

TABLE OF CONTENTS

Executive Summary	iii
Introduction	1
Plea Bargaining in the United States	3
Attempts to Abolish Plea Bargaining	4
Re-Structuring Plea Bargaining	7
Hydraulic Theory of Discretion	7
Plea Bargaining In Canada	9
Official Standards and Guidelines	9
Legislative Guidelines	9
Common Law Guidelines	10
Professional Guidelines	11
The Judicial Response	13
Broken Plea Bargains: Pre-Adjudication	14
Broken Bargains: Repudiations by Crown Appeal	15
The Tacit Judicial Response	16
Guilty Pleas	16
Withdrawal of Guilty Plea	17
Guilty Plea as a Mitigating Factor	18
Sentence Recommendations	19
Empirical Research	21

Interviews	21
Official Records	22
Observations	22
Conditions that Deter Plea Bargaining	23
Conditions that Facilitate Plea Bargaining	23
Pre-Trial Bargaining and Sentencing Guidelines	26
Empirical Studies	27
Recommendations for Controlling the Impact of Bargaining on Guidelines	32
Controlling Bargaining	32
Structuring the Guidelines to Reduce Bargaining	33
Introduction: Initial Choices	33
Voluntary vs. Mandatory Guidelines	34
Real Offence vs. Convicted Offence Sentencing	34
Guilty Plea Discount	35
Descriptive vs. Prescriptive Guidelines	36
Who Calculates Offence Scores?	37
Width of Sentence Ranges	38
Aggravating and Mitigating Factors	38
In/Out Decision	38
Consecutive and Concurrent Sentences	39

Calculation of Prior Record	39
Role of the Victim	40
Parole	40
Appendix A	
Bibliography of Pre-Trial Bargaining in Canada	41
Appendix B	
Bibliography of Empirical Studies on Plea Bargaining in the United States	45
Appendix C	
Rules for U.S. District Courts: Rule 11	49
Appendix D	
State of Washington Sentencing Reform Act of 1981	52