defense counsel has no relation to the probability of a plea negotiation. A defendant with a privately retained attorney is just as likely to plea bargain as a defendant represented by a public defender.

b. Type of Defense Attorney and Types of Plea Agreements

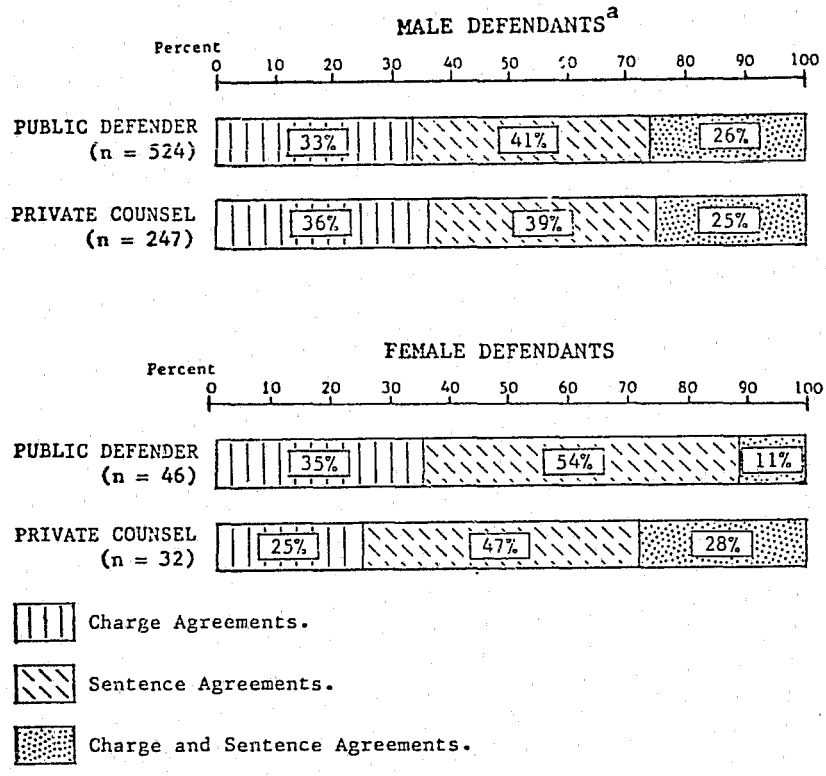
The following is a discussion of the types of plea agreements and whether they vary according to the type of attorney handling a case. Do public defenders enter into a certain type of agreement more often than private attorneys? Does the type of plea bargaining vary for public vs. private defense attorneys?

Figure 18 presents a percentage breakdown of the types of plea agreements according to the type of defense counsel.

As illustrated in Figure 18, there is no significant relationship between the type of defense counsel and the types of plea agreements. One can readily observe that the differences in types of agreements are slight (comparing cases handled by public defenders and private attorneys) within the sample of male defendants. For female defendants a slight pattern appears wherein public defenders are less likely to obtain agreements that involve both the charge and the sentence than private

attorneys. (For public defenders 11 percent of the negotiations are of this type compared to 28 percent of the negotiations for private attorneys.) Additionally, public defenders are more likely to be involved in charge bargaining than private attorneys. However, the actual association between type of defense attorney and type of bargain for female defendants does not meet the conditions of statistical significance.

FIGURE 18: TYPES OF PLEA AGREEMENTS BY TYPE OF DEFENSE COUNSEL
(Male and Female Defendants)



[a]For male defendants, missing = 4.

To determine whether this apparent lack of relationship between type of defense attorney and type of plea agreement could be the result of the influence of other variables, we repeated this analysis controlling for those variables known to be associated with the type of agreement

(e.g., type of crime, number of counts, multiple case prosecutions). We found results not unlike those found in the first-order tables. In other words, a relationship between type of defense counsel and type of plea agreement did not emerge when controlling for additional variables. There is no statistically significant relationship between the type of defense counsel and the type of plea agreement.

These findings indicate that regardless of the type of attorney, the same types of plea agreements are being made. The proportion of charge, sentence and both charge and sentence agreements is basically the same for private and public defense counsel. These results do not address whether one type of attorney secures "better deals" than another, nor should they be construed to reflect such. Further, it is important to note that these findings do not concern the relationship between type of attorney and final sentencing outcome.[1] These findings concern the general types of plea agreements and suggest that the prosecution negotiates with both public defenders and private attorneys in a similar manner.

8. The Judge and Plea Bargaining

This section discusses one aspect of judicial involvement in plea negotiations. In all criminal cases, the judge has the authority to accept or reject a negotiated plea of guilty. Prior to the acceptance

[1] The link between type of plea agreement and sentencing outcome has yet to be established in this report. For example, it could be that clients of private attorneys receive stayed sentences more often than the clients of public defenders (even when controlling for offense and prior record). On the other hand, it is also possible that no differences exist. This topic, however, is not the subject of the present discussion and will be addressed later in this report.

of a guilty plea, the judge will inquire as to the terms of the plea agreement whereupon the prosecution or defense counsel will state the terms of the agreement in open court. It is the role of the judge to determine and establish for the record that the plea is voluntarily, knowingly, and intelligently made and that a factual basis exists for the plea.[1] Because the entry of a guilty plea constitutes a conviction and a waiver of certain constitutional rights, the importance of the judge lies in his responsibility to ensure that the plea is valid.[2]

Considerable attention has been directed toward the propriety of judicial involvement in plea negotiations.[3] The majority of the literature suggests that direct judicial involvement in plea discussions is, by

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[1]For a discussion of the due process requirements involved in the entry of a guilty plea, see generally: "ABA Standards Relating to Pleas of Guilty," *American Bar Association Project on Standards for Criminal Justice*, (Approved Draft--1968); *Minnesota Rules of Criminal Procedure*, Rule 15.01; *Boykin v. Alabama*, 395 U.S. 238 (1969); *Brady v. U.S.*, 397 U.S. 742 (1970); *Gideon v. Wainwright*, 372 U.S. 335 (1963); *North Carolina v. Alford*, 400 U.S. 25 (1970); and *Shelton v. U.S.* 242 F.2d 101 (5th Cir. 1957).

[2]A guilty plea constitutes a waiver of the right to a jury trial, the right to confront one's accusers, the right to present witnesses in one's defense, and the right to remain silent.

[3]For a discussion of the judge's role in plea bargaining, see generally: Albert W. Alschuler, "The Trial Judge's Role in Plea Bargaining, Part I," *Columbia Law Review* 76 (1976); Gerard A. Ferguson, "The Role of the Judge in Plea Bargaining," *Criminal Law Quarterly* 15 (1972); Kathleen Gallagher, "Judicial Participation in Plea Bargaining: A Search for New Standards," *Harvard Civil Rights--Civil Liberties Law Review* 9 (1974); Gregory J. Hobbs, Jr., "Judicial Supervision over California Plea Bargaining: Regulating the Trade," *California Law Review* 59 (1971); Walter E. Hoffman, "Plea Bargaining and the Role of the Judge," 53 *Federal Rules Decisions* 499 (1972); Daniel Klein, "Judicial Participation in Guilty Pleas--A Search for Standards," *University of Pittsburgh Law Review* 33 (1971); Lowell B. Miller, "Judicial Discretion to Reject Negotiated Pleas," *Georgetown Law Journal* 63 (1974); James M. Smith and William P. Dale, "The Legitimation of Plea Bargaining: Remedies for Broken Promises," *American Criminal Law Review* 11 (1973); Peter A. Whitman, "Judicial Plea Bargaining," *Stanford Law Review* 19 (1967).

definition, coercive and taints the voluntariness of the plea and usurps the impartiality of the judiciary. On the other hand, it is argued that judicial participation prevents defendants from "pleading in the dark" and possibly receiving concessions in sentencing that are no more lenient than those received by defendants convicted after trial.[1] The issue concerns the balance between judicial independence and the capacity of the prosecution to induce guilty pleas by means of promises concerning sentence recommendations. Albert W. Alschuler states:

> "To the extent that judges yield to prosecutors in order to make the guilty-plea system work smoothly, they sacrifice their independence, and to the extent that they insist on performing their judicial duties, they sharply reduce the effectiveness of prosecutorial plea bargaining."[2]

At any rate, without reasonable expectations of judicial acceptance, prosecutors would cease to make sentence recommendations a part of the plea negotiation process.

The following discussion is concerned with plea agreements that involve prosecutorial sentence recommendations and the extent to which the judges concur with them.[3] To what extent does the Court abide by prosecutorial sentence recommendations? When the defendant's plea is entered

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[1] Kathleen Gallagher, "Judicial Participation in Plea Bargaining: A Search for New Standards," *Harvard Civil Rights--Civil Liberties Law Review* 9 (1974), p. 34.

[2] "The Trial Judge's Role in Plea Bargaining, Part I," *Columbia Law Review* 76 (1976), p. 1,069.

[3] This section will therefore deal with cases in which the plea agreement involves the sentence and cases in which the plea agreement concerns both the charge and the sentence, as previously defined.

contingent upon the promise of a sentence recommendation by the prosecution at sentencing, the recommendation is not binding on the Court.[1] The judge is under no obligation to concur with the sentence recommendations of the prosecution. The final sentence may or may not be in accord with the recommended sentence, and a deviation from the recommended sentence does not itself constitute grounds for appeal and/or withdrawal of the guilty plea.[2] Every defendant who pleads with the promise of a sentence recommendation takes the risk that the judge will impose a more severe sentence. This risk is weighed against the risk of conviction at trial and the probability of a more severe sentence following a conviction at trial.

In any given case, the sentence imposed may be the same as the recommended sentence, more lenient than the recommended sentence, or more harsh. A comparison between imposed and recommended sentences in terms of harshness or leniency may require arbitrary judgments. For the purpose of this study, we attempted to avoid this problem by imposing stringent definitions of that which constitutes "harsh" and "lenient."

The prosecutorial recommended sentence and the actual imposed sentence are said to be the same when there is no difference between them. An example of this is when the prosecution recommends a stayed sentence

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[1] See specifically: *Minnesota Rules of Criminal Procedure*, Rules 15.04 through 15.09.

[2] For related decisions concerning the failure of the Court to grant suggested sentence concessions, see: *Chapman v. State*, 162 N.W.2d 698 (Minnesota 1968); *State v. Lloyd*, 190 N.W.2d 123 (Minnesota 1971); *State v. McBride*, 189 N.W.2d 485 (Minnesota 1971); and *Schwerm v. State*, 181 N.W.2d 867 (Minnesota 1970).

and five years probation and the judge imposes the same. Another example is when the prosecutor recommends a sentence not to exceed five years. The recommendation does not specify type of sentence (prison, probation, jail, etc.) only length of sentence.[1] In this instance, if the judge imposes a sentence, the length of which does not exceed five years, it is said to be no different from the recommended sentence.[2] In other words, when the prosecution simply recommends a length of time and the sentence imposed is for that same length of time there is said to be no difference between the recommended and actual sentence. Additionally, if the only recommendation is for a concurrent sentence, and the defendant receives it, there is no difference between actual and recommended.

At times the sentence given is said to be more lenient than the one recommended by the prosecution. This occurs when the time imposed by the Court is less than the time recommended by the prosecution. (This includes jail time, probation time or prison time.) Further, this occurs when the prosecution recommends incarceration time and the judge imposes probation only. This categorization also includes cases in which the Court does not concur with the prosecution's recommendation of a fine and/or restitution. In addition, if the prosecutor recommends a consecutive sentence and the Court imposes a concurrent sentence, the Court is said to be lenient.

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[1] As presented earlier, this type of sentence recommendation is the most common type of sentence recommendation for negotiated cases which involve sentence agreements. (The types of sentence agreements for negotiations that involve both the charge and the sentence are not presented.) See p. 35.

[2] If, on the other hand, the judge imposes a sentence the length of which does not exceed three years, it is said that the Court is more lenient. If the Court imposes a sentence which exceeds five years, it is said to be more harsh.

When examining recommended vs. actual sentences in terms of leniency or harshness, consideration must also be given to the types of stayed sentences available. In Minnesota a defendant may be granted a stay of imposition of sentence or a stay of execution of sentence. Under a stay of imposition (and a successful probationary period) the defendant's conviction shall be deemed a misdemeanor (notwithstanding the conviction to a felony). With a stay of execution, such is not the case and the record of conviction is determined by the length of sentence imposed.[1] In cases where the prosecution recommends a stay of execution and the judge grants a stay of imposition, it is said that the actual sentence of the Court is more lenient than the sentence recommended by the prosecution.

Finally, the Court may impose a sentence more harsh than the sentence recommended by the prosecution. For the purpose of this analysis, the Court's sentence is more harsh (than the sentence recommendation) when the length of the actual sentence is greater than the length of the sentence

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[1] Minnesota law provides for a stay of imposition or stay of execution of sentence. (See *Minnesota Statutes*, Chapter 609.135 and 609.14.) Under a stay of execution, sentence is imposed, but the execution of it is stayed, and the defendant may be placed on probation. Should the person then violate conditions of probation, the stay of execution may be revoked and the defendant brought before the Court, whereupon the Court may continue the stay or order the execution of the sentence previously imposed.

With a stay of imposition, on the other hand, the Court does not impose sentence and may place the defendant on probation. If grounds exist for revocation of the stay, then the Court may again stay sentence or impose sentence and stay the execution thereof. In either case, the Court may place the defendant on probation (or continue previous probation), or impose sentence and order the execution thereof.

A major distinction between a stay of execution and a stay of imposition is in terms of the defendant's conviction record. (See *Minnesota Statute*, Chapter 609.13.) Notwithstanding that the conviction is for a gross misdemeanor or felony, the conviction is deemed to be for a misdemeanor if the imposition of sentence is stayed, the defendant placed on probation, and is thereafter discharged. In other words, upon successful completion of probation for defendants given a stay of imposition of sentence, their record of conviction is that of a misdemeanor.

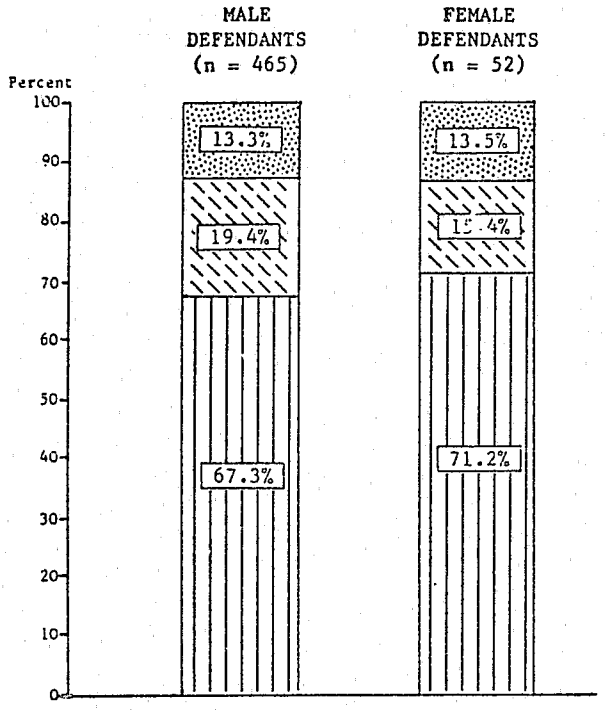
suggested by the prosecution. (This includes jail time, probation time or prison time.) Further, if the prosecution recommends probation and the Court imposes a sentence requiring incarceration time, the Court's sentence is more harsh than the one recommended by the prosecutor. The Court is also said to be more harsh when the recommendation calls for a stay of imposition of sentence and the judge grants a stay of execution of sentence. Additionally, if the recommendation calls for probation and the judge imposes probation and a fine, the Court is said to be more harsh.

Figure 19 presents a breakdown of the negotiated cases which involve prosecutorial sentence recommendations (i.e., sentence agreements and agreements that involve both the charge and the sentence). According to the above definitions cases are grouped in terms of whether or not the Court went along with the sentence recommendations, was more lenient or more harsh.

Looking at Figure 19, it is apparent that in approximately two-thirds of the cases the Court concurs with the sentence recommendations of the prosecution. When deviations from the recommended sentence do occur, the actual sentence is more likely to be more harsh rather than more lenient. However, there is only a slight difference between the proportion of cases where the actual sentence is more harsh and the proportion of cases where the actual sentence is more lenient than the recommended sentence. Similar patterns appear for both male and female defendants. Thus the Court concurs with prosecutorial sentence recommendations in the vast majority of cases and deviates in one out of three cases. In one out of every five cases involving male defendants the Court will impose a

sentence more harsh than the recommended one.

FIGURE 19: COMPARISON BETWEEN PROSECUTORIAL SENTENCE RECOMMENDATIONS AND SENTENCES LEVIED BY COURT[a] (Male and Female Defendants)[b]



K E Y

Sentence of the court is more lenient than the recommended sentence.

Sentence of the court is more harsh than the recommended sentence.

Recommended sentence corresponds with the actual sentence.

[a]Cases in which the sentence recommendation was for the state to "stand silent" at sentencing cannot be evaluated in terms of judicial acceptance of the recommendation. These cases are necessarily excluded.

[b]For male defendants, missing = 48; for female defendants, missing = 2.

D. COMPARISON OF SENTENCES: NEGOTIATED VS. NON-NEGOTIATED CASES

The advantages of plea bargaining become apparent to the defendant in terms of sentence severity and the type of sentence imposed. The following discussion compares the sentences of defendants who plea bargain with the sentences of similar defendants who are either convicted at trial or enter straight (non-negotiated) pleas of guilty.

1. Defendants Who Plea Bargain vs. Defendants Convicted at Trial

The preceding sections present the various types of plea agreements and the recommended sentences for defendants who plea bargain. The effects of such recommendations, however, are felt at sentencing and this section compares the sentences of defendants who plea bargain with the sentences of defendants convicted at trial. Sentences will be compared in terms of the types of sentence (i.e., prison, jail, or probation) the record of conviction, and the average length of incarceration. Due to the constraints of the data this analysis is limited to male defendants and certain categories of offenses.

If indeed plea negotiations are bargains, we expect all parties to benefit in some manner. The benefit to the court is the timely disposition of criminal cases. The benefit to the prosecution is, among other things, a certain conviction. To the defendant the benefit received is in terms of the sentence received. It has been argued that in order for the plea bargaining system to continue, the sentences of defendants who "cooperate" must necessarily be more lenient than those of defendants

who demand trial.[1]

Donald J. Newman explains this differential sentencing for guilty plea vs. trial defendants as follows:

> "This leniency is not only based on the possibility that remorse is shown by the confession or the assumption that the plea of guilty is the beginning of rehabilitation, although it is sometimes explained this way. In spite of such customary explanations to defendants, it is apparent that the overriding motivation in showing leniency to defendants who plead guilty is to encourage and maintain a steady flow of guilty pleas. This is perhaps most apparent in crowded metropolitan courts where cases are never lacking, but in general the guilty plea is just as welcome in rural courts."[2]

Within the sample of male defendants, we find very few cases settled by trial (9.6 percent). A total of 96 cases went to trial and out of these 72 resulted in conviction. (This compares to 747 cases that were settled by negotiated guilty pleas.) Thus, in terms of a comparative analysis involving persons convicted at trial we are faced with a relatively small number of cases. In addition, preliminary analysis has shown that certain variables are associated with the type and length of

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[1]For articles that discuss the differential sentencing of guilty plea vs. trial defendants, see generally: "The Influence of the Defendant's Plea on Judicial Determination of Sentence," *Yale Law Journal* 66 (1956); Donald J. Newman and Edgar C. NeMoyer, "Issues of Propriety in Negotiated Justice," *Denver Law Journal* 47 (1970); "The Unconstitutionality of Plea Bargaining," *Harvard Law Review* 83 (1970); "Official Inducements to Plead Guilty: Suggested Morals for a Marketplace," *University of Chicago Law Review* 32 (1964); "ABA Standards Relating to Pleas of Guilty," *American Bar Association Project on Standards for Criminal Justice* (Approved Draft--1968), pp. 8-9; Susan M. Chalker, "Judicial Myopia, Differential Sentencing and the Guilty Plea--A Constitutional Examination," *American Criminal Law Quarterly* 6 (1968).

[2]*Conviction: The Determination of Guilt or Innocence Without Trial* (Boston: Little, Brown & Co., 1966), p. 62.

sentence a defendant receives. These are prior conviction record, number of counts charged, and type and seriousness of crime. Therefore, any subsequent analysis regarding sentencing must take these variables into account.

In order to perform a comparative analysis of sentences, we imposed a series of controls on the subsample of defendants who were convicted at trial. When controlling for the above-mentioned variables, the vast majority of resultant categories contain too few cases to allow for statistical analysis. However, some categories do emerge which consist of cases convicted at trial under various conditions of the control variables. These groups contain an ample number of cases to perform a comparative analysis, but too few cases to accommodate the usual statistical tests. For the sake of simplicity in presentation, these categories of cases are labeled Group 1, Group 2, etc., and the reader is requested to refer back to the descriptions of these categories when viewing the following figures and tables.

Group 1:

— Property crimes
— Statutory maximum sentence of most serious offense is less than 10 years
— Single count charged
— No prior conviction record

Group 2:

— Crimes against person
— Statutory maximum sentence of most serious offense is 10 or more years
— Multiple counts charged
— No prior conviction record

Group 3:

— Crimes against person
— Statutory maximum sentence of most serious offense is 10 or more years
— Multiple counts charged
— Light prior conviction record

Group 4:

— Crimes against person
— Statutory maximum sentence of most serious offense is 10 or more years
— Single count charged
— Heavy prior conviction record

a. Type of Sentence

Types of sentences are grouped into three categories according to the length of incarceration time. These are no time, jail time and prison time.[1] Figure 20 compares the types of sentences for defendants who plea bargain and defendants convicted at trial.

The findings illustrated in Figure 20 may be summarized as follows:

1) Plea bargained cases have a higher rate of 'no time' sentences than trial cases (for all 4 groups).
2) Trial cases have a higher rate of jail sentences than plea bargained cases (for all 4 groups).
3) Trial cases have a higher rate of prison sentences than plea bargained cases (for 3 out of 4 groups).
4) Incarceration rates (i.e., jail sentences plus prison sentences) are higher for trial cases than plea bargained cases (for all 4 groups).

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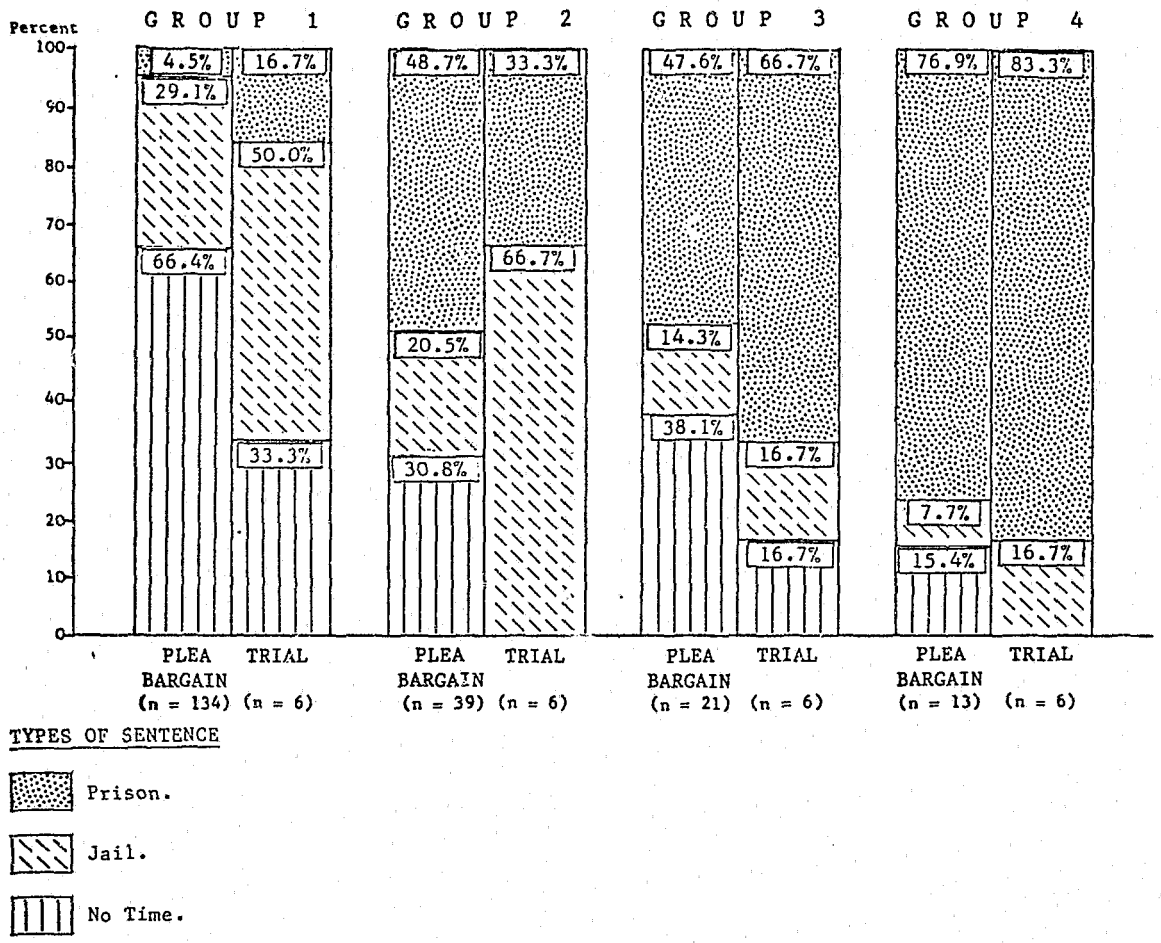
[1] Included in the no time category are cases in which the sentence is: a fine, a fine or the workhouse should the fine not be paid, probation (stay of imposition or execution of the sentence), or a suspended jail sentence. Defendants in this category have sentences which do not require incarceration.

Included in the jail category are defendants who are sentenced to serve time for a year or less. This can occur under two conditions: when the imposition or execution of the sentence is stayed and the defendant placed on probation with jail time as a condition of probation, and when the defendant is sentenced to jail time only in the absence of probation.

The prison category consists of cases in which the defendant is sentenced to prison. All commitments to prison exceed one year.

FIGURE 20: PERCENTAGE OF TYPES OF SENTENCES RECEIVED BY DEFENDANTS WHO PLEA BARGAIN AND DEFENDANTS CONVICTED AT TRIAL
(Selected Groups of Cases)



In short, plea bargaining exerts a marked impact on the type of sentence received. When compared to defendants convicted at trial, the sentences of defendants who plea bargain involve incarceration less often.

b. Record of Conviction

In Minnesota the sentence imposed determines the record of conviction. In other words, a defendant who pleads guilty to aggravated assault (ten year statutory maximum sentence) and is sentenced to ninety

days is not a convicted felon.[1] If the sentence imposed is within misdemeanor limits, the record of conviction is that of a misdemeanor.

Table 5 presents the records of conviction for defendants who plea bargain and defendants convicted at trial.

The findings presented in Table 5 may be summarized as follows:

1) Defendants who plea bargain are more likely to receive a stay of imposition of sentence than defendants who go to trial (for 3 out of 4 groups).

2) Defendants who plea bargain are more likely to receive a gross misdemeanor record of conviction than defendants who go to trial (for 3 out of 4 groups).

3) A misdemeanor record of conviction occurs proportionately more often for trial cases (for 3 out of 4 groups).

4) For half of the groups, trial defendants are more likely to receive felony records than defendants who plea bargain. For half of the groups, trial defendants are less likely to receive felony records than defendants who plea bargain.

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[1] In Minnesota a felony is a crime for which a sentence of imprisonment for more than one year may be imposed. A misdemeanor is a crime for which a sentence of not more than 90 days (or a fine of $500.00 or both) may be imposed. A gross misdemeanor is a crime which is not a felony or misdemeanor. Further, Minnesota laws provide that notwithstanding that a conviction is for a felony, that the conviction is deemed to be for a misdemeanor or gross misdemeanor if the sentence imposed is within the limits provided by law for misdemeanor or gross misdemeanor. Also, notwithstanding that the conviction is for a gross misdemeanor that the conviction is deemed to be for a misdemeanor if the sentence imposed is within the limits provided by law for a misdemeanor. See *Minnesota Statutes*, Chapters 609.02 subd. 2, 609.02 subd. 3, 609.02 subd. 4, and 609.13.

CONTINUED

1 OF 2

TABLE 5

RECORDS OF CONVICTION FOR DEFENDANTS WHO PLEA BARGAIN AND DEFENDANTS CONVICTED AT TRIAL
(Selected Groups of Cases)

	GROUP 1		GROUP 2		GROUP 3		GROUP 4	
	PLEA BARGAIN	TRIAL	PLEA BARGAIN	TRIAL	PLEA BARGAIN	TRIAL	PLEA BARGAIN	TRIAL
RECORD OF CONVICTION	Percent (Frequency)	Percent (Frequency)	Percent (Frequency)	Percent (Frequency)	Percent (Frequency)	Percent (Frequency)	Percent (Frequency)	Percent (Frequency)
Felony	17.9% (24)	66.7% (4)	71.8% (28)	66.7% (4)	66.7% (14)	100.0% (6)	92.3% (12)	83.3% (5)
Gross Misdemeanor	9.0 (12)	--- ---	10.3 (4)	--- ---	23.8 (5)	--- ---	--- ---	--- ---
Misdemeanor	13.4 (18)	16.7 (1)	10.3 (4)	33.3 (2)	--- ---	--- ---	7.7 (1)	16.7 (1)
Stay of Imposition	59.7 (1)	16.7 (1)	7.7 (3)	--- ---	9.5 (2)	--- ---	--- ---	--- ---
TOTAL	100.0% (55)	100.1% (6)	100.1% (39)	100.0% (6)	100.0% (21)	100.0% (6)	100.0% (13)	100.0% (6)

Because of the relatively small numbers of cases within the trial category, conclusive statements must be founded on the existence of patterns that appear across the majority of groups rather than the distribution of cases within any one group. In regard to the record of conviction, we find no clear-cut pattern which indicates that plea bargaining reduces the likelihood of receiving a felony record, or conversely that going to trial increases the likelihood of a felony record. However, we can say that a stay of imposition of sentence and a gross misdemeanor record of conviction occur with greater frequency for plea bargained cases. Additionally, misdemeanor records are found proportionately more often for cases settled at trial, and this finding is somewhat contrary to expectations.

c. Average Length of Incarceration

For persons sentenced to serve incarceration time, we have calculated the average sentence (in months) within the selected groups of cases comparing defendants who plea bargain to defendants convicted at trial. The results are shown in Table 6.

The figures in Table 6 illustrate two major findings. First, the average length of prison time is greater for trial cases than plea bargained cases (for all 4 groups). Second, for cases resulting in jail time, there is no pattern which holds for all groups. (For two groups there is no difference between plea bargained and trial cases, and for the remaining two groups the results are split.)

TABLE 6

MEAN LENGTH OF JAIL AND PRISON SENTENCES (IN MONTHS) FOR DEFENDANTS WHO PLEA BARGAIN AND DEFENDANTS CONVICTED AT TRIAL
(Selected Groups of Cases)

	GROUP 1		GROUP 2		GROUP 3		GROUP 4	
	PLEA BARGAIN	TRIAL	PLEA BARGAIN	TRIAL	PLEA BARGAIN	TRIAL	PLEA BARGAIN	TRIAL
TYPE OF INCARCERATION	Mean Sentence (Frequency)	Mean Sentence (Frequency)	Mean Sentence (Frequency)	Mean Sentence (Frequency)	Mean Sentence (Frequency)	Mean Sentence (Frequency)	Mean Sentence (Frequency)	Mean Sentence (Frequency)
JAIL	4.2 (39)	10.0 (3)	7.4 (7)	5.3 (4)	12.0 (3)	12.0 (1)	3.0 (1)	3.0 (1)
PRISON	36.0 (6)	60.0 (1)	127.6 (19)	270.0 (2)	94.2 (10)	126.0 (4)	112.8 (10)	175.2 (5)

Therefore, it appears that if one is convicted at trial and sentenced to prison it will be for a longer period of time than a similarly situated defendant who plea bargains. Plea bargained cases result in shorter prison sentences than cases settled at trial.

d. Summary

The preceding analysis examines the types of sentence, records of conviction, and lengths of sentence for defendants who plea bargain and defendants convicted at trial. We controlled for the effects of other variables which independently affect the type and length of sentence and arrived at four groups of comparable cases. The following conclusions are based on the existence of patterns found across the majority of the groups. Generally, incarceration rates are higher for trial cases than for similar cases involving plea bargains. Furthermore, for comparable cases which involve prison sentences, the average length of sentence is longer for cases that go to trial than for cases which are plea bargained.

2. Defendants Who Plea Bargain vs. Defendants Who Enter Non-Negotiated Pleas of Guilty

This section presents the sentences received by defendants who plea bargain and compares them to the sentences received by defendants who are convicted by non-negotiated pleas of guilty. For similar groups of cases, the records of conviction, types of sentence and average lengths of incarceration are examined. Does the defendant who enters a negotiated guilty plea fare better than the defendant who enters a straight plea?

In order to perform this comparative analysis of sentences, similar types of cases and similarly situtated defendants are a necessary prerequisite. Previous analysis has identified several variables which are

independently associated with the type and length of sentence (i.e., prior conviction record, type and seriousness of crime, and number of counts). Accordingly, these variables must be taken into account when comparing the sentences received. Within the subsample of male defendants whose cases are settled by straight pleas of guilty, we find seven groups of cases representing various conditions of the above-mentioned control variables and containing ample numbers of cases for comparison. Unlike the preceding section which dealt with general categories of types of crime (due to the small number of cases settled at trial), this analysis is offense-specific and within each group the most serious offense charged is the same for all cases. All groups contain one count cases. Unfortunately, the usual statistical techniques cannot be readily applied to these data due to the restrictive size of the categories. For the sake of simplicity in presentation, the seven groups are defined below and the reader is requested to refer back to these groups when viewing the following figures and graphs:

Group 1:

— Burglary (5 year statutory maximum sentence)
— No prior conviction record

Group 2:

— Burglary (5 year statutory maximum sentence)
— Light prior conviction record

Group 3:

— Aggravated forgery/uttering (10 year statutory maximum sentence)
— No prior conviction record

Group 4:

— Theft (5 year statutory maximum sentence)
— No prior conviction record

Group 5:

— Theft (5 year statutory maximum sentence)
— Light prior conviction record

Group 6:

— Unauthorized use of a motor vehicle (UUMV) (3 year statutory maximum sentence)
— No prior conviction record

Group 7:

— Possession of a Schedule I or II non-narcotic or Schedule III controlled substance[1] (3 year statutory maximum sentence)
— No prior conviction record

a. Type of Sentence

Figure 21 presents a breakdown of the types of sentences received comparing groups of cases that involve plea bargains with groups of cases settled by straight (non-negotiated) pleas of guilty.

Figure 21 illustrates one major finding: defendants who plea bargain are less likely to be incarcerated than similar defendants who enter straight pleas of guilty. This is apparent for five of the seven groups of cases. Thus, the entry of a straight guilty plea results in incarceration more often than the entry of a negotiated plea.

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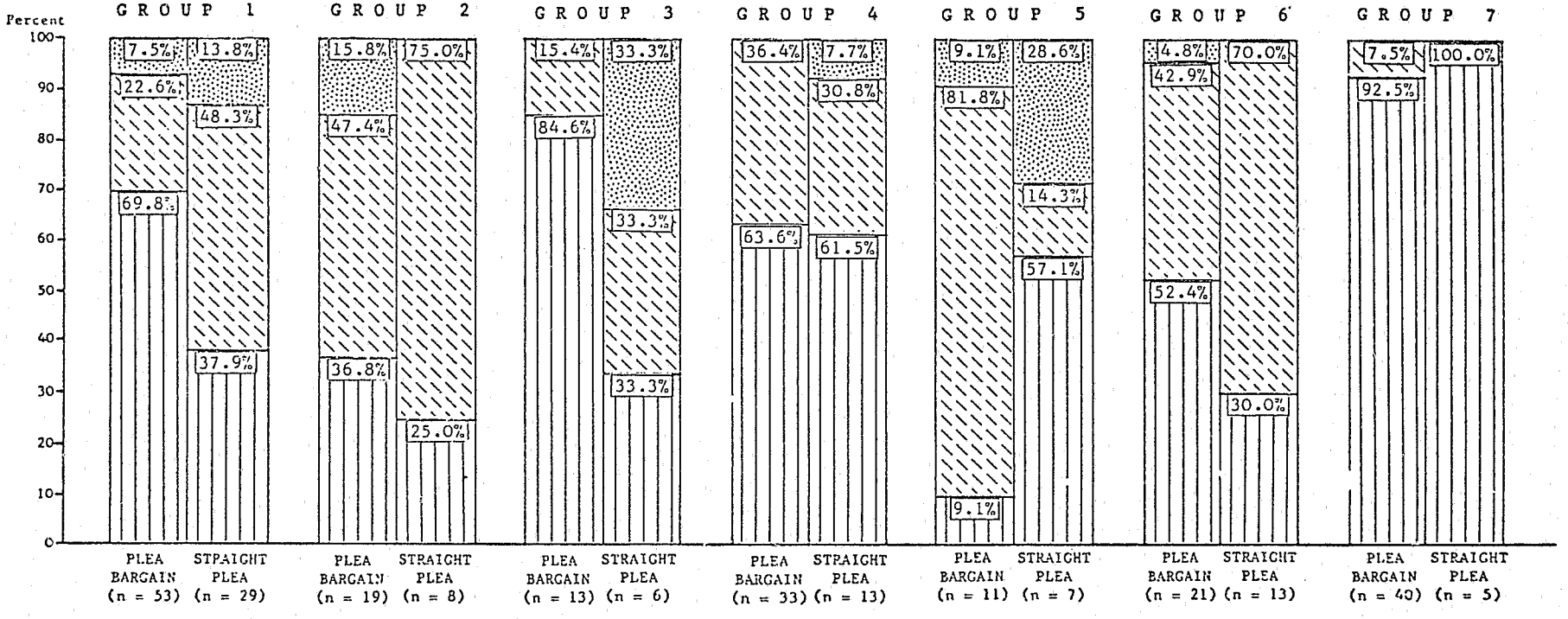
[1] In 1975 the classification of controlled substances was as follows: Schedule I--opium derivatives (codeine, heroin, morphine); hallucinogenics (LSD, mescaline, marijuana, peyote, psilocybin); Schedule II--opium products, opium equivalents, opium poppy, cocoa leaves; Schedule III--amphetamines, barbituric acid.

FIGURE 21: PERCENTAGE OF TYPES OF SENTENCES RECEIVED BY DEFENDANTS WHO PLEA BARGAIN AND DEFENDANTS WHO ENTER A STRAIGHT PLEA OF GUILTY
(Selected Groups of Cases)



TYPES OF SENTENCE

Prison.

Jail.

No Time.

b. Record of Conviction

Presented in Table 7 are the records of conviction for defendants who plea bargain and defendants who enter a straight plea of guilty.

In regard to Table 7 and the relationship between plea bargaining and record of conviction, we find that straight guilty plea cases result in proportionately more felony conviction records than plea bargained cases. This pattern appears in six of the seven groups of cases (see Table 7). Conversely, for cases settled by plea negotiations we find a preponderance of non-felony conviction records (i.e., gross misdemeanor, misdemeanor and stay of imposition) when compared to similar cases settled by straight guilty pleas. Thus, plea bargaining decreases the likelihood of a felony conviction record when compared to straight plea cases.

TABLE 7

RECORDS OF CONVICTION FOR DEFENDANTS WHO PLEA BARGAIN AND DEFENDANTS WHO ENTER A STRAIGHT PLEA OF GUILTY
(Selected Groups of Cases)

RECORD OF CONVICTION	GROUP 1		GROUP 2		GROUP 3		GROUP 4		GROUP 5		GROUP 6		GROUP 7[a]	
	Plea Bargain	Straight Plea	Plea Bargain	Straight Plea	Plea Bargain	Straight Plea	Plea Bargain	Straight Plea	Plea Bargain	Straight Plea	Plea Bargain	Straight Plea	Plea Bargain	Straight Plea
FELONY:														
Percent	30.2%	62.1%	47.4%	62.5%	38.5%	33.3%	6.1%	61.5%	36.4%	71.4%	19.1%	50.0%	5.0%	20.0%
(Frequency)	(16)	(18)	(9)	(5)	(5)	(2)	(2)	(8)	(4)	(5)	(4)	(5)	(2)	(1)
GROSS MISDEMEANOR:														
Percent	11.3	6.9	26.3	---	---	---	12.1	---	27.3	---	9.5	10.0	7.5	20.0
(Frequency)	(6)	(2)	(5)	---	---	---	(4)	---	(3)	---	(2)	(1)	(3)	(1)
MISDEMEANOR:														
Percent	7.5	---	---	---	15.4	---	15.1	---	36.4	---	14.3	10.0	10.0	---
(Frequency)	(4)	---	---	---	(2)	---	(5)	---	(4)	---	(3)	(1)	(4)	---
STAY OF IMPOSITION:														
Percent	50.9	31.0	26.3	37.5	46.1	66.7	66.7	38.5	---	28.6	57.1	30.0	77.5	60.0
(Frequency)	(27)	(9)	(5)	(3)	(6)	(4)	(22)	(5)	---	(2)	(12)	(3)	(27)	(3)
TOTAL	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%
	(53)	(29)	(19)	(8)	(13)	(6)	(33)	(13)	(11)	(7)	(21)	(10)	(40)	(5)

[a]For cases within Group 7, defendants sentenced under *Minnesota Statute*, Chapter 152.18 are included in the stay of imposition category.

c. Average Length of Incarceration

The following analysis compares the average length of incarceration for plea bargained and straight guilty plea cases. The number of defendants sentenced to prison (for the selected groups of cases) is too low to merit presentation, and therefore this comparison deals exclusively with the average length of jail terms (see Table 8).[1]

TABLE 8

MEAN LENGTH OF JAIL SENTENCES (IN MONTHS) FOR DEFENDANTS WHO PLEA BARGAIN AND DEFENDANTS WHO ENTER A STRAIGHT PLEA OF GUILTY
(Selected Groups of Cases)

	PLEA BARGAIN	STRAIGHT PLEA
GROUPS	Mean Sentence (Number of Cases)	Mean Sentence (Number of Cases)
1	6.8 (12)	8.4 (14)
2	6.5 (9)	7.2 (6)
3	0.8 (2)	2.5 (2)
4	2.6 (12)	8.0 (4)
5	4.0 (9)	9.0 (1)
6	3.5 (9)	7.3 (7)
7	2.4 (3)	-- --

As shown in Table 8, the mean jail sentences are shorter for defendants who plea bargain compared to defendants who enter straight pleas of

[1] The lower rates of imprisonment for these groups of cases can be attributed to: 1) the absence of heavy prior records, 2) single count cases, 3) the types of crimes are primarily property offenses, 4) the relatively low statutory maximum sentences for the majority of the offenses.

guilty. This occurs in six of the seven groups of cases. Thus, given the same offense, number of counts and prior conviction record, defendants who plea bargain receive shorter jail sentences than defendants who do not.

d. Summary

This analysis compares the sentences of defendants who plea bargain to those of defendants who enter straight (non-negotiated) pleas of guilty. We utilized groups of cases in which the specific offense charged, number of counts and prior conviction record was the same for every individual. The following statements are based on the existence of patterns found across the majority of the groups.

First, plea bargaining reduces the likelihood of receiving a sentence that involves incarceration. Defendants who plea bargain have a lower proportion of sentences that require incarceration than defendants who enter straight guilty pleas. Second, plea bargaining diminishes the probability of receiving a felony record of conviction. Defendants who plea bargain receive sentences which result in non-felony conviction labels more often than sentences of defendants who enter straight guilty pleas. Finally, plea bargaining decreases the average length of incarceration for persons sentenced to jail. The mean length of incarceration in jail is less for defendants who plea bargain compared to defendants who enter straight pleas of guilty.

In conclusion it appears that defendants who plea bargain are sentenced more leniently than defendants who are convicted at trial or by their own non-negotiated pleas of guilty.

E. THE IMPACT OF OTHER FACTORS ON THE SEVERITY OF SENTENCE

One of the intentions of this study is to examine which variable or set of variables is related to the severity of the sentence a defendant receives. Data have previously been presented which discuss the relationship between case-related variables and the type of sentence received (see *Sentencing in Minnesota District Courts* [St. Paul: Crime Control Planning Board, 1978]). However, whenever variables are considered one at a time in relation to another variable (such as sentence), this does not completely describe the interrelationships involved. A more useful approach considers the effect of each variable on sentence while simultaneously controlling for the effects of other variables. Multiple regression analysis and automatic interaction detection (AID) are statistical techniques by which this is accomplished.

In this section we conduct an analysis of sentences received in order to determine which set of variables best accounts for variations in sentences. Rather than utilizing the length of incarceration time as a measure of sentence severity (thereby excluding the majority of probation sentences), we constructed a sentence severity index. This index incorporates into its formulation the multiple elements of a given sentence. Relative weights are assigned to the various elements as follows:

PRISON TIME = $1 + 1(X_1)$ points
One point assigned for a prison term and one point per month of sentence. Example: term of two years imprisonment = 25 points.

JAIL TIME = $1(X_2)$ points
One point for each month of jail term. Example: term of six months = 6 points.

PROBATION TIME = $.0833(X_3)$ points
The number of months on probation are assigned weights by multiplying them by .0833. Hence, one year of probation = 1 point on the index (12 x .0833 = 1). Example: three years probation = 3 points.

STAY OF EXECUTION = 2 points
The execution of a sentence may be stayed and the defendant placed on probation. The record of conviction is determined by the length of sentence imposed. Thus, a defendant receiving a stay of execution and probation receives two points for the stay of execution and .0833 points for every month of probation. Example: stay of execution and three years probation = 5 points.

STAY OF IMPOSITION = 1 point
The imposition of sentence may be stayed and the defendant placed on probation. After successful completion of the probationary period, the defendant's record of conviction becomes that of a misdemeanor. Thus, one point is deducted from the index score of a defendant who receives a stay of imposition of sentence. Example: stay of imposition and three years probation = 2 points.

FINE = 1 point
If the sentence is for a fine, the defendant receives one point.

It is apparent that this index assigns the heaviest weights to sentences of incarceration. The correlation between this index and the actual sentence (viewed strictly in terms of months of incarceration time) is extremely high.[1] However, this index is preferable and more appropriate because it takes into account sentences of probation and allows for discrimination in terms of total severity of sentence.[2]

This section has three parts: a multiple regression analysis, an automatic interaction detection (AID) analysis, and a summary. The sentence severity index is used for all statistical analysis. Multiple regression analysis is performed separately for both male and female defendants. Due to the small frequency of cases involving female defendants, automatic interaction detection analysis will be performed for

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[1] Pearson's correlation coefficient = .9661 for male defendants and .9974 for female defendants.

[2] This index is similar to the indices used in *Indicators of Justice: Measuring the Performance of Prosecution, Defense, and Court Agencies Involved in Felony Proceedings - Analysis and Demonstration*, (Santa Monica: The Rand Corporation, 1976), pp. 50-52.

male defendants only.

1. Multiple Regression Analysis

The following presents the results of the multiple regression analysis performed on the sample of male defendants. The goal of this technique is to develop a linear equation which best predicts sentence severity on the basis of independent variables.[1] For this analysis we chose independent variables known to be associated with sentence severity (based on preliminary analysis) or which have a theoretical relationship with sentencing (as suggested by the literature). Table 9 presents the R^2, the R^2 change, and the significance level for each of the independent variables.[2]

Simply put, the results of the regression analysis indicate that four variables are statistically significant in explaining variation in sentence severity. These are: statutory maximum sentence, type of conviction (i.e., trial or plea bargaining), use of a firearm, and prior

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[1] In multiple regression analysis there are two types of variables: a criterion (dependent) variable, Y, and two or more predictor (independent) variables, X, X_1, X_2, . . . , X_n. The linear equation illustrates the dependence of the criterion variables on the predictor variables. The regression coefficients are measures of the (independent) effects of each predictor variable on the dependent variable. A multiple regression analysis enters each predictor variable into the equation on the basis of its ability to explain variation (or change) in the criterion variable while controlling for the effects of other predictor variables. This process gives the equation its predictive power. In this case, the criterion variable Y is the sentence received as measured by the sentence severity index. The index of the predictive power of the regression equation is R^2. The value of R^2 ranges from zero (no predictive accuracy of the dependent variable) to 1.0 (perfect predictive accuracy).

[2] A stepwise regression technique is used. Appendix Table 0 presents the Beta-weights and elasticity for the independent variables. For male defendants, the significance level is .005.

adult conviction record. As seen in Table 9, the statutory maximum sentence is by far the strongest variable in explaining sentence severity. The next best predictor is whether or not a case is settled at trial, and this variable accounts for only 3.2 percent of the total variance (when controlling for the effect of statutory maximum sentence). The weakest statistically significant variable is plea bargaining, which accounts for .6 percent of the total variation in sentence severity (when controlling for the preceding variables).

TABLE 9

VALUES OF R^2 FOR REGRESSION ANALYSIS
MALE DEFENDANTS[a]

VARIABLE	R^2	R^2 CHANGE	SIGNIFICANCE LEVEL
Statutory Maximum Sentence[b]	.243	.243	< .001
Trial[c]	.275	.032	< .001
Use of Firearm[d]	.303	.028	< .001
Prior Conviction Record	.321	.018	< .001
Plea Bargain[e]	.327	.006	.005
Black[f]	.328	.001	.284
White[f]	.329	.001	.254
Number of Counts Charged	.329	--	.301
Drug Crime[g]	.330	.001	.536
Crime Against Person[g]	.330	--	.900
Property Crime[g]	.330	--	.831

[a] n = 965

[b] This pertains to the most serious offense originally charged.

[c] This is a dummy variable indicating the presence or absence of trial.

[d] This is indicated by the presence of *Minnesota Statute*, Chapter 609.11 on the criminal information at the time of sentencing.

[e] This is a dummy variable indicating the presence or absence of a plea bargain.

[f] Black and white are both dummy variables indicating the presence or absence of each respective racial category.

[g] These are dummy variables which indicate the presence or absence of each respective type of crime.

The R^2 (proportion of explained variance) is .327 which means that roughly 33 percent of the variance in sentence severity can be explained by these variables. The variables that do not meet the conditions of statistical significance are race, number of counts and type of crime. The contribution of these variables to the equation is slight (the combined R^2 change is .003).

Thus, using regression techniques we find four variables which explain the variance in sentence severity for male defendants: statutory maximum sentence, type of conviction, use of a firearm, and prior conviction record. These results must be tempered by the fact that nearly two-thirds of the variation in sentence severity is *not* explained by these variables. In other words, even though we have examined the variables which seem to be the most relevant to sentence severity, they in fact do little to explain how the Court arrives at its decisions.

We now direct attention toward the sample of female defendants. Again, a multiple regression analysis is performed. Table 10 presents the independent variables and the corresponding R^2, R^2 change and significance level for each variable in the regression equation.[1]

The regression results show that four variables are statistically significant in explaining variation in sentence severity for female defendants. These are: use of a firearm, prior conviction record, number of counts charged, and number of outside charges. As shown in Table 10

[1]Appendix Table P presents the Beta-weights and elasticity for the independent variables. For female defendants, the significance level is .05. As with the male defendants, a stepwise regression technique is used.

use of a firearm accounts for 24.9 percent of the total variance in sentence severity. The next best predictor is prior conviction record which explains 15.1 percent of the variance (when controlling for the effects of use of a firearm). The weakest variable is number of outside charges which accounts for 2.1 percent of the variation in sentence severity (when controlling for the effects of the preceding variables).

TABLE 10

VALUES OF R^2 FOR REGRESSION ANALYSIS
FEMALE DEFENDANTS[a]

VARIABLE	R^2	R^2 CHANGE	SIGNIFICANCE LEVEL
Use of a Firearm[b]	.249	.249	< .001
Prior Conviction Record	.400	.151	< .001
Number of Counts Charged	.484	.084	< .001
Number of Outside Charges	.505	.021	.047
White[c]	.519	.014	.088
Plea Bargain[d]	.528	.009	.178
Drug Crime[e]	.534	.006	.256
Black[c]	.537	.003	.486
Trial[f]	.537	--	.686
Property Crime[e]	.537	--	.843
Crime Against Person[e]	.538	.001	.803

[a] n = 105

[b] This is indicated by the presence of *Minnesota Statute*, Chapter 609.11 on the criminal information at the time of charging.

[c] White and black are both dummy variables indicating the presence or absence of each respective racial category.

[d] This is a dummy variable indicating the presence or absence of a plea bargain.

[e] These are dummy variables which indicate the presence or absence of each respective type of crime.

[f] This is a dummy variable indicating the presence or absence of trial.

The R^2 (proportion of explained variance) is .505 which means that roughly 50 percent of the variance in sentence severity can be explained by these four variables. Variables that do not meet the conditions of statistical significance are race, type of conviction, and type of crime. The combined contribution of these variables to the equation is not

significant (R^2 change is .033).

In short, the best predictors of sentence severity for females account for approximately 17 percent more variance than the best predictor variables for males. Four variables explain one-half of the variance in sentence severity for women. These variables are somewhat different than the best predictor variables for males, as illustrated below (in the order of their predictive power).

Female Defendants	Male Defendants
use of a firearm	statutory maximum sentence
prior conviction record	type of conviction
number of counts	use of a firearm
number of outside charges	prior conviction record

2. Automatic Interaction Detection (AID) Analysis

This section presents the results of automatic interaction detection (AID) analysis and examines the question of sentence severity. What variables or set of variables account for variations in sentence severity? While the multiple regression analysis provides insight into this question, this technique carries the analysis one step further.

Regression analysis is most useful for interval level variables which exhibit additive effects. Unfortunately, however, many of the variables contained in this study are nominal level and therefore must be converted into dummy variables for inclusion in the regression analysis (see Tables 9 and 10). While this conversion is methodologically sound, it necessarily creates problems of interpretation when a number of dummy variables are entered into the regression equation. Automatic interaction detection (AID) analysis, on the other hand, is designed specifically for categorical, non-interval data. Also considered in the choice of this method is the

likelihood of interactive (non-additive) effects among the independent variables within the regression equation.[1] Application of AID analysis resolves the problem of dummy variables and interaction effects. Thus, it should not only alleviate some problems of multiple regression, but more than likely will enhance the findings of the regression analysis. A prerequisite for AID is a large number of cases and consequently this section is limited to data on male defendants.

Aid is an analysis of variance procedure which employs a non-symmetrical branching process. The sample is split into a series of sub-groups which maximize one's ability to predict values of the criterion variable (i.e., sentence severity).[2] For this analysis we used the same variables as for the multiple regression analysis and the results are presented in Figure 22.[3]

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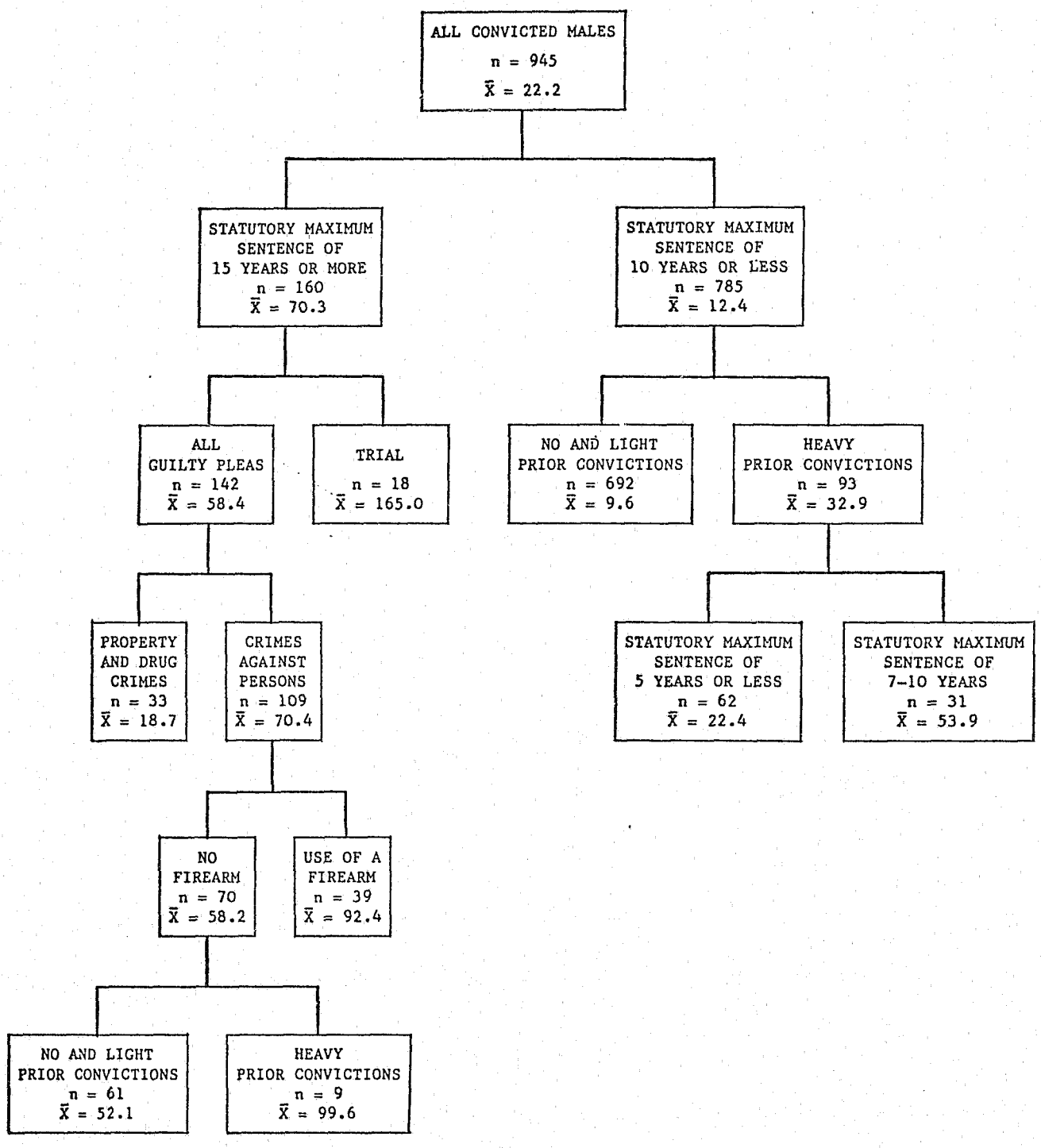
[1]Donald McTavish and Herman Loether explain statistical interaction in the following manner: "If two variables, A and B, each explain some of the variation in a dependent variable, their combined explanatory power may be simply a sum of their separate effects. That is, they each contribute a part to their combined effect on a dependent variable. They have an *additive effect*. Contrasted with this additive effect are *interaction effects* in which specific combinations of categories of two or more independent variables (or independent and control variables) explain more of the variation in a dependent variable than would be expected from a simple additive combination of their separate effects." *Descriptive Statistics for Sociologists* (Boston: Allyn and Bacon, Inc., 1974), p. 289.

[2]In order for a group to be split, three eligibility criteria must be met: 1) the group must contain a sufficient proportion of the total variation (sum of squares) of the criterion (dependent) variable (P_1 = .008), 2) the proportion of explained variation (sum of squares) must increase by at least .0075 (three-fourths of one percent), and 3) there must be at least forty cases within the group.

[3]For the purpose of AID analysis slight modifications in the variables are necessary. Type of crime, race, and type of conviction are no longer dummy variables. Number of counts charged is dichotomized into single and multiple count cases. The statutory maximum sentence is grouped into five categories.

FIGURE 22: SENTENCE SEVERITY INDEX PARTITIONED BY PREDICTOR VARIABLES USING AUTOMATIC INTERACTION DETECTION



$\bar{X}$ = mean sentence severity index score

The first box of the diagram represents all convicted male defendants and the mean severity score is 22.2. The maximum reduction in the unexplained variance of sentence severity is obtained by splitting that sample into two groups: one where the statutory maximum sentence is 15 years or more (hereafter referred to as more serious cases), and a group of cases in which the statutory maximum sentence is ten years or less (hereafter referred to as less serious cases). For the more serious cases the mean sentence severity score is 70.3 and this compares with a mean score of 12.4 for the less serious cases. This indicates that the average sentence for more serious cases is greater than the average sentence for less serious cases.

Next, one can observe how each of the two groups (more and less serious cases) breaks down further according to those variables which explain the variance in sentence severity. The next distinguishing variable for the more serious cases is type of conviction. There is a split into cases settled by guilty plea and cases settled by trial. Note that the mean sentence severity score is greater for the group of defendants convicted at trial when compared to the score of defendants who plead guilty. (Scores of 165.0 compared to 58.4 for trial and guilty plea defendants, respectively.) Again we see how a conviction at trial influences the severity of the sentence received.

As seen in Figure 22, the trial group ends and the guilty plea group splits according to type of crime.[1] Property and drug crimes form one group, while cases involving crimes against persons form the other. As

[1]Any group will fail to branch out further for failure to meet any of the three eligibility requirements discussed earlier. (See footnote 2 on page 99.)

expected, the mean sentence severity score is greater for cases involving crimes against person (when compared to the scores of property and drug crimes). This group is further broken down by use of a firearm and prior conviction record. Observe the differences in the mean sentence severity scores for the remaining groups of cases

Directing attention to the top of Figure 22 and the less serious cases, we see how different factors operate to reduce the amount of unexplained variation in sentence severity. For the less serious cases, prior conviction record appears as a discriminating factor. Males with heavy prior conviction records form one group, and males with no and light prior convictions form the other. For the group with heavy prior convictions the mean sentence severity score is 32.9 which compares to a score of 9.6 for males with no and light prior convictions. This confirms our preliminary findings concerning the relationship between prior conviction record and the sentence received.

For males with heavy prior conviction records involved in the less serious crimes, the statutory maximum sentence again plays a role in reducing the amount of variation in sentence severity. The tree breaks into two groups: one with statutory maximum sentences of five years or less, and one with statutory maximum sentences of seven to ten years. The mean scores are 22.4 and 53.9, respectively, indicating that higher statutory maximum sentences yield greater mean sentence severity scores.

AID analysis confirms the results of the regression in establishing the importance of the statutory maximum sentence in the explanation of

variations in sentence severity.[1] Second, since AID allows for interaction effects, the proportion of explained variance is higher than that acheived by the regression analysis (38.8 percent vs. 32.7 percent).[2] Moreover, AID reveals the influence of type of crime and distinguishes five variables which significantly contribute to the explanation of sentence severity. These are: statutory maximum sentence, type of conviction, use of a firearm, type of crime, and prior conviction record.[3]

3. Summary

This section examines the sentences received by use of a sentence severity index. For female defendants, a multiple regression analysis is performed, and for male defendants the regression is coupled with automatic interaction detection (AID) analysis.

Different factors operate to explain sentence severity for male and female defendants. For females, but not males, the number of counts in a case and the number of outside charges are significant factors. For men, but not women, the type of conviction, type of crime, and statutory maximum sentence are significant factors in explaining variations in sentence severity. For both men and women, prior conviction record and use of a firearm are statistically significant. On the basis of this analysis it appears that the Court considers different criteria

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[1] As in the regression analysis, this refers to the statutory maximum sentence of the most serious offense charged in a case.

[2] The percentage of explained variance is statistically significant well beyond the .0001 level. F = 84.9.

[3] Recall that with regression analysis we found four variables. AID reveals the same four with the addition of a fifth; type of crime. The emergence of type of crime can in all probability be attributed to the interaction effect of the more serious statutory sentences and crimes against persons.

when sentencing female and male defendants.

In addition to these differences, the factors affecting sentence severity for women offer greater explanatory power than the factors affecting sentence severity for men. Even with the use of two statistical techniques in examining the data on male defendants, we are better able to explain variations in the sentences accorded women.

In the case of women, we can account for 50 percent of the variation in sentence severity. This compares to 39 percent for males. But, for both men and women, we are left with a great deal of unexplained variance. This unexplained variance can possibly be attributed to factors not measured by this study. Such factors include: the degree of harm to the victim, the age and sex of the victim, prior adult arrests, prior juvenile involvements, the types of crime for past involvements, the legal status of the defendant at the time of arrest, and other non-criminal characteristics or circumstances of the defendant.

IV. CONCLUSIONS AND RECOMMENDATIONS

This report contains largely descriptive information concerning the practice of plea bargaining in Minnesota's district courts. The vast majority of criminal cases are settled by negotiations between the prosecution and defense counsel which culminate in a plea of guilty. Roughly two-thirds of all cases involve plea negotiations. Roughly 90 percent of all convictions are the result of a guilty plea, and of these approximately three-fourths are the result of a plea negotiation.

Across the eleven counties contained in the sample, there is a great deal of variation in the amount of plea bargaining. Plea bargaining

rates range from a low of 46 percent to a high of 92 percent. This variation cannot be attributed to county population or criminal caseload within a given county. Greater numbers of criminal cases do not result in more plea bargaining, and larger counties do not plea bargain more than smaller counties.

Public defender and privately retained defense attorneys plea bargain at similar rates. There is no relationship between the type of attorney and the type of plea agreement reached.

The most common type of plea agreement involves prosecutorial recommendations concerning sentence and more often than not the Court concurs with them. The most frequently occurring type of sentence agreement is when the prosecution recommends a sentence length which is less than the statutory maximum sentence. Since Minnesota is presently in the process of developing sentencing guidelines for felony and gross misdemeanor cases, this finding is of particular interest. If the most common form of plea bargaining is sentence bargaining, then any alterations in sentencing parameters will necessarily affect the type of plea bargaining, and perhaps the frequency of plea negotiations.

Under the present system, for example, a judge may impose a sentence of zero to ten years to be served at the state prison.[1] In a typical plea bargaining situation (under these circumstances) the prosecution may offer to recommend a sentence not to exceed five years in exchange for the defendant's plea of guilty. With the implementation of sentencing guidelines, however, the range of possible sentences (in years) will

[1]The parole board determines the actual amount of time served.

be lessened. Judicial discretion in determining length of sentence will be diminished and this alone could have the effect of reducing the potential for sentence bargaining. Further, and of equal importance, is the effect of the guidelines on prosecutorial sentence recommendations. The ability of the prosecutor to encourage guilty pleas by offering reduced sentences may be curtailed by establishment of the guidelines. Hence, one could anticipate a reduction in sentence bargaining as a result of the guidelines, and this could lead to an increase in charge bargaining (although this is mere conjecture). At the very least, we can anticipate a change in the types of plea bargaining across the state because sentence bargaining as it now exists may no longer be possible. The effect of this may be an increase in other types of plea bargaining or the emergence of new types of plea bargaining.

For male defendants, plea bargaining results in sentences which are more lenient than those of defendants convicted by other means. When controlling for prior record, general type of crime and number of counts charged, we find higher rates and longer terms of incarceration for persons convicted at trial. Similarly, when examining specific offenses (controlling for prior record and number of counts) the sentences of defendants convicted by non-negotiated pleas of guilty are more harsh than the sentences of defendants who plea bargain. Specifically, we find higher rates of incarceration, more felony records of conviction and longer jail terms. Multivariate techniques verify the importance of type of conviction in explaining variations in sentence severity for male defendants.

This finding raises interesting questions for the Sentencing

Guidelines Commission. Males convicted at trial receive harsher sentences than similarly situated males who plead guilty. Although this practice is sanctioned by the American Bar Association, there are certain constitutional issues surrounding its propriety. Should defendants who exercise their constitutional right to trial be punished for so doing? Although this concept is often guised in semantic arguments (i.e., defendants who go to trial are not necessarily *punished*, rather defendants who plead guilty are *rewarded*), the fact remains that given similar circumstances, defendants convicted at trial are sentenced more harshly. The Sentencing Guidelines Commission will determine which sets of factors will be considered by all judges in sentencing, and these typically involve characteristics concerning the offense and the offender. However, the Commission should not overlook the impact of type of conviction. Although it is not directly related to the offense *or* the offender, the type of conviction is an important factor in explaining variation in sentence severity.

Different factors affect sentence severity for male and female defendants. We can account for fifty and forty percent of the variance in sentence severity for female and male defendants, respectively. For male defendants, but not females, type of conviction, type of crime, and the statutorily prescribed maximum sentence are significant in explaining variation in sentence severity. For female defendants, but not males, the number of counts in the case and involvement in additional criminal cases are significant factors. For both men and women, prior conviction record and use of a firearm play a significant role in sentencing. Thus, it appears that judges consider different criteria when sentencing male and female defendants. Given the equal protection guarantees embodied

in our laws, this finding raises serious questions for the Sentencing Guidelines Commission. Sentencing guidelines may provide the proper vehicle through which this can be addressed.

Since the Sentencing Guidelines Commission is presently in the process of developing sentencing guidelines, recommendations which stem from this research are best directed toward the Commission. On the basis of the information contained herein, the recommendations to the Sentencing Guidelines Commission are as follows:

- *That the Commission be aware of the prevalence of sentence bargaining and anticipate changes in the type of plea bargaining as a result of the guidelines.* Analysis indicates that the most common type of plea agreement is the sentence agreement, and that in most cases this involves a prosecutorial recommendation which places an upper limit on the maximum sentence which is less than the statutory maximum sentence. Thus knowing, the Commission would be well-advised to consider the possible impact of the guidelines on plea bargaining, anticipating a decrease in sentence bargaining as it currently exists.

- *That the Commission address the use of a stay of imposition of sentence.* Analysis indicates that persons who plea bargain receive proportionately more sentences which involve a stay of imposition than defendants convicted by other means. Thus, the Commission should not overlook the use of a stay of imposition of sentence in its examination of present sentencing practices and in its formulation of sentencing guidelines.

- *That the Commission consider the influence of a defendant's plea on judicial determination of sentence.* Analysis indicates that similarly situated male defendants receive harsher sentences if convicted at trial when compared to defendants who plead guilty. Therefore, any schema which formalizes and standardizes the factors to be weighted by judges at sentencing must address this sentencing differential.

- *That the Commission acknowledge that different factors are considered in the sentencing of male and female defendants and consider this in the promulgation of sentencing guidelines.* Analysis shows that different factors operate to explain variations in sentence severity for male and female defendants. Sentencing guidelines can provide the mechanism through which to address this issue.

APPENDIX

LIST OF APPENDIX TABLES

TABLE A
Frequency Distribution
< 10 Year Crimes Against Persons - Males

Offense	Statutory Maximum Sentence	# of Cases	Percent
Aggravated Assault (no bodily harm)	5 yrs.	38	52.8
Sexual Intercourse w/child 14-16 yrs.old	5 yrs.	1	1.4
Sexual Intercourse w/child 14-16 yrs.old offender < 21 yrs.old	3 yrs.	1	1.4
Indecent Exposure	1 yr.	2	2.8
Indecent Liberties	4 yrs.	7	9.7
Indecent Liberties	7 yrs.	6	8.3
Criminal Negligence Resulting in Death	5 yrs.	15	20.8
False Imprisonment	3 yrs.	1	1.4
Attempted Simple Robbery	5 yrs.	1	1.4
TOTAL		72	100.0

TABLE B

Frequency Distribution

≥ 10 Year Crimes Against Persons - Males

Offense	Statutory Maximum Sentence	# of Cases	Percent
Aggravated Assault (bodily harm)	10 yrs.	32	15.2
Aggravated Rape	30 yrs.	15	7.1
Aggravated Sodomy	30 yrs.	4	2.0
Sodomy w/child < 10 yrs. old	30 yrs.	1	.5
Sodomy w/child 10-14 yrs. old	20 yrs.	1	.5
Sodomy w/child > 14 yrs. old	10 yrs.	3	1.4
Criminal Sexual Conduct 1st Degree	20 yrs.	9	4.2
Criminal Sexual Conduct 2nd Degree	15 yrs.	3	1.4
Criminal Sexual Conduct 3rd Degree	10 yrs.	4	2.0
Incest	10 yrs.	1	.5
1st Degree Murder	Life	6	3.0
2nd Degree Murder	40 yrs.	2	1.0
3rd Degree Murder	25 yrs.	3	1.4
1st Degree Manslaughter	15 yrs.	1	.5
Kidnapping	20 yrs.	22	10.4
Kidnapping	40 yrs.	6	3.0
Simple Robbery	10 yrs.	20	9.5
Aggravated Robbery	20 yrs.	64	30.3
Attempted 1st Degree Murder	20 yrs.	5	2.0
Attempted 2nd Degree Murder	20 yrs.	5	2.0
Attempted Aggravated Robbery	10 yrs.	4	2.0
TOTAL		211	99.9

TABLE C
Frequency Distribution
< 10 Year Property Crimes - Males

Offense	Statutory Maximum Sentence	# of Cases	Percent
Simple Arson	5 yrs.	7	1.0
Burglary	5 yrs.	187	40.0
Burglary	1 yr.	4	1.0
Possession of Burglary Tools	3 yrs.	4	1.0
Aggravated Criminal Damage to Property	5 yrs.	39	8.0
Defeating Security on Personalty	2 yrs.	1	.2
Forgery	3 yrs.	1	.2
Receiving Stolen Property	5 yrs.	4	1.0
Theft	5 yrs.	114	24.0
Unauthorized Use of a Motor Vehicle (UUMV)	3 yrs.	69	15.0
Theft by Check	5 yrs.	20	4.0
Tampering w/Odometers	1 yr.	1	.2
Attempted Burglary	5 yrs.	1	.2
Wrongfully Obtaining Public Assistance	5 yrs.	1	.2
Attempted Burglary	2½ yrs.	14	3.0
Attempted Theft	2½ yrs.	4	1.0
TOTAL		471	100.0

TABLE D
Frequency Distribution
≥ 10 Year Property Crimes - Males

Offense	Statutory Maximum Sentence	# of Cases	Percent
Aggravated Arson	25 yrs.	1	.6
Burglary	20 yrs.	25	15.1
Burglary	10 yrs.	10	6.0
Aggravated Forgery	10 yrs.	60	36.2
Receiving Stolen Property	10 yrs.	52	31.3
Theft	10 yrs.	13	7.8
Attempted Burglary	10 yrs.	4	2.4
Wrongfully Obtaining Public Assistance	10 yrs.	1	.6
TOTAL		166	100.0

TABLE E
Frequency Distribution
< 10 Year Drug Crimes - Males

Offense	Statutory Maximum Sentence	# of Cases	Percent
Sale of Schedule I and II Non-narcotics and Schedule III Drugs	5 yrs.	36	19.4
Possession w/intent to Sell Schedule I and II Non-narcotics and Schedule III Drugs	5 yrs.	37	19.9
Possession w/intent to Sell Schedule IV Drugs	3 yrs.	1	.5
Possession of Schedule I or II Narcotics	5 yrs.	13	7.0
Possession of Schedule I or II Non-narcotics or Schedule III Drugs	3 yrs.	88	47.3
Possession of Schedule IV Drugs	3 yrs.	1	.5
Attempt to Procure Schedule I Controlled Substance by Fraud	4 yrs.	3	1.6
Attempt to Procure Schedule II Controlled Substance by Fraud	4 yrs.	2	1.1
Attempt to Procure Schedule III Controlled Substance by Fraud	4 yrs.	3	1.6
Attempt to Procure Schedule IV Controlled Substance by Fraud	4 yrs.	1	.5
Bringing Drugs into State Prison	3-5 yrs.	1	.5
TOTAL		186	99.9

TABLE F
Frequency Distribution
≥ 10 Year Drug Crimes - Males

Offense	Statutory Maximum Sentence	# of Cases	Percent
Sale of Schedule I or II Narcotics	15 yrs.	11	64.7
Possession w/intent to Sell Schedule I or II Narcotics	15 yrs.	5	29.4
2nd Conviction - Possession w/intent to Sell Schedule I or II Non-narcotics or Schedule III Drugs	10 yrs.	1	5.9
TOTAL		17	100.0

TABLE G
Frequency Distribution
"Other" Crimes - Males

Offense	Statutory Maximum Sentence	# of Cases	Percent
Buying Liquor for a Minor	1 yr.	6	27.3
Misconduct of a Public Employee	1 yr.	1	4.5
Aiding an Offender to Avoid Arrest	3 yrs.	1	4.5
Obstructing Legal Process	1 yr.	2	9.1
Keeping House of Prostitution	5 yrs.	1	4.5
Engaging in Prostitution	1 yr.	1	4.5
Possession and Sale of Unstamped Cigarettes	1 yr.	1	4.5
Operating or Maintaining a Gambling Establishment	1 yr.	1	4.5
Possession of a Pistol w/out a Permit	1 yr.	3	13.6
Escape from Custody[a]	5 yrs.	2	9.1
Escape from Custody[a]	2 yrs.	3	13.6
TOTAL		22	99.7

[a] Escape from custody cases were included in the sample only in cases of multiple counts where escape was one of many offenses charged.

TABLE H
Frequency Distribution
< 10 Year Crimes Against Persons - Females

Offense	Statutory Maximum Sentence	# of Cases	Percent
Aggravated Assault	5 yrs.	1	100.0
TOTAL		1	100.0

TABLE I
Frequency Distribution
≥ 10 Year Crimes Against Persons - Females

Offense	Statutory Maximum Sentence	# of Cases	Percent
3rd Degree Murder	25 yrs.	1	20.0
Simple Robbery	10 yrs.	1	20.0
Aggravated Robbery	20 yrs.	3	60.0
TOTAL		5	100.0

TABLE J
Frequency Distribution
< 10 Year Property Crimes - Females

Offense	Statutory Maximum Sentence	# of Cases	Percent
Burglary	5 yrs.	4	8.3
Burglary	1 yr.	1	2.1
Aggravated Criminal Damage to Property	5 yrs.	1	2.1
Receiving Stolen Property	10 yrs.	1	2.1
Receiving Stolen Property	5 yrs.	15	31.3
Unauthorized Use of a Motor Vehicle	3 yrs.	3	6.3
Theft	5 yrs.	6	12.3
Wrongfully Obtaining Public Assistance	5 yrs.	16	33.3
Attempted Simple Arson	2.5 yrs.	1	2.1
TOTAL		48	99.9

TABLE K
Frequency Distribution
≥ 10 Year Property Crimes - Females

Offense	Statutory Maximum Sentence	# of Cases	Percent
Aggravated Arson	25 yrs.	2	4.0
Aggravated Forgery - Uttering	10 yrs.	33	66.0
Receiving Stolen Property	10 yrs.	4	8.0
Theft	10 yrs.	1	2.0
Wrongfully Obtaining Public Assistance	10 yrs.	10	20.0
TOTAL		50	100.0

TABLE L
Frequency Distribution
< 10 Year Drug Crimes - Females

Offense	Statutory Maximum Sentence	Cases	Percent
Sale of Schedule I and II Non-narcotics or Schedule III Drugs	5 yrs.	1	4.2
Sale of Schedule IV Drugs	3 yrs.	1	4.2
Possession w/intent to Sell Schedule I and II Non-narcotics or Schedule III Drugs	5 yrs.	6	25.0
Possession of Schedule I or II Narcotics	5 yrs.	2	8.3
Possession of Schedule I or II Non-narcotics or Schedule III Drugs	3 yrs.	6	25.0
Attempt to Procure Schedule I Controlled Substance by Fraud	4 yrs.	2	8.3
Attempt to Procure Schedule II Controlled Substance by Fraud	4 yrs.	1	4.2
Attempt to Procure Schedule III Controlled Substance by Fraud	4 yrs.	4	16.7
Attempt to Procure Schedule IV Controlled Substance by Fraud	4 yrs.	1	4.2
TOTAL		24	100.1

TABLE M
Frequency Distribution
≥ 10 Year Drug Crimes - Females

Offense	Statutory Maximum Sentence	# of Cases	Percent
2nd Conviction - Possession w/intent to Sell Schedule I or II Non-narcotics or Schedule III Drugs	10 yrs.	1	100.0
TOTAL		1	100.0

TABLE N
Frequency Distribution
"Other" Crimes - Females

Offense	Statutory Maximum Sentence	# of Cases	Percent
Obstructing Legal Process	1 yr.	1	50.0
Engaging in Prostitution	1 yr.	1	50.0
TOTAL		2	100.0

TABLE O
Results of Stepwise Multiple Regression
For Male Defendants

	Standardized B (Beta)	Elasticity	Simple R
Statutory Maximum Sentence	.384	.999	.493
Trial	.106	.063	.229
Use of Firearm	.170	2.929	.349
Prior Conviction Record	.132	.603	.236
Plea Bargain	-.088	-.310	-.112
Black	.062	.041	.173
White	.045	.225	-.118
Number of Counts Charged	.031	.113	.199
Drug Crime	.000	.000	-.142
Crime Against Person	.023	.027	.349
Property Crime	.023	.055	-.172

Standard Error of Estimate = 38.678

TABLE P
Results of Stepwise Multiple Regression
for Female Defendants

	Standardized B (Beta)	Elasticity	Simple R
Use of Firearm	.436	13.014	.499
Prior Conviction Record	.343	2.152	.433
Number of Counts Charged	.232	1.009	.333
Number of Outside Charges	.175	.184	.329
White	.197	1.089	.108
Plea Bargain	-.103	-.425	-.082
Drug Crime	-.016	-.021	-.114
Black	.081	.096	-.065
Trial	-.034	-.022	-.055
Property Crime	.073	.371	-.102
Crime Against Person	.043	.031	.398

Standard Error of Estimate = 23.504

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