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Plea Bargaining: Its Impact on Sentencing in the Military

by

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Plea Bargaining: Its Impact on Sentencing in the Military*

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Abstract

The question of the importance of plea bargaining for sentencing leniency has received considerable attention recently. This research examines the relationship between plea bargaining and sentencing in the armed forces. Records of 440 cases in five U.S. Army, Europe, court-martial jurisdictions for one twelve month period are analyzed. The study reports on decisions made at two levels of adjudication for three kinds of sentencing (discharge, deprivation of liberty, and confinement length). Sentencing outcomes of plea bargainers are compared to their original agreements, to other pleaders (straight guilty and not guilty pleaders), and to other case characteristics. The results indicate that plea bargaining favored the accused only with confinement length decisions at less serious courts. The findings also suggest that plea bargaining plays a minor role in explaining sentencing decisions.

Plea bargaining affects sentencing. Or does it? Do sentencing differentials accrue to plea negotiators? The deceptively simple and conventional answer is yes: plea bargainers consistently receive less severe punishment than other kinds of pleaders. But recent research suggests that this question is complex and any answer requires qualifiers. This paper explores the impact of bargaining on sentencing in a unique setting: the military.

Type of plea is one commonly examined variable in studies of sentencing outcomes. Some scholars have found a significant relationship between pleading guilty and mitigation of punishment (Hagan et al., 1979; Nagel & Hagan, 1982; Nardulli, 1978; Talarico, 1979; Zatz, 1984). Others have not.[1] Several efforts have been made to look at the issue through the use of multiple measures of sentence severity--specifically, the in/out (confinement vs. nonconfinement) and length of confinement decisions. Welch et al. (1985) found that guilty pleaders received lighter sentences on both measures. Wheeler et al. (1982) report that guilty pleaders failed to receive leniency in terms of the in/out decision, but did succeed in terms of the length of incarceration decision. On the other hand, Uhlman & Walker (1979, 1980), using three stylized sentencing measures, found overall leniency for guilty pleaders only when compared to those few tried by jury.[2] Finally, Eisenstein & Jacob (1977) found that pleading method made no difference for either the in/out or confinement length decision.

These conflicting findings may be in part attributed to methodological differences among studies. Sample selection, statistical technique, and variations in defintions of plea bargaining distinguish studies. Equating all guilty pleas with plea bargaining, for example, is hazardous. Some defendants plead guilty for purposes of closure (to get it over with),[3] or to limit the

negative effects of the conviction label (Bernstein et al. 1977) rather than to reduce severity of sentence. Others plead guilty because they are less able to bargain (Figueira-McDonough, 1985; Wynne & Hartnagel, 1975). Bargaining itself takes overt and covert forms, leading to different sentencing outcomes. Additionally, some of the inconsistent findings may be a result of characteristics unique to the jurisdictions,[4] time period, or offenses studied.[5]

Despite these mixed results, the weight of available evidence still favors the differential sentencing hypothesis that sentencing payoffs for plea bargaining are not illusory. Still, far too few studies have focused on multiple measured sentence differentials in different settings for us to be reasonably confident with its reality across jurisdictions. This paper addresses the oft-presumed hypothesis in a case study conducted in a specialized federal context--the armed forces. The military is a research context rarely mined in social science research (Kourvetaris & Dobratz, 1977). In fact, studies of any justice system stage in the armed forces have been almost completely neglected.

The military is important to study because of its size and impact. More than 2.1 million Americans are on active duty (Department of Defense [DOD], 1984), a number larger than the populations of seventeen of our states (Bureau of the Census [BOC], 1984).[6] Further, more active duty personnel are in the crime-prone risk group, 18-24 years, than 42 states (BOC, 1984; DOD, 1984). The responsiveness of the system of justice in the armed forces to law violations has been great. In 1983 alone, for example, more than 400,000 dispositional actions were taken by the system against active duty personnel (see Annual Report, 1984). And it the critics of military justice are correct, our citizens in uniform are subject to a second class system of

justice (Sherill, 1970; Spak, 1984).

Notwithstanding criticisms of military justice generally, its explicit plea bargaining practices have received high marks for visibility and the contractual guarantees offered accused (Gray, 1978; McMenamin, 1971; Smith & Dale, 1973). Plea bargaining and sentencing in the military, however, are different in some respects from practices in civilian jurisdictions. Part I of this study highlights these differences. Part II presents the research setting, data set, design, and plan of action of the study. Finally, Part III examines the impact of plea bargaining on sentencing, using three measures of sentence severity: A) discharge; B) in/out; and C) confinement length.

One unique feature of sentencing in the armed forces is that winners and losers in plea bargaining can be identified. The findings suggest that a bargaining strategy was more advantageous to the prosecution than for the accused for the first two decisions. The analyses of the differential hypothesis suggest that inequality of treatment is pronounced only at some decisional stages and procedural levels. The results also furnish additional evidence that variables other than dispositional mode are primarily responsible for sentencing outcome. Perhaps most importantly, the study itself focuses a glimmer of light on the operations of a control system shrouded in darkness.

I. Sentencing: Its Impact on Plea Bargaining

Plea bargaining and sentencing in the armed forces are different from such practices in other American criminal justice systems. Who decides and with what effects? These are questions whose answers differentiate the military approach to sentencing and plea bargaining from that of civilian jurisdictions. Six salient features separate military from civilian justice:

1. Sentencing Authority. Military sentencing authority resides in two sources: the court-martial and the convening authority (CA). A sentence of a court-martial must be reviewed by the officer who referred the case to trial (the CA) before becoming final. This officer has the power to approve or change the nature or extent of any court-martial punishment; however, the CA is prohibited from increasing the severity of the court sentence (Uniform Code of Military Justice [UCMJ] 1983: Articles 60, 61, 64).

2. Jury sentencing. Court-martial sentencing itself is unlike that in most American civilian jurisdictions because jury sentencing has been retained (Byers, 1968; Smith & Stevens, 1984). Only one authority may carried out both adjudication and sentencing functions. Unless an accused requests trial by judge alone, findings and sentencing power is automatically conferred on a military jury (trial by court members).[7]

3. Sentence Suspension. A court-martial does not have the discretionary authority to suspend a sentence. Suspension is exclusively reserved for the CA (UCMJ, Article 71; Manual for Courts-Martial [MCM]: para. 88, 1968) A court, however, can recommend to the CA that he or she consider a suspension of sentence. But, without any recommendation, a CA is free to suspend a sentence or any part thereof.[8]

4. Presentence information. The military system lacks presentence investigation reports and probation officers. The court-martial sentencing authority must rely upon the court participants for information which may be presented in an adversary manner. The nature of the evidence presented depends on the type of plea offered.[9]

5. Penalities. The punishments that an accused can receive distinguish the military from civilian alternatives. Depending upon both the jurisdiction of the court and the maximum punishment authorized for a particular offense,

offenders can be: (1) punitively discharged from the service; (2) deprived of their freedom;[10] (3) made to forfeit pay and allowances; (4) reduced in rank;[11] (5) fined; and (6) reprimanded. Other than deprivation of liberty and fines, there are no clear, direct parallels in civilian justice.[12]

6. Plea Bargaining. The bifurcated sentencing structure directly affects plea bargaining practices. Military plea bargaining mainly involves a sentencing agreement between the accused and the CA. The agreement is usually worked out before trial by the parties' representatives, the defense counsel and the Staff Judge Advocate (SJA), the legal advisor to the CA, or the SJA's subordinate prosecutorial staff. Memorialized in writing, the agreement becomes a contract in which the accused agrees to plead guilty and acknowledges his waiver of rights. In turn, the CA stipulates the terms of the punishment.

The military judge at the court-martial conducts a providency inquiry into the accused's plea of guilty. The judge examines all parts of the pretrial agreement (PTA) except for the quantum portion. The judge does not question the accused's understanding of the punishment agreement until after the court-martial sentencing authority has announced its own independently determined sentence. If the accused's PTA sentence is less severe than that given by the court, then the plea bargain agreement is executed. Alternatively, if the court sentence is less severe than the PTA, then the accused "beats the deal" (PTA) and the court sentence is confirmed. In the words of many military justice personnel interviewed, the accused had "two bites of the apple," two shots at receiving sentence leniency by plea bargaining.

Court selection is a critical decision for the bargainers and prosecutors. Courts develop reputations through time about the way they react

to certain kinds of cases.[13] Both parties are involved in predicting the court sentence. Each realizes that a favorable negotiated settlement is based largely on estimating the court's assessment of the worth of the case. Success for the prosecution means that they not only extracted a guilty plea from the defendant, but that the negotiated agreement overestimated the court sentence. The shorter court sentence would then by approved by the CA.[14] On the other hand, the accused, as a bargaining strategy, is interested in minimizing the severity of the approved sentence by drafting a deal which "beats the court sentence"--the PTA is less severe than the court sentence. When the agreement underestimated the court sentence, the servicemember has truly received a discounted sentence. The CA would be required to confirm the lower negotiated sentence.[15]

II. Methods

A. Research Setting

The present research was conducted as part of a larger study of Army court-martials. The setting was Western Europe where U.S. Army Europe (USAREUR) has jurisdictional control over approximately 200,000 troops dispersed throughout nine countries. USAREUR was selected for study because it is a more complete social control system than that existing in the continental United States where U.S. Supreme Court decisions have limited military jurisdiction to those offenses that are "service-connected" (See for example, O'Callahan v. Parker, 395 U.S. 258, 1969).

B. Sample

Much of the field work was devoted to examining accused case records drawn from five of the eleven USAREUR jurisdictions. Interviews were also conducted with military judges, prosecutors and defense attorneys. All general (GCM) and bad conduct special (BCD Special) court-martials for one

twelve month period ending March 1978 were reviewed. A GCM, the highest trial court, can impose any punishment authorized by law, while the BCD Special, the second highest trial court, may impose a bad conduct discharge only and confinement not exceeding six months. The few female cases in the study were eliminated. The sample size of convicted defendants consisted of 440 of which 297 were GCM processed and 143 were BCD Specials.

Pleaders were initially broken down into three groups: negotiated guilty (PTA) pleaders (43.4 percent or 191 cases), nonnegotiated (straight) guilty pleaders (13.2 percent or 58 cases), and not guilty pleaders (43.4 percent or 191 cases). The straight guilty pleaders were separated out because their plea represented implicit bargaining, cases that were easy to prove (undisputed facts), or a recognition by defendants, unwilling to deal, that they were deserving of punishment (also see note 3). Unlike explicit plea bargaining which involved visible adversariness between the parties and direct compromises over the sentence, implicit plea bargaining centered on standardized understandings between defense attorney and judge over going rates for classes of offenses without much, if any, consideration for the particular characteristics of a case.

Seventy percent of the sampled defendants were sentenced by judges. GCM guilty pleaders were more likely than not guilty pleaders to be sentenced by judge alone ($p. < .001$). Straight guilty pleaders were slightly more likely than PTA pleaders to be sentenced by judge alone ($p. = .14$). Pleading, however, was not significantly associated with sentencing court at the BCD level ($p. = .09$). These findings may in part be attributed to the generally held belief of USAREUR personnel that judicial sentencing is somewhat more consistent than court member sentencing.[16] The perceived erratic sentencing behavior of court members is to be avoided. Plea bargainers have less to risk

by being sentenced by court members than do straight guilty pleaders, who, if they do not get sentencing leniency from the court, have nothing to fall back on. Choosing the sentencing authority carefully is a more critical task at the GCM level than at the BCD Special level. The GCM stakes are higher, the sentencing outcomes can be so variable. The lower sentencing limits of a BCD Special make the wrong sentencing authority decision comparatively less costly.

C. Plan of Study

The interviews revealed that the punitive discharge and confinement at hard labor are the two forms of punishment of major concern both to the government and the accused at the GCM and BCD Special levels. These penalties are examined. The thrust of the study focuses on three issues:

1. the kinds of discharge and confinement agreements the negotiators received;
2. a comparison between negotiated agreements and the sentences negotiators received from both the court and the convening authority (CA);
3. a comparison of sentence outcomes of negotiators to other pleaders, determining whether bargaining, controlling for other factors, has an independent effect on discharge and confinement length.

1. Variables

The dependent variables are the sentencing decisions: discharge type, confinement (in/out), and confinement length in months. At each decision point, the actions of the court and the CA are analyzed. Four classes of independent variables are included: offender (age in years, race - white/nonwhite); offense (weapon involvement, most serious charged offense, crime type - violent, sexual, property, drug, and military)[17]; system (number of charged offenses, pretrial confinement, defense counsel - military/civilian, sentencing court - court members/judge alone); and plea type (negotiated guilty, straight guilty). Categorical variables are dummy

coded. The not guilty plea variable is omitted from analyses to serve as a reference point for assessing the effects of guilty plea categories. The variables used have been identifed as theoretically relevant to sentencing decisions and will not be reviewed here. Other predictors of sentence outcome such as prior record were not included because of the nature of the military sample.[18]

2. Analytic Techniques

The statistical techniques used in analyzing the data include bivariate and multivariate analyses. Discriminant analysis is used to analyze the discharge decision. This is the appropriate technique when the values of the dependent variables represent clearly defined groups (Huberty, 1975). OLS regression analysis is used to analyze the sentence length decision. Examination of the zero-order correlations showed no apparent multicollinearity. Trials were undertaken with different subsets of independent variables to identify the smallest set of variables with the fewest missing cases that produced the highest multiple correlation squared. Variables which did not add more than a trace to the explained variance were eliminated. Plea type, however, was always introduced in the trial runs to increase its opportunity to influence outcome. Other than plea type, we report results only for significant variables for each of the two court levels.

III. Sentencing Outcomes

A. Discharge Decision

1. Plea Bargain Agreements

Pretrial agreements to limit discharge were found in 188 of the 191 plea bargained cases. To capture the variety of discharge agreements, the agreements were initially classified into seven categories that were, in a

rough sense, agreements from the most to the least severe outcome: (1) dishonorable discharge (DD); (2) suspend DD (3) bad conduct discharge (BCD); (4) suspend BCD; (5) suspend any discharge; (6) no discharge; and (7) approved as adjudged.[19] The results of this classification scheme showed that there were marked differences between GCM and BCD Special bargainers. First, nearly three-fourths (74 percent) of the GCM pleaders but only about a fifth (21 percent) of BCD Special bargainers agreed to a discharge. Also, almost 40 percent of the GCMers agreed to a DD. Secondly, the GCM bargainers were much less likely to obtain suspensions (6 percent to 40 percent) and to negotiate for no discharge (2 percent to 14 percent). Thirdly, slightly fewer GCM cases were agreements to have the court adjudge the sentence (18 percent to 24 percent). In short, the GCM offenders were less likely to receive sentencing leniency.

These findings raise at least three questions. Why were some bargainers agreeable to receiving the most serious discharge? Why were more BCD Special bargainers more likely to obtain suspensions? Why were other bargainers willing to put their discharge fate exclusively in the courts' hands? Based on the interviews, we found four primary reasons for these discharge outcomes:

1. The accused was not that interested in the discharge portion of his agreement.
2. The government believed that he deserved either a particular discharge label or a second chance.
3. The government refused to negotiate the discharge.
4. The court track record controlled the parties' negotiation practices.

Those who negotiated for a discharge, especially the most severe discharge, the DD, were, as a group, more preoccupied with limiting their sentence in other respects such as confinement than in minimizing the severity of the discharge. Although the distinction between a DD and a BCD was meaningful to some military authorities, the greater stigmatization allegedly

associated with a dishonorable discharge was lost on many accused interested only in getting out of the Army.[20] Even those offenders who were concerned about the more damaging label, however, occassionally met with government resistance to reduce it. Some prosecutorial agents believed that the accused did deserve the more opprobrious label. They saw symbolic value in characterizing those who committed the equivalent of serious felonies with a DD.

Suspensions were primarily from the BCD Special group. These offenders committed less serious offenses and were considered more "salvageable." Soldiers wanted suspensions because of their time in service and, sometimes, age, giving them a vested interest in finishing out their military careers.[21] The approved as adjudged discharges were basically from one jurisdiction (86 percent). The prosecutors there believed, as a matter of policy, that it was more appropriate for the court to determine the discharge, if any, to give to the accused. The military was much more interested itself in negotiating confinement length. As the SJA there stated, "I prefer to deal with time only."

Finally, and perhaps most importantly, a sentencing court that had developed a record of what a case was worth would largely determine the kind of PTA discharge, if any, an accused would receive. For example, if a sentencing court had in similarly situated cases given accused no discharge, then the best the government could probably hope for was a suspended discharge in a PTA. Time and again interviewed participants suggested that it was the court's assessment that fixed the outer bounds of the sentencing agreement.

To identify those variables significantly related to agreement outcome, discriminant analysis was used. GCM discharge agreement, the dependent variable, was recoded into three groups with suspensions collapsed into its

definable group: DD (1,2), BCD (3,4), and No Discharge (5,6). The approved as adjudged cases were eliminated. Tables 1a through 1c identify a range of discriminant features useful in interpreting the discharge variable. Table 4a reports on the relative contribution of variables to significant changes in Rao's V. Nine out of 13 variables in the set were weeded out as not producing a significant increase in Rao's V. Four variables together were found to have significant discriminating power. Table 1b shows that both functions significantly separated the groups. The second function, however, is less important than the first (eigenvalue percentage).

The nature of the first discriminant plane may be ascertained in a variety of ways. In Table 1b, the canonical coefficient is weak. The proportion of variance in the first function that is shared with the variance in the groups in about 18 percent. The standardized coefficients in Table 1c shows that offense related offenses are important in structuring the discharge choice. System factors, however, also moderately influenced the decision. The group centroids indicate that the significant chi-square (x^2) is mostly attributed to distance in the dimensional space between the BCD discharge and the other two discharge groups, especially the dishonorable discharge group.

Examining the relative location of the group centroids in the first function and focusing on the signs of the standardized coefficients for the known separation among the groups, it appears, in order of importance, that an increase in offense seriousness, drug offenses, pretrial confinement, and military defense counsel contributed to the greatest distance among the groups. The unstandardized coefficients suggest that bargainers who committed more serious offenses, drug offenses, were not in pretrial confinement, and retained civilian defense counsel were more likely to receive a BCD discharge. Alternatively, those bargainers charged with less serious offenses are most

likely to receive no discharge, as are bargainers charged with nondrug offenses, in pretrial confinement, and who elected to be represented by military defense counsel.

The second discriminant function shows an even weaker canonical coefficient ($cc^2 = .08$). The standardized coefficients in Table 1c suggest that system factors contribute the most to the discrimination. The group centroids indicate that the significant chi-square (x^2) is mostly attributed to distance in the function space between the dishonorable discharge and both the BCD and no discharge groups.

The group centroids in the second function and the signs of the standardized coefficients shows a different order of precedence among the variables. The single most important factor affecting the discharge choice is civilian defense counsel. An absence of pretrial confinement has a moderate loading. To a much lesser extent, drug offenses also contribued to separating the groups, particularly between the DD and BCD groups. The unstandardized coefficients indicate that military defense counsel, pretrial confinement, nondrug offenses, and more serious offenses are more related to a DD.

While neither function explained much of the variance, these findings do indicate that system factors have a greater impact on receiving the most severe agreement, and offense factors have a greater impact on whether to retain or discharge bargainers. Military authorities want bargainers accused of serious offenses out. Their concern over serious drugs abusers and traffickers translates into discharges as well. It also appears that bargainers who hired civilian counsel were concerned with the kind of discharge label they would receive. Pretrial confinement findings may indicate that bargainers were perceived as either dangerous, or perhaps, immature, requiring close supervision.

Insert Tables 1a through 1c about here

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2. Court Plea Bargaining Outcomes

The question then arises of how well the plea bargainers fared in court in comparison to their agreed upon negotiated discharges. Did they "beat" the discharge deal by receiving a lower court sentence outcome than that to which they had contracted (government wins)? Alternatively, did they "beat" the court sentence by negotiating for a lower discharge outcome than that handed down by the court (accused wins)?

The GCM court sentenced the bargainers (n=145) to a DD in 31 percent, to a BCD in 50 percent (of which 10 percent were recommendations to suspend the BCD) while the remaining 19 percent received no discharge. To compare discharge agreement to court discharge outcome, the approved as adjudged cases were excluded. The relationship then between PTA and court discharge outcome was found to be statistically significant and showed a moderate degree of association (Kendall's tau c = .35, n = 119, p. < .001): those who negotiated a particular discharge agreement were more likely to receive from the court that specific discharge outcome. Further, the results indicated which bargainers beat the deal or the court sentence. Those who agreed to the most severe discharge, the DD, were also the most successful in beating the agreement: 52 percent.[22] Those who had contracted for the less serious BCD were less successful at beating the deal: only 18 percent received no discharge. On the other hand, 16 percent of the bargained BCD cases beat the court sentence of a DD. Those few who agreed to a suspension or no discharge did do slightly better at court.[23] In short, 37 percent of the accused beat the deal (court sentence less than deal) and only 8 percent of the accused

beat the court sentence (deal less than court sentence).

The BCD Special court sentenced 44 percent to a BCD, 16 percent to a BCD with a recommendation for suspension and 40 percent to no discharge (n=43). Without the approved as adjudged cases, however, 50 percent received BCDs, 19 percent were given a BCD with a recommendation for suspension, and 31 percent received no discharge. The relationship between agreement and court outcome was strong for this smaller group who faced fewer options (Kendall's tau c = .68, n = 32, p. < .01). Few of the cases were affected by the PTA: 16 percent beat the deal and only 3 percent beat the court sentence.[24]

The results were that 39 percent of the 151 cases in which the accused had agreed to a particular discharge outcome received some form of discharge modification by bargaining. Of these affected cases, 83 percent were ones in which the accused beat the discharge deal. The government was able to persuade the accused to plead guilty and to accept a more severe discharge outcome than that given by the court. This suggests that the government was more successful in discharge negotiating than the accused were, especially at the GCM level. It was also easier for the GCM bargainers to beat a particular type of negotiated discharge than to beat any discharge at all.[25] But the discharge agreement for the majority of plea bargainers failed to influence the court discharge outcome. Those who negotiated for a particular outcome were more likely to receive that court outcome than any other. The government even made out fairly well in the approved as adjudged group: most of the more serious GCM bargainers were discharged, and the less serious BCD Special negotiators were retained.[26]

3. Convening Authority (CA) Plea Bargaining Outcomes

Based on the PTA and court sentence, the CA was required to take action affirming or reducing the court sentence. Among the GCM plea bargainers, 25

percent received a DD, 55 percent received a BCD, and 20 percent were not discharged.[27] At the BCD Special level, the CA gave 57 percent a BCD (40 percent of which were suspensions), and 43 percent were not discharged.[28] All of the approved as adjudged group received the court sentence.

A comparison was made between CA action and both court sentence and PTA at the GCM and BCD Special level. The findings suggested that the CA sentence was more aligned with the court sentence than with the PTA at the GCM level,[29] while there were practically no differences between CA sentence and both court sentence and PTA at the BCD Special level.[30] The agreed discharge then had little affect on final CA discharge outcome for most plea bargainers.

4. Comparison of Plea Bargainers to Other Pleading Court Outcomes

The next question focused on how well the bargainers made out in court in comparison to other pleaders. To what extent were they credited for pleading guilty in comparison to other pleaders? If one accepts the notion that pleading guilty would be rewarded with sentencing leniency since it expedites the business of the court, then the bargainers, in comparison to the not guilty pleaders, ought to be less likely to receive the most severe discharge outcome.

First we examined the bivariate relationship between pleading and court discharge outcomes separately at the GCM and BCD Special levels. The relationships were statistically significant. Surprisingly however, we found that the bargainers seem to be more likely to receive the most severe discharge outcome.

The GCM research showed that 31 percent of the plea bargainers as opposed to 16 percent of the not guilty pleaders and 9 percent of the straight guilty pleaders received DDs. The greatest percentage difference (epsilon or E) was between the plea bargainers and the straight guilty pleaders (E = 22 percent).

Although the percentage difference between the not guilty and straight guilty pleaders was not great (7 percent), the straight guilty pleaders were least likely to receive a DD. But straight guilty pleaders were most likely to receive a BCD (E =20 percent). Further, rather than the plea bargainers being more likely to receive discharge leniency, the not guilty pleaders were more likely to receive no discharge (E = 20 percent) (x^2 = 15.38, 4df, p. < .01) (n = 296).

At the BCD Special level, findings were quite similar: 60 percent of the plea bargainers in comparison to 40 percent of the not guilty pleaders and 35 percent of the straight guilty pleaders received a BCD. The greatest BCD percentage difference was again between the plea bargainers and the straight guilty pleaders (E = 25 percent) (x^2 = .599, 2df, p. < .05) (n = 144).

It seems then that straight guilty pleaders were least likely and bargainers most likely to receive the most severe discharge. Not guilty pleaders appear to do the best. Before any confidence can be placed in such findings, however, it is necessary to introduce controls for relevant other variables in order to further interpret these findings. In an effort to assess more accurately the relationship, the data were analyzed further through the use of discriminant analysis.

In using the discriminant technique with the GCM cases, the dependent variable was treated as a trichotomous choice of the three outcomes. Table 2a reports that nine variables together were found to produced a significant increase in Rao's V. While pleading guilty without a PTA significantly changed Rao's V, a negotiated guilty plea did not. Table 2b shows that while both functions significantly separated the groups, the second function is much less important than the first (eigenvalue percentage).

The canonical coefficient of the first plane in Table 2b is moderate (35

percent). The standardized coefficients in Table 2c shows that offense related factors dominate, evidenced by their high loadings. Sentencing court has a moderate loading. But the effects of straight guilty pleas minimally contributed to the significant discrimination. An examination of the group centroids indicates that the first function separates the no discharge from the other two discharge groups, especially the dishonorable discharge group.

Based on the group centroids and the signs of the standardized coefficients in the first function, Table 2c shows, in order of importance, that an increase in the seriousness of offense, weapon involvement, nonviolent offenses, judge alone sentencing, drug and sexual offenses, a decrease in the age of the offender, an increase in the number of charges, and not pleading straight guilty contributed to the greatest distance among the groups. The unstandardized coefficients suggest that less serious offenses, nonweapon involvement, violent offenses, court member sentencing, nondrug and nonsexual offenses, older offenders, fewer charges, and an absence of a straight guilty plea are more associated with no discharge.

The canonical coefficient of the second function is weak ($cc^2 = .11$). The standardized coefficients in Table 2c suggest that sexual offenses contribute the most to the discrimination, and most serious offense the least. By examining the group centroids, we observe that the first function clearly discriminates between between the dishonorable discharge and both the BCD and no discharge groups.

The group centroids in the second function and the signs of the standardized coefficients show a different order of precedence among the variables. The single most important factor affecting the discharge choice is sexual offense. To a much lesser extent, violent offenses, an increase in age, nondrug offenses, an absence of straight guilty pleas, nonweapon

involvement, an increase in the charges, court member sentencing, and a decrease in the seriousness of the charges contributed to the greatest distance among the groups, particularly between the DD and BCD groups. The unstandardized coefficients indicate that sexual and violent offenses, older offenders, nondrug offenses, not pleading straight guilty, weapon involvement, more charges, court member sentencing, and more serious offenses are more related to a DD.[31].

Insert Tables 2a through 2c about here

The results of the analysis of the two functions are somewhat similar. The major factors affecting discharge decisions are the type and character of offense. The primary interest, however, in using the discriminant model is to ascertain whether type of plea has a significant effect. Only straight guilty plea had such an impact. A straight guilty plea is neither linked to the no discharge or, especially, the dishonorable discharge group.[32] The multivariate analysis lends support to the original zero order relationship that pleading guilty without a PTA is related to greater leniency (a BCD outcome) at the GCM level. The negotiated variable, while not making a significant contribution to the separation, is in the expected direction of receiving a harsher outcome as compared to not guilty pleading (reference group).

Tables 3a and 3b present the analysis of the BCD discharge cases. Here only three variables significantly separated the groups and they explain a smaller proportion of the variance. Cases resulting in the BCD discharge are most likely to be nonviolent offenses, negotiated pleas of guilty, and to involve offenders in pretrial confinement. Straight guilty pleas, while not a

significant variable, is again in the expected direction: no discharge.

Insert Tables 3a and 3b about here

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5. Comparison of Convening Authority (CA) Outcomes of Plea Bargainers to Others

If the plea bargainers fared relatively badly in court, it was expected that the influence of the PTA would at least cause some flatness in the percentage differences among the pleaders when the CA took action. While only the GCM plea bargainers received reductions in discharge sentence, those changes were not substantial enough, however, to offset the discharge outcomes.[33] The plea bargainers were still more likely to receive a DD.[34] At the BCD Special level, again only the plea bargainers received reduction in discharge sentence; the other two pleaders' court sentencing were approved as adjudged.[35] The reductions made did not materially change the plea percentage outcomes and, therefore, the plea bargainers were still more likely to receive BCDs.[36]

The convening authority decisions were again tested using discriminant function analysis. Tables 4a through 4c focus on the GCM decisions. Seven variables were found to make significant changes in Rao's V (Table 4a). The variables differed from the court discharge outcome in not including number of charges, age, and straight guilty pleas. Pretrial confinement status, however, did enter the GCM discriminant model as it did in the agreement analysis (Table 1). Table 4b again shows that both functions significantly separated the group in approximately the same way as was in the court analysis (Table 2b). Also, the proportion of variance explained in each function is about the same with much of the variation due to offense related factors and

the remainder attributable to system variables. Similarly, the group centroids indicate that the significant chi-square (X^2) is primarily attributed to distance in the first function space between no discharge and the other two discharge groups, and in the second function space between the dishonorable discharge and both the BCD discharge and no discharge groups (Table 4c). Cases resulting in no discharge are least likely to be weapon related or serious offenses. Cases resulting in a dishonorable discharge are most likely to be sexual offenses. Unlike the court outcomes, however, neither type of plea significantly affected the GCM discharge decision. But the straight guilty pleaders were least likely to receive a DD.

Insert Tables 4a through 4c about here

At the BCD level plea bargainers continue to be significantly penalized. Tables 5a and 5b report that only two variables significantly discriminated among the groups. Offenders charged with violent offenses were more likely to be retained in the service while bargainers were more likely to receive a BCD.

Insert Tables 5a and 5b about here

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6. Discussion of Findings

The expected differential sentencing hypothesis for discharges is not supported by these findings. Negotiators were not treated more leniently than other pleaders. The discharge sentence, however, has no exact equivalent in civilian justice. Denaturalization and banishment may come the closest in impact. A discharge decision then is a solemn act, important in its own right.[37]

The findings may be related to a number of factors. First, those pleading guilty, especially without a PTA, were more likely to be sentenced by judges than by court members. The judge was aware of those who pleaded guilty with or without a PTA.[38] Since the centerpiece of military plea bargaining is the sentencing agreement, the judge probably thought that the accused had obtained a sentencing agreement from the CA that reflected in some manner his prior sentencing decisions and, consequently, the judge felt free to impose the discharge sentence that the accused deserved for the offenses to which he had pleaded guilty.

Secondly, the judge was consuming much energy "dotting every i and crossing every t" during the providency inquiry into the guilty plea.[39] Judges were also aware that they could not dispose of the bargained cases very quickly. In fact, one judge suggested that the guilty plea PTA cases were taking as much time to process as some simple contested cases. On the other hand, the straight guilty pleas were not as time consuming as the negotiated ones, and sentencing agents probably realized that a straight guilty plea accused was taking a considerable risk by coming into court and pleading guilty without an agreement. It is in this context that sentencing severity was less focused on the straight guilty pleaders.

Thirdly, the court outcomes associated with the not guilty pleaders, especially the tendency of the GCM not guilty pleaders to be more likely to receive no discharge, can probably be explained by identifying their personal attributes. They tended to be older and to have more time in service. It is likely that those contesting the charges were doing so because they not only did not want to be found guilty, but if found guilty, did not want to be thrown out of the Army. They had more to lose by being discharged. The court, in fact, was made well aware of these considerations through defense

counsel presentations during sentencing.

Finally, the convening authority findings substantially mirror the court actions. Apparently the CA was unwilling to lessen the severity of court decisions. One can infer that the bargainers, especially those at the BCD level, were offenders that both the court and the CA wanted to eliminate from further service. Nevertheless, these findings are merely suggestive and must be interpreted with care since the much of the variance remains unexplained.

B. Deprivation of Liberty

1. Plea Bargain Agreements

All of the plea bargainers for whom information was available about deprivation of liberty negotiations, 186 cases, were facing a confinement sentence for the charges against them. As measured by the number who negotiated for no confinement, the accuseds' negotiations, to say the least, proved to be less than satisfactory. None were able to negotiate a nonconfinement agreement.[40]

2. Court Plea Bargaining Outcomes

The court sentenced 89 percent to confinement, with the remaining 11 percent receiving restriction, hard labor without confinement, and no confinement.[41] More GCM bargainers were given confinement than were BCD Special negotiators (92 percent to 78 percent), and approximately the same percent of GCM and BCD Special plea bargainers received no deprivation of liberty (6 percent).[42]

By comparing the deprivation of liberty agreement to court sentence, the study found that even more than the discharge outcome, few plea agreements affected court sentencing one way or another. Only 10 percent of the deprivation of liberty agreements (excluding approved as adjudged agreements)

influenced the court decisions. Of this very small group, 88 percent were sentences in which the accused beat the deal.[43] In short, as with the discharge outcome, the bargain was much more to the advantage of government than to the accused.[44]

3. Convening Authority (CA) Plea Bargaining Outcomes

As with the court, the CA sentenced 89 percent to confinement. Again the remaining 11 percent is divided among those who received restriction, hard labor without confinement, or no confinement.

4. Comparison of Plea Bargainers to Other Pleading Court Outcomes

All of the accused found guilty were at risk to receive confinement for the offenses for which they were convicted. The court sentence 86 percent to confinement, seven percent to either restriction or hard labor without confinement, and seven percent received no liberty deprivation.[45] Those processed at the GCM level were slightly more likely to receive confinement than those processed at the BCD Special level (89 percent to 81 percent) ($p < .05$).[46]

Examining the confinement differences among the pleaders in the context of what was reported earlier about the discharge outcomes, we expected that the bargainers would again fare the worst by being more likely to receive confinement. Interestingly though, the relationship between pleading and court confinement outcome was not statistically significant for the total court-martial sample, nor at either of the procedural levels: 89 percent of the plea bargainers, 82 percent of the not guilty pleaders and 90 percent of the straight guilty pleaders received a sentence to confinement.

5. Comparison of Convening Authority (CA) Outcomes of Plea Bargainers to Others

Given the lack of influence of the liberty deprivation agreement on court sentence, we now expected to find that the CA's confinement sentence would model that of the court sentence. Indeed it did. The relationship between court and CA decision was almost perfect for the total court-martial sample (tau c- .97) as well as for each of the procedural levels. The percentages for confinement, restriction or hard labor without confinement, and no confinement remained the same as the court. Neither were many differences found among the pleaders sentenced to confinement.[47] The differential sentencing hypothesis, therefore, is rejected for the confinement decision.

6. Discussion of Findings

The preference of the decision makers for confinement for all pleaders may be attributed in part to the sentencing alternatives available in the military, as well as the justice agent views toward the objectives of military justice. Relatively few statutory sentencing choices are open to a court-martial. Suspension, as mentioned earlier, is not an option. The court can only recommend a suspension to the CA. Some justice agents suggested that the CA does not want to suspend all the confinement since, absent a punitive discharge, these relatively serious offenders, convicted at the two highest court-martial forums, would then be returned to their military organizations. This would be problematic for the offender's immediate commander because there are no probationary services in the military. The commander would be required to supervise the accused, diverting his attention and that of his staff and unit from their mission responsibilities.

Another concern is that the sentencing of many accused to other than confinement is inconsistent with the goals of military sentencing. According

to the interviews, there are two primary objectives of confinement sentencing: rehabilitation and deterrence. Both are tied together to a core function of military justice, the maintenance of discipline in the armed forces.[48] Rehabilitation is to be accomplished by sending those who are "salvageable" and serving less than six months to the institution responsible for restoring malefactors. This facility is an intensive type of boot camp, that is, treatment of offenders consists of marching and polishing, in other words, soldiering.[49] For the more serious offenders, that is, those sentenced to longer confinement terms, especially over six months, rehabilitation is to take place at Fort Leavenworth, Kansas. Typically, the SJAs suggested that the accused enrolls in vocational programs or gets some sort of counseling there.[50]

But more importantly for many justice authorities, the second objective, deterrence, is a greater concern. Deterrence is primarily perceived from a general deterrence framework of how the punishment affects others in the command, or, in the words of one SJA, the "telegraph effect," that is, what you are communicating to the troops by the kind of punishment given to offenders. Justice agents believe that to return an accused to his unit with a suspended confinement sentence or restriction, for example, would undercut the deterrence objective since all in the unit may see that the accused just received a "slap on the wrist." Other potential offenders would be encouraged while victims, potential victims, or law abiding solidiers would be demoralized. But the most devastating result of using nonconfinement alternatives would be that discipline would break down, inhibiting the command from achieving the readiness necessary to deter potential agressor nations from acting against U.S. interest.

C. Confinement Length Decision

1. Plea Bargain Agreements (PTAs)

The GCM bargainers faced a mean maximum confinement length sentence of 125.1 months. The maximum confinement length for the BCD Special bargainers had a ceiling of six months.[51] While the bargainers were unable to negotiate a nonconfinement sentence with the CA, they were successful in negotiating confinement length agreements. Almost all the bargainers negotiated on sentence length.[52] Eighty accused negotiated for a partial suspension of confinement length.[53] The mean confinement length negotiated, omitting the suspended portion of the agreement, for the GCM bargainers was 21.1 months and for the BCD Special bargainers was 3.4 months.

To determine those variables significantly related to length of confinement agreements, multiple regression was used with GCM confinement length in months as the dependent variable.[54] A set of four variables were identified which contributed the most to explaining the proportion of variation in confinement length: sexual offense, weapon involvement in the criminal act, civilian defense counsel, and number of charges. Table 6 reports that the variance percentage explained by these variables was approximately 32 percent. Sexual offenses accounted for over half of the explained variance and had by far far the highest beta (.43). Those who were accused of a sexual crime, either possessed or used a weapon, were represented by civilian defense counsel, and had more charges were more likely to have negotiated more severe confinement length agreements.

Insert Table 6 about here

These findings suggest that the government took sexual offenses and

weapon involvement very seriously and thought the court would too. The SJAs had implied that accused were more receptive to plea bargaining when both the evidence was strong and the charged offense could result in considerable time. Those negotiators with more charges had a greater risk of receiving more time.[55] One may infer than the typical sexual offender was dead on the evidence (weapon recovered?) and/or was facing a potential sentence that was unacceptable.[56] These are sufficient circumstances for mounting pressure to cut losses and to accept a relatively lengthy confinement agreement. Also, the sentencing history of court decision makers was another consideration weighing heavily on accused's mind. The court would most likely hand down a more severe punishment than the agreement sentence if the accused lost at trial.

The role of civilian defense counsel is of considerable importance. Accused probably retained private attorney not only because he could afford one,[57], but because he thought civilian rather than military counsel could be trusted to fight for the best deal. Yet, apparently civilian counsel was not able to secure the most advantageous deals. Perhaps one reason may have been unfamiliarity with the system's operation which hampered advice given to clients about negotiations with the military. But there may be an even more generic reason. The civilian counsel, by definition, is an outsider not directly tied into the military culture, its norms, or sanctions. Since civilians were perceived as not subject to the rules of military society or authority, justice authorities may sanction or keep them in line through actions taken against their clients.[58]

Finally, these findings were interesting since, other than number of charges, none of the variables associated with the decision to plea bargain were found to be significantly related to confinement length agreements

(Keveles, 1984). This indicates that the factors that discriminate between the plea bargainers and nonplea bargainers were not helpful in understanding which of the plea bargainers would be able to negotiate the best or worst confinement length deal.

2. Court Plea Bargaining Outcomes

The court sentenced the GCM bargainers to a mean confinement length of 31.6 months and the BCD Special bargainers to 3.6 months.[59] It would appear then that a significant number of the agreements would modify or be changed by the court sentences. They did: 98 percent of the 169 confinement length agreements in which the court sentenced the plea bargainers to confinement were affected by the court sentence. Of this large group, 65 percent were sentences in which the accused beat the court sentence. The GCM bargainers were significantly more likely to beat the court sentence than the BCD Special bargainers were (59 percent to 36 percent)(Pearson's $r = -.19$, $p. < .01$). On the other hand, although the BCD Special bargainers were slightly more likely to beat the deal than the GCM bargainers were (36 percent to 27 percent), the percentage difference was not statistically significant (Pearson's $r = .07$, $p. = .14$). By more bargainers beating the court sentence, especially those processed at the GCM level, it may be said that the bargained agreement worked better for the accused than for the government.

3. Convening Authority (CA) Plea Bargaining Outcomes

The CA action on the bargainers, reflecting the considerable changes brought about by the agreements and the court sentences, resulted in mean confinement length sentences of 18.5 months for the GCM bargainers and 2.9 months for the BCD Special bargainers.

4. Comparison of Plea Bargainers to Other Pleading Court Outcomes

The mean maximum confinement length facing the GCM accused was 109 months. The plea bargainers sentenced to confinement tended to face considerably more prison time (122 months) than either the not guilty (95 months) or straight guilty pleaders (97 months) did.[60] The mean GCM court sentence was 29.6 months. Not guilty pleaders received the least amount of time (25.6) while straight guilty pleaders received slightly more time (33.5) than did plea bargainers (31.6). A different pattern emerges at the BCD Special level. This lower court sentenced their defendants to a mean 3.7 months of confinement. Here, plea bargainers were sentenced to the shortest term (3.6), straight guilty pleaders again received the most severe sentence (3.9), while not guilty pleaders were in the middle (3.7 months). These findings suggest that only the BCD Special bargainers were given credit by the court for their plea. It also appears that pleading guilty without a pretrial agreement was not a very successful strategy to follow.[61]

Regression analyses were performed on each of the procedural levels separately. The results showed that court confinement length was significantly related to five variables at the GCM level (Table 7), and three variables at the BCD Special level (Table 8). Examination of the standardized regression coefficients indicated that the greatest proportion of the variance in sentence length is explained by sexual offense for GCM cases and offense seriousness for BCD Special cases. Offense seriousness was the only variable that was significantly at both procedural levels, underlining the importance of this variable generally in court-martial sentencing. The more serious the charge, the more time one receiving from the court.

Interestingly, other than offense seriousness, those variables significantly related to GCM court outcome were also significant for GCM

confinement length agreement. This suggests a number of possibilities. First, the government appeared to be correct in both predicting that the court would take sexual offenses and weapon involvement quite seriously and prevailing upon defendants to accept the military's offered agreement as insurance against an even more severe court outcome. Secondly, as the number of charges increased, offenders did receive a longer sentence. Thirdly, since defense counsel can help accused during sentencing by arguing for extenuating and mitigating circumstances, whatever arguments and reasoning civilian counsel used did not prevent accused from getting severe court sentences.[62] Finally, while offense seriousness was not significantly related to duration agreements, it was significantly related to those who selected to plea bargain in the first place (Keveles, 1984), indicating that the bargainers were attuned to this aspect of court sentencing.

Unlike the GCM court, sentencing authority and pretrial liberty status played significant parts in duration outcomes at the BCD Special level. Jurors handed down longer sentences than judges did within the short confinement range of the BCD Special court. Pretrial detention indicated that these were offenders who were perceived to need the close supervision of confinement because of their tendency to flee (go AWOL).

Again, however, our primary interest is the plea type variables. Neither variable had a significant effect. This finding of no sentencing differences on the basis of plea suggests uniformity in sentencing across plea groups. Nevertheless, the unstandardized coefficients deserve some attention. GCM bargainers received sentences more than 5 months and straight guilty pleaders more than 9 months longer than not guilty pleaders (reference group). BCD Special bargainers, however, received sentences that was slightly less than not guilty pleaders. Straight guilty pleaders continued to receive more time

than not guilty pleaders. The directional influence of bargaining was opposite for the two courts: GCM bargaining was related to receiving more confinement, while BCD Special bargaining was related to receiving less time in comparison to not guilty pleaders.

Insert Tables 7 and 8 about here

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5. Comparison of Convening Authority (CA) Outcomes of Plea Bargainers to Others

The CA action at both procedural levels resulted in the bargainers receiving the greatest sentencing leniency. Mean confinement terms of 18.5 months were given to bargainers, 23.0 months to not guilty pleaders, and 33.4 months to straight guilty pleaders. Even the BCD Special plea bargainers who had already received sentencing leniency from the court received a further reduction: 2.9 months to bargainers, 3.7 months to not guilty pleaders, and 3.9 months to straight guilty pleaders.[63]

Regression analyses performed with the GCM cases (Table 9) showed results similar to the court outcome. In fact, the only statistically significant differences between GCM court and CA sentence are that offense seriousness is not an independent consideration in CA decisions, while sentencing agent and straight guilty pleas are. Compared with not guilty pleas, pleading guilty without a pretrial agreement results in the longest confinement term (an increase of 14 months). Again, bargaining does not affect significantly sentence length. Nevertheless, the direction of the bargaining variable is opposite to that given by the GCM court. Negotiating a pretrial agreement results in marginally greater leniency than pleading not guilty. This finding is consistent with earlier ones that suggest that the influence of PTAs on CA

confinement length would tend to reduce the influence of court sentence.

At the BCD Special level (Table 12), relatively more of the variance is explained than that at the court-martial (R^2 = .31 vs. 20). Three out of the four significant variables are the same as those in the court sentence outcome. Nevertheless, an additional variables achieves significance for the first time: plea bargaining. Pleading guilty with a pretrial agreement results in the shortest prison sentence. Unlike GCMs, the BCD Special sentencing favors the use of PTAs. The differential sentencing hypothesis is unequivocally supported for BCD Special confinement length decisions.

Insert Tables 9 and 10 about here

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6. Discussion of Findings

Multivariate research on the impact of plea on sentencing has produced contradictory findings. Eisenstein & Jacob (1977) found that pleading method has little real effect on sentence type or length once offense, accused, and other characteristics are taken into accounted. On the other hand, Brereton & Casper (1981: 52) in their study of sentence type did find differences among pleaders. They specifically criticized Eisenstein & Jacob's methodology. Brereton & Casper argue that Eisenstein & Jacob had mis-specified the issue. The sentencing differential hypothesis does not posit that pleading method "is more or less strongly related" to sentencing than are other variables. From their view, it is readily understandable that seriousness of offense will be the most important factor in most situations. The appropriate question for them is whether or not pleading method "makes a difference," other things being equal.

Brereton & Caspar's reliance on "common sense" in their argument is disquieting. Common sense notions must be carefully tested under various conditions. As Hagan (1982: 2) has asserted: "Sometimes common sense is nonsense." Indeed, Talarico (1979) found that offense severity had a minimal impact while plea carried great weight in sentence classification. Cohen et al. (1985) found that there wasn't any statistically significant relationship between offense severity and likelihood of incarceration. The multivariate findings of this study do reaffirm the importance of charge seriousness under most circumstances, though clearly not the major factor in this GCM sentencing decision.[64] But the results also indicate that plea bargaining makes a difference in the particular instance of BCD Special processing.

These findings at the GCM and BCD Special levels for court-martial sentencing and CA action not only target in on the important variables and define the role of plea bargaining in military sentencing. The results also demonstrate that several other variables often considered by some to play a part in sentencing outcomes are not important in explaining military incarceration length outcomes. Of special prominence by their absence were offender attributes such as age and race (See Hagan, 1974). For example, race is of primary concern in civilian and military justice. Some have suggested that American criminal justice is racist and, as a result, nonwhites receive unfavorable sentencing outcomes (Reiman, 1979). Race has been one issue that has concerned military authorities in recent years (DOD, 1972). Nevertheless, like other empirical studies in civilian (Feeley, 1979; Smith & Stevens, 1984) or military (Perry, 1977) settings, it appears that race is not a contributing factor in sentence severity decisions. This finding of treatment similarity, however, must be qualified. Welch et al. (1985) found that while whites and nonwhites did not significantly differ in length of sentence decisions, blacks

were sentenced to prison more often than whites. The finding also doesn't rule out selection bias based on race operating at earlier stages of the process, or in another legal context (Dannefer & Schutt, 1982).

VI. Conclusion

Three sentencing decisions have been examined: discharge, confinement (in/out) and confinement length. The discharge decision is unlike those sentencing alternatives available to civilian decision makers. On the other hand, the determination made about whether to confine followed by a determination about the length of incarceration are sentencing alternatives that are typical decisional concerns for civilian practitioners, and have even been addressed in recent civilian sentencing studies (See Sutton, 1978). Nonetheless, given the fact that sentencing authority is vested in two sources, the court-martial and the CA, complexity is added to the military context which is missing from the civilian one.

These multiple measures of sentence severity indicated that the government was more successful in discharge and deprivation of liberty negotiating than the bargainers were; and the discharge and deprivation of liberty agreement had little impact on the final CA action. Furthermore, in comparing negotiators to other pleaders (differential sentencing hypothesis) with respect to discharge outcome, the analysis showed that the bargainers fared relatively badly. Yet there were no serious differences among the pleaders in terms of being sentenced to confinement. The overwhelming majority of all pleaders received confinement.

The generally negative results of the first two decisions for bargainers were not carried over into the third decision, confinement length. The negotiated agreements worked better for the accused than for the government, and had an ameliorating effect on final CA action. The comparison of the

negotiators to other pleaders also showed that only at the BCD Special level were the bargainers sentenced by the court to the shortest term. Still, when the CA took action at both procedural levels, the bargainers received the greatest sentencing leniency. The findings of the second and third measures are similar to the results obtained by Wheeler, Weisburd & Bode (1982) in the civilian context. They too found that pleading method was insignificant in the prison decision, but "approached" significance in the length of prison sentence.

The results of this study, however, must be viewed cautiously. More questions may have been raised than answered, particularly in light of the study's statistical approach to the problem.[65] One question is, of course, validity. Cases from five USAREUR jurisdictions were grouped together. While this approach risks masking differences that may exist in some jurisdictions but not in others, it does have the advantage of dealing with the otherwise small number of cases in each jurisdiction.

A second question is the generalizability of this study. How representative of military justice are these cases and findings? They probably apply to the other USAREUR jurisdictions because the ones selected handled about 76 percent of all USAREUR court-martials during the study time frame. But what about non-USAREUR jurisdictions? There would seem to be little reason for these cases to be treated differently in other military jurisdictions overseas.[66] This leaves the issue of military justice inside of the U.S. On the one hand, servicemembers assigned overseas are subject to scrutiny prior to transfer. After all, we don't want to offend a host country by sending over servicemembers who might be troublesome. But the screening process in practice tends to be quite porous. On the other hand, unless a case is "service-connected," American civilian authorities have jurisdiction

over servicemembers committing crimes in the various states. But civil authorities have a history of welcoming the opportunity for the military to take jurisdiction in a case.[67] Therefore, on balance, there is little reason to expect that had the research been conducted in the U.S., cases and findings would deviate dramatically from what is reported here.

The findings of this study suggest that plea bargaining in the military, while unique in important respects, has many parallels to civilian justice. Nonetheless, this area requires further research. Future studies would benefit from concentration on specific offenses categories.[68] Another recommendation would be to measure differences in outcome according to rank. American justice has been characterized by conflict theorists as a biased process. Those from lower class positions in society are dealt with more severely (Carter & Clelland, 1979;Chambliss, 1969; Quinney, 1970; Turk, 1966). More than civilian justice, military justice may be be viewed as a system of class justice. Both ideas, however, assume that a large enough sample can be drawn, a problem more of receptivity of military justice authorities than availablity of data.

Notes

1 While Hagan and Nagel (1982), for example, found that guilty pleaders received sentences average twenty-five months less than not guilty pleaders, Willison (1984) reported that guilty pleaders received sentences some thirty-three values above those pleading not guilty.

2 Guilty pleaders received marginally more lenient sentences than those electing bench trial however, with the largest difference appearing in the decision to incarcerate.

3 The accused, commonly viewed from a rational consumer framework, seeks to lessen severity of the criminal sanction by agreeing to plead guilty in return for a predictable sentence (Landes, 1971; Nagel & Neef, 1976a, 1976b, 1977). Nevertheless, conventional rationality in decision making may be exaggerated. Some accused have a low tolerance for ambiguity or a sense of helplessness, and may plead guilty to promptly reduce the uncertainty of the situation (Alschuler, 1976, Littrell, 1979; Nardulli, 1978). Uhlman & Walker (1979:

231) found that a plea is no bargain for many defendants. In trying to understand why defendants continue to plead, they suggested that "the anxieties, personal stress, humiliation and publicity surrounding the trial process are so great that even minimal sentencing rewards may be sufficient to make the defendant opt for a plea in exchange for a quick and certain settlement."

4 For example, variations in geographic region (rural vs. urban) and in organization (prosecutorial policy [Jacoby, 1976]; workgroup style [Eisenstein & Jacob, 1977]) will affect the role of plea on sentencing.

5 Some studies focus on an array of crimes, while a few analyze selected crime categories. Two studies (Rhodes, 1979; Brereton & Caspar, 1981) found that pleading guilty was associated with leniency for robbers but not for some burglars. One of these studies (Rhodes, 1979) also found that sentence leniency was withheld from guilty pleaders charged with assault and burglary. Other studies included robbery and burglary among a group of offenses and found leniency for pleaders, masking the impact of plea for specific offenses (Nardulli, 1978; Uhlman & Walker, 1979).

6 These uniformed Americans are directly controlled by military justice, a social control system which has features of both criminal and juvenile justice as well as its own unique attributes (See Keveles, 1985). Another 1.5 million Reserve and National Guard personnel, and even retired servicemembers and some civilians are subject to court-martial jurisdiction under certain circumstances (Schlueter, 1982; Uniform Code of Military Justice [UCMJ]: Articles 2, 3, 1983].

7 Before the Military Justice Act of 1968 (Public Law 90-632, 82 Stat. 1335) and except in the jurorless summary court-martial, sentencing power was conferred exclusively on a military jury (trial by court members) consisting of commissioned officers, or if the defendants are from the enlisted ranks and they so request, courts composed of at least one-third enlisted personnel (UCMJ, Article 25 [c] [1]). With the 1968 Act, defendants were given the right to request trial by judge alone at general or special court-martials. If defendants do not formally make such a request, then they will be tried by court members as in the past.

8 Suspensions are issued for a stated period of time, and unless a suspended sentence is vacated because of violation of military law during the period of suspension, the suspended sentence is remitted upon its completion mechanically or, if before it is concluded, by a CA's action.

9 In those cases in which an accused pleads not guilty, the trial counsel, that is, the officer presenting the government's case, presents documentary evidence from the defendant's personnel file (age, rank, prior service and nature of pretrial custody, if any), as well as evidence of prior court-martial convictions and nonjudicial punishment (UCMJ, Article 15). Nevertheless, if the accused pleads guilty, the trial counsel can present, in addition, any admissible evidence of aggravation. The rules of evidence for the defense are often relaxed. The defense attorney may offer reasons for the accused's misconduct (extenuation), or he may show how good a soldier the accused is or bad a family background the accused has had (mitigation). A guilty plea accused who offers testimony during sentencing inconsistent with

the plea forces the judge to once again inquire into the providency of the plea.

[10] Deprivation of freedom for any period can include hard labor without confinement, restriction, and what has been styled "confinement at hard labor" (CHL). As explained by military justice personnel, hard labor without confinement means the imposition of additional, more onerous duty assignments. Restriction usually refers to placing physical limitations on the movement of a servicemember. For example, offenders may not only be limited to the confines of a military reservation, but also to the installation's mess hall, chapel, barracks and duty station. Today, confinement at hard labor simply means incarceration at a military prison. Since sentencing in the armed forces is indeterminate, specifying only the maximum penalty that can be imposed, offenders may be released at any time.

[11] Forfeitures of pay and allowances and reduction in rank depend on service regulations about a sentence to a punitive discharge and/or confinement at hard labor. Forfeitures may be total, two-thirds, or partial. The loss is expressed in a specific dollar amount and for a particular period of time. An enlisted person in the Army is reduced automatically to the lowest pay grade when there is an approved sentence to punitive discharge, confinement, or hard labor without confinement.

[12] Certainly the civilian authorities today are hard pressed to exile or throw an offender out of society, though some would argue that prisons are forms of internal exile. For a nation state, stripping a person of his citizenship and then deporting him perhaps approaches the function of a punitive discharge. But denaturalization presently is a complicated, relatively rare phenomenon. Alternatively, a punitive discharge may be viewed as a performance similar to that of firing an employee from his job, which assumes that soldiering can be equated to civilian work, an idea that is highly questionable (Effron, 1974). In any case, the military believes that there is a distinctive need for both definitely eliminating an offender from the ranks and showing its disapproval of the offender's behavior. The punitive discharge, which can be either a dishonorable (DD) or bad conduct discharge (BCD), is one method of "kicking out" a soldier in what the military perceives is an effectively harsh, stigmatizing way. The DD is considered a more damaging label (MCM, paragraph 76a) supposedly involving the loss of more veteran benefits than is the BCD. The military views either of these as an infliction of punishment itself and hopes the civilian society will impose severe social and economic sanctions on the "worthless" former servicemember (Fox, 1977; Lance, 1978).

[13] Judges are commonly assigned to hear cases in a jurisdiction for a specific tour of duty that may last two years or more. Court members serve for much shorter periods of times, but when empaneled, they too hear a series of cases.

[14] For example, the prosecution predicts that the court will given an accused 12 months confinement. The defense predicts a 36 month sentence. They deal for 24 months. The court actually gives 18 months. The government wins. The term "accused beating the deal" is a misnomer.

[15] In the above example, this would happen when the court actually gives the accused a 30 month sentence. The 24 month agreement underrated the court sentence. The accused wins.

[16] Sentencing practices of member panels are more influenced by the state of its members' emotions. Feelings are affected by the kind of cases being heard, how many cases have been heard, and how long the panel has been sitting. One justice official suggested that the longer a lay court sat hearing cases, the more conviction prone jurors become, and the more severe the penalities they hand out. Other justice agents, however, could not identify a predictable member sentencing pattern and that was the problem!

[17] Most serious charged crime refers to an offense seriousness scale developed to organize and reduce the variety of offenses charged against accused. These primary offenses were collapsed and ranked into 46 offense categories according to the maximum authorized punishments that an accused could receive as defined by the Table of Maximum Punishments in the MCM (para. 127c). In those cases in which two or more categories would have the same maximum punishment, the prior interviews with justice personnel provided guidance in rank ordering decision making. To characterize the offense, each of these 46 categories were further divided into six categories of types of crime according to the most serious offense per case across the categories.

[18] Prior record was not used for four reasons: 1) most servicemembers (95 percent) did not have a prior court-martial or civilian criminal record; 2) although the disciplinary infraction (Article 15s) history of accused were included in nearly 50 percent of the cases, these offenses were generally minor military (minor AWOL or disrespectful conduct) or civilian (marihuana, possession or destruction of property offenses); 3) during the study time frame a change in case law affected the introduction of Article 15s in court; 4) even though ten percent of the cases had missing values for Article 15s, they were originally included in analyses; however, the variable did not explained more than a traced of the variance of the dependent variables and was removed.

[19] The last category referred to agreements in which the parties did not contract for a specific agreement, but rather they agreed to whatever discharge sentence the court would adjudge.

[20] Some SJAs recognized that civilian society did not differentiate between the two types of discharges, and that civilians failed to penalize those who received any punitive discharge. As one SJA said, "Even Walt Disney received a dishonorable discharge."

[21] Under the terms of the typical suspension agreement, the accused would "beat a court sentence" of a punitive discharge and be given a probationary period during which time a violation of military law would result in the lifting of the suspension and the execution of the court sentence to a discharge. On the other hand, an accused who kept out of trouble would get a seocond chance at the end of the suspension period to successfully complete his military career.

[22] Of the DD bargainers, 48 percent received a DD, 41 percent received BCDs and 11 percent received no discharge. Of course, by definition, these DD bargainers could not beat the court sentence.

[23] Of those nine who agreed to a suspension, six beat the deal by receiving no

discharge. Finally, one of the three who negotiated for no discharge was given a BCD, thereby beating the court sentence.

[24] Only one accused beat a contracted BCD by receiving no discharge from the court, and four of the 17 who agreed to accept a suspension beat the suspension by receiving no discharge. On the other hand, one of the six who bargained for no discharge received a BCD with a recommendation for suspension.

[25] 46 percent of DD negotiated agreements were reduced to BCDs, and 18 percent of punitive discharge agreements were reduced to no discharge.

[26] At the GCM level (n=27), 35 percent received DDs, 50 percent were given BCDs, while the remaining 15 percent received no discharge. At the BCD Special level (n=10), three received a BCD, one of which was a recommendation for suspension, and seven received no discharge. It appears then that by vesting decision making power exclusively in the hands of the court, the government was taking a small chance in a surprising outcome.

[27] In absolute numbers and collapsing the suspensions with its appropriate discharge type, the CA discharge action represented eight less DDs, seven more BCDs, and one more no discharge than that which the court gave.

[28] Again in absolute number and collapsing the suspensions into its appropriate discharge type, the change in absolute number between the CA and court discharge represented a difference of only one.

[29] The strength of association was stronger for the relationship between CA action and court sentence (Kendall's tau c = .76) than between CA action and discharge agreement (Kendall's tau c = .43).

[30] The strength of association between CA action and both court sentence (Kendall's tau c = .69) and discharge agreement (Kendall's tau c = .65) was approximately the same.

[31] The GCM discharge outcomes were also treated as a dichotomous choice of two outcomes (no discharge/discharge). The analysis yielded results similar to those found in the dichotomous outcomes. The same six variables entered in the dichotomous analysis were also entered in the trichotomous outcome. Sexual offense, number of charges, and straight guilty pleas, however, were excluded from significantly separating the groups. Violent offense appeared to contribute the most to the significant discrimination; age the least to the separation. Based on the group centroids, a discharge outcome evidently tends to be associated with nonviolent offenses, more serious offenses, weapon involvement, judge alone sentencing, drug offenses, and younger offenders. The Rc, however, is only marginally less than the first function in the trichotomous outcome.

[32] The unstandardardized coefficients for straight guilty plea reveal that, although this variable moves cases away from the no discharge group in the first function, it does show a rather stronger ability to move cases away from the dishonorable discharge group in the second function.

[33] The relationship between GCM pleaders and CA discharge action was

statistically significant (x^2 = 10.04, 4df, p. < .05). The strength of association was only slightly weaker than the court outcomes (Contingency Coefficient = .18 vs. .22).

[34] At the CA action stage, the DD percentage difference between the bargainers and not guilty pleaders was reduced to 11.2 percent, and the straight guilty pleaders to 17.2 percent. In other words, the differences between the court sentence and the CA action with respect to the differences among the pleaders were very small: four percent between the bargainers and not guilty pleaders, and five percent between the bargainers and straight guilty pleaders.

[35] The relationship between pleading and CA discharge action was not statistically significant (x^2 = 3.86, 2df, p. = .14). Again, however, the strength of association was only slightly weaker than the court outcomes (Contingency Coefficient = .16 vs. .22).

[36] The CA BCD Special percentage difference between the bargainers and not guilty pleaders was reduced to 16 percent, only a four percent flattening from the court sentence, and between bargainers and straight guilty pleaders was reduced to 21 percent, only a five percent flattening from the court sentence.

[37] One may argue that getting out of the service is preferable to staying in. Negotiators then received sentencing leniency. But such a view misses the point of the values of military culture and the meaning of its decisions. See note 12.

[38] After all, the judge at the guilty plea providency inquiry not only had to examine the accused's understanding of the meaning and effect of pleading guilty before the judge could accept the guilty plea, but any PTA had to have its various provisions, exclusive of the sentencing portion of the agreement, dissected by the judge as well.

[39] The judge's efforts were a result of military appellate court decisions, especially those by the U.S. Court of Military Appeals (COMA), which aimed to regulate and closely monitor the providency inquiry into the plea of guilty, particularly one with a PTA attached.

[40] One percent, however, were able to obtain an agreement to suspend confinement, and seven percent were able to negotiate an agreement whereby the court would decide the confinement question (approvals as adjudged). The remaining 92 percent were agreement to confinement.

[41] See note 10 for explanation of these liberty deprivation terms.

[42] Also, fewer GCM bargainers were given restriction or hard labor without confinement in comparison to BCD Special negotiators (3 percent to 78 percent). The relationship between procedural level and court deprivation of liberty sentence was statistically significant (Kendall's tau c = .10, n = 191, p. < .05).

[43] Seventeen cases affected the court decisions. Fourteen negotiated for confinement. They received either no confinement (six GCMs and two BCD Specials) or hard labor without confinement or restriction (one GCM and five BCD Specials). Additionally, one BCD Special plea bargainer who agreed to a

suspension of confinement received no confinement. Of the two accused who beat the court sentence, one had negotiated for a limited amount of confinement time and received a life term, while the other had negotiated for suspended confinement and received confinement from a GCM court.

[44] The approved as adjudged group tended to receive confinement at hard labor: 70 percent.

[45] Twelve accused could have received life imprisonment. Three were given life terms.

[46] Judges were found to be significantly more likely to sentence an accused to confinement than court members were (tau c = .14, p. < .001) (91 percent to 75 percent).

[47] The only difference was that 81 percent of the not guilty pleaders received confinement.

[48] Nevertheless, one SJA did offer a third incarceration goal second to deterrence in importance: retribution.

[49] At one continuing education conference for prosecutorial and defense officers in West Germany which we attended, personnel from this facility (the retraining brigade at Fort Riley, Kansas) flew in, presented a slide show, and answered questions about their activities. The presentation revealed that the programs at the RB are centered on discipline and physical training.

[50] Asking one SJA what happens to a defendant sent to Fort Leavenworth, he responded by saying that the accused gets a "full paid vacation."

[51] Deprivation of liberty sentences have no minimum length in the military, only a maximum. The maximum sentence for each offense is set out in the Manual for Courts-Martial (MCM), paragraphs 125 through 127. Except for the jusisdictional limitations of a court, the maximum confinement length in a case is arrived at by summing the confinement length identified for each nonmultiplious guilty finding. One sentence is adjudged which satisfies all the findings.

[52] Twelve out of the 186 cases in which information was available, however, were approved as adjudged cases.

[53] Negotiated suspensions referred to a period of time after an accused served a predetermined portion of the confinement sentence. An accused who did not violate military law during the time served would then have the suspended period vacated. The interviewed subjects explained that the purpose of suspending part of a confinement term was to encourage the accused to engage in good behavior during his incarceration. That is, suspensions promoted rule conformity which served the ends of institutional control. Typically, the suspended period would be the difference between the negotiated hard time and the court sentence. For example, an accused might negotiate for six months of hard time and to suspend any court sentence in excess of this six month period. If the court sentenced the accused to nine months, that court punishment would be approved by the CA; however, the sentence in excess of the six months would be suspended for six months at which time (unless the

suspension is sooner vacated) the suspended portion (three months) would be remitted without further action.

[54] Stepwise regression was used with listwise deletion of missing data. In those cases where the offender received a life term, the sentence length has been coded 600 (50 years).

[55] Convictions based on multiple charges may increase the maximum possible penalties at the GCM level.

[56] The maximum penalty for rape, for example, is death or a life term. No servicemember, however, has been executed for any offense for over 20 years.

[57] An accused before a general or special courts-martial has a right to the appointment of legally qualified military counsel at government expense. The government, however, will not pay for a civilian attorney (UCMJ, Articles 27,38).

[58] Although the SJAs generally had high praise for civilians practicing in their jurisdictions, two SJAs did relate "horror stories" of how civilians "screwed up," and that the SJAs would see to it that these few civilians would never practice in their jurisdiction again. By "screwing up," the SJAs were relating cases in which these civilians had requested too many continuances or filed too many motions.

[59] The 134 GCM bargainers sentenced to confinement were facing a mean maximum confinement length sentence of 122.0 months. Those GCM court sentenced confinees who had negotiated for a specific length of confinement had bargained for 21.6 months. The BCD Special bargainers sentenced to confinement had negotiated for a mean confinement length sentence of 3.1 months.

[60] One may infer that the GCM bargainers were more serious offenders than the other two sets of pleaders. On the other hand, the prosecutorial practice of overcharging affects sentencing, inducing accused to plead guilty. A review of overcharging in the sample, however, found that this practice is not widespread.

[61] Additional analyses performed, however, indicated that such a finding may be an artifact of court member sentencing. Given the earlier discussion of judicial leniency toward straight guilty pleaders, a closer examination of sentencing court and confinement length sentencing for the pleaders was performed, especially for those processed at the GCM level. Sentencing analysis of GCM judges revealed that rather than straight guilty pleaders (18 months) resembling negotiated ones (31 months), they are much more closely aligned to not guilty pleaders (17 months). The sentencing distortion is attributable to court member sentencing, specifically the three straight guilty pleaders sentenced by court members (170 months). In fact, the data reveal that it is one straight guilty pleader charged with rape who received 40 years that affected the mean. Perhaps this one soldier was intent on punishing himself. What is interesting is that the CA reduced the sentence lengths of both not guilty pleaders and guilty pleaders but not straight guilty pleaders sentenced by court members. Also, irrespective of plea, court member sentencing was consistently longer than any judicial ones. These

results, however, do not control for seriousness of offense.

[62] Perhaps civilian counsel was unaware of the kinds of arguments to which military courts favorably respond. Alternatively or additionally, the court may not have appreciated those accused who went outside the military system to hire counsel.

[63] A difference of means test, however, indicated that only the BCD Special bargainers received a substantial sentencing break for their plea. To examine more closely the differences between the bargainers and nonbargainers at each procedural level, a difference of means test was performed. While at the GCM level, the difference between bargainers (18.5) and nonbargainers (25.3) was not significant ($t = -1.35$, $n = 258$, $p. = .18$), at the BCD Special level the difference between bargainers (2.9) and nonbargainers (3.7) was significant ($t = -2.68$, $n = 114$, $p. < .01$).

[64] It may be assumed that offense seriousness was highly correlated with sexual offenses or weapon involvement, variables exhibiting strong relationships to GCM confinement length outcomes. Nevertheless, perusal of the correlation matrix of independent variables failed to show this as a definitive explanation. The importance of sexual offenses in military sentencing, however, is in line with Walsh (1985) who found that sexual offenders received harsher penalities than nonsexual offenders within the lower classes.

[65] For example, Brereton & Casper (1981: 50) argue that "when differentials are most effective, they are least observable." A successful policy of sentencing differentials would increase the percentage of cases that would go to trial for meritorious reasons only. The sentencing authority would recognize the inappropriateness of giving accused a trial tax of increased sentence severity for raising salient legal questions.

[66] Military justice agents are periodically transferred from one area of the world to another, and jurisdictional agreements between the U.S. and a host country do not vary substantially. While host countries have original jurisdiction over U.S. servicemembers in situations affecting their citizens, they waive the right to exercise authority in over 90 percent of their cases. One interesting reason for the willingness to waive jurisdiction is their view of the American military sentencing structure. They believe it is much more severe than their own. This belief sometimes backfires on them. In the Federal Republic of Germany, for example, plea bargaining is prohibited. German prosecutors are initially satisfied with the military sentence given to servicemembers. But they then become confused when they occasionally discover that the acutal punishment is much different from the court sentence. German prosecutors even become hostile toward their American guests in those rare instances in which servicemembers sentenced to confinement in the U.S. are returned to duty in Germany and then commit another offense.

[67] Local prosecutorial and judicial resources would not have to be expended in cases marginally of interest to the community. Further, while USAREUR justice appears to be a more totally integrated social control system than that which currently exists in the U.S., recent case law has enlarged the meaning of service-connection, allowing greater military control over crimes committed off-base in the U.S. (See United States v. Lockwood, 15 M.J. 1 [CMA 1983]).

[68] See note 5. A problem is generated, however, where there are few too cases for any specific offense, an issue in the present study. A proposed remedy for controlling seriousness of the charge is to collapse an array of offenses into categories based upon the maximum sentences set out in the Manual for Courts-Martial (for example, three and six months, one, five, ten, and twenty years, over twenty years). The solution would be far from perfect (different offenses with similar maximums still have different meanings for decision makers), but it would be practical under the circumstances.

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Table 1a

Relative Contribution of Significant Variables
to GCM Discharge Agreements

Variables	Rao'sV	p. <	Change in Rao's V	p. <
Civilian Defense Counsel	7.67	.05	7.67	.05
Pretrial Confinement	14.13	.01	6.36	.05
Offense Seriousness	20.01	.01	5.87	.05
Drug Offense	33.50	.001	13.50	.01

Table 1b

Canonical Discriminant Functions of
GCM Discharge Agreements

	First Function	Second Function
Eigenvalue-relative percentage	69.93	30.07
Canonical correlation (Rc)	.419	.289
X2	30.45	9.508
df	8	3
p.	<.001	<.05

Table 1c

Discriminant Functional Coefficients and
Group Centroids of GCM Discharge Agreements

	First Function		Second Function	
Functional Coefficients Variables	Standard-ized	Unstan-darized	Standard-ized	Unstan-darized
Offense Seriousness	1.04	.03	.01	.04
Drug Offense	.96	1.17	.16	- .09
Pretrial Confinement	.52	- .09	-.52	1.37
Civilian Defense Counsel	-.51	1.71	.82	-1.12
Constant		-3.37		- .33
Group Centroids				
Dishonorable Discharge		-.07		.26
BCD Discharge		.25		-.27
No Discharge		-.90		-.18

Sample size=113

Table 2a

Relative Contribution of Significant Variables
to GCM Court GCM Discharge Outcomes

Variables	Rao'sV	p. <	Change in Rao's V	p. <
Sexual Offense	34.87	.001	34.87	.001
Sentencing Court	72.44	.001	37.57	.001
Offense Seriousness	94.40	.001	21.96	.001
Drug Offense	118.43	.001	24.03	.001
Weapon Involvement	136.17	.001	17.74	.001
Violent Offense	158.35	.001	22.18	.001
Number of Charges	168.07	.001	9.72	.01
Age	178.28	.001	10.21	.01
Straight Guilty Plea	185.01	.001	6.74	.05
Negotiated Guilty Plea	187.66	.001	2.64	.27 N.S.

Table 2b

Canonical Discriminant Functions of
GCM Court Discharge Outcomes

	First Function	Second Function
Eigenvalue-relative percentage	81.9	18.1
Canonical correlation (Rc)	.593	.327
X^2	152.37	31.564
df	20	9
p.	<.001	<.001

Table 2c

Discriminant Functional Coefficients and
Group Centroids of GCM Court Discharge Outcome

	First Function		Second Function	
Functional Coefficients Variables	Standard-ized	Unstan-darized	Standard-ized	Unstan-darized
Offense Seriousness	.67	.01	-.11	.07
Weapon Involvement	.60	.40	-.27	.32
Violent Offense	-.53	-.65	.58	.13
Sentencing Court	.51	1.17	-.17	-.30
Drug Offense	.40	.80	-.32	-.95
Sexual Offense	.25	.12	.71	2.18
Age	-.21	-.07	.33	.04
Number of Charges	.21	.13	.26	.16
Negotiated Guilty Plea	.13	.27	.14	.57
Straight Guilty Plea	-.08	.36	-.30	-1.12
Constant		-.27		-3.82
Group Centroids				
Dishonorable Discharge		.41		1.10
BCD Discharge		.17		-.38
No Discharge		-.77		-.19

Sample size=286

Table 3a

Relative Contribution of Significant Variables to BCD Special Court Discharge Outcome

Variables	Rao's V	p. <	Change in Rao's V	p. <
Violent Offense	8.52	.01	8.52	.01
Negotiated Guilty Plea	17.31	.001	8.79	.01
Pretrial Confinement	22.60	.001	5.29	.05
Straight Guilty Plea	23.23	.001	.63	.42 NS

Table 3b

Canonical Discriminant Functional Analysis
of BCD Special Court Discharge Outcome

Variables	Discriminant Function Coefficients	
	Standardized	Unstandardized
Violent Offense	-.78	-1.65
Negotiated Guilty Plea	.59	1.30
Pretrial Confinement	.48	1.53
Straight Guilty Plea	-.17	- .45
Constant		.14

Group Centroids

BCD Discharge = .45
No Discharge = -.38

$Rc=.388$ ($Rc^2=.15$)
$X^2=21.06$, 4df, $p.>.001$
Sample size=133

Table 4a

Relative Contribution of Significant Variables
to GCM Convening Authority Discharge Outcomes

Variables	Rao'sV	p. <	Change in Rao's V	p. <
Sexual Offense	34.72	.001	34.72	.001
Sentencing Court	67.53	.001	32.81	.001
Offense Seriousness	88.97	.001	21.44	.001
Drug Offense	105.2	.001	16.20	.001
Weapon Involvement	127.6	.001	22.48	.001
Violent Offense	150.2	.001	22.60	.001
Pretrial Confinement	163.4	.001	13.11	.01
Straight Guilty Plea	168.3	.001	4.92	.08 NS
Negotiated Guilty Plea	169.7	.001	1.39	.49 NS

Table 4b

Canonical Discriminant Functions of
GCM Convening Authority Discharge Outcomes

	First Function	Second Function
Eigenvalue-relative percentage	84.72	15.28
Canonical correlation (Rc)	.592	.298
X^2	137.57	24.366
df	18	8
p.	<.001	<.01

Table 4c

Discriminant Functional Coefficients and
Group Centroids of GCM Convening Authority Discharge Outcome

	First Function		Second Function	
Functional Coefficients Variables	Standard-ized	Unstan-darized	Standard-ized	Unstan-darized
Weapon Involvement	.65	.55	.36	.25
Seriousness of Offense	.61	.02	-.06	.08
Violent Offense	-.58	- .63	-.35	.26
Sentencing Court	.54	1.15	.20	- .65
Drug Offense	.35	.71	.46	-1.39
Sexual Offense	.29	.43	-.56	2.31
Pretrial Confinement	.29	.54	-.05	.43
Negotiated Guilty Plea	.11	.39	.03	.24
Straight Guilty Plea	-.08	.22	.34	-1.08
Constant		-1.86		-2.52
Group Centroids				
Dishonorable Discharge		.51	1.24	
BCD Discharge		.11	-.42	
No Discharge		-.71	-.05	

Sample size=269

Table 5a

Relative Contribution of Significant Variables
to BCD Special Convening Authority Discharge Outcome

Variables	Rao's V	p. <	Change in Rao's V	p. <
Violent Offense	11.92	.001	11.92	.001
Negotiated Guilty Plea	16.91	.001	4.99	.05
Straight Guilty Plea	17.58	.001	.66	.42 NS

Table 5b

Canonical Discriminant Functional Analysis
of BCD Special Convening Authority Discharge Outcome

Variables	Discriminant Function Coefficients	
	Standardized	Unstandardized
Violent Offense	.89	1.90
Negotiated Guilty Plea	-.47	-1.04
Straight Guilty Plea	.20	.55
Constant		-.48

Group Centroids

BCD Discharge = -.40
No Discharge = .31

$Rc=.331$ ($Rc^2=.11$)
$X^2=16.397$, 3df, $p.>.001$
Sample size=144

Table 6

Regression Results for GCM Confinement Length Pretrial Agreements

Variables	B	Beta	Std. Error B	F
Sexual Offense	40.66	.43	6.35	29.90**
Weapon Involved	18.37	.26	5.19	12.34**
Civilian Defense Counsel	15.06	.21	5.31	8.47**
Number of Charges	2.62	.14	1.31	3.94*
Constant	-15.53			

R^2 = .32

*p. < .05

**p. < .01

Number of cases = 136

Table 7

Regression Results for GCM Court Confinement Length Sentence

Variables	B	Beta	Std. Error B	F
Sexual Offense	58.59	.45	8.37	64.82**
Weapon Involved	20.46	.22	6.39	17.16**
Number of Charges	6.42	.22	1.61	17.18**
Offense Seriousness	.87	.15	.35	5.97*
Civilian Defense Counsel	16.37	.13	6.51	5.81*
Straight Guilty Plea	9.86	.04	9.13	.59
Plea Bargained	5.78	.06	5.85	.33
Constant	-55.86			

R^2 = .334

*p. < .05

**p. < .01

Number of cases = 259

Table 8

Regression Results for BCD Special Court Confinement Length Sentence

Variables	B	Beta	Std. Error B	F
Offense Seriousness	.05	.32	.01	11.51**
Sentencing Agent	-.90	-.24	.33	7.03**
Pretrial Confinement	.89	.19	.42	4.33*
Straight Guilty	.25	.08	.35	.75
Plea Bargained	-.10	-.03	.31	.10
Constant	2.91			

R^2 = .199

*p. < .05

**p. < .01

Number of cases = 105

Table 9

Regression Results for
GCM Convening Authority
Confinement Length Sentence

Variables	B	Beta	Std. Error B	F
Sexual Offense	47.33	.41	6.03	49.91**
Weapon Involved	22.99	.27	4.74	23.51**
Number of Charges	5.78	.21	1.29	16.13**
Civilian Defense Counsel	15.05	.15	5.24	7.78**
Sentencing Agent	-12.01	-.12	5.09	4.97*
Straight Guilty Plea	14.06	.12	7.47	5.19*
Plea Bargained	- 2.26	-.03	4.83	.22
Constant	-17.24			

R^2 = .331

*p. < .05

**p. < .01

Number of cases = 256

Table 10

Regression Results for
BCD Special Convening Authority
Confinement Length Sentence

Variables	B	Beta	Std. Error B	F
Offense Seriousness	.06	.36	.01	15.26**
Sentencing Agent	-1.07	-.29	.31	10.58**
Plea Bargained	- .75	-.24	.30	7.62**
Pretrial Confinement	.94	.20	.39	5.64*
Straight Guilty Plea	.24	.06	.33	.54
Constant	2.77			

R^2 = .307

*p. < .05

**p. < .01

Number of cases = 106