

BRIMAGE PLEA NEGOTIATION WORKSHEET

(Consult Brimage Guidelines 2 for Complete Description of Rules and Criteria)

| | | |
|------------------------|--------------------------|---------------------------|
| Defendant Name: | County: | Date: |
| P/G Number: | Complaint Number: | Indictment Number: |

Is this: A pre-indictment offer or equivalent of pre-indictment?

An Initial post-indictment offer?

A Final post-indictment offer?

Offense Description

Most serious Brimage-eligible offense: _____ N.J.S.A. 2C:35-_____

Special Offense Characteristics:

Firearm possessed? (Do not use if defendant will also plead to 2C:39-4.1 based on the same conduct.) Yes No Unk

Non-firearm weapon used? (Do not use if defendant will also plead to 2C:39-4.1 based on the same conduct.) Yes No Unk

Will defendant be required to also plead to 2C:39-4.1? Yes No

If appropriate, select the aggregate amount of drugs involved from the list below.

Second Degree Amount First Degree Amount Substantial Quantity Amount (ten (10) times first degree amount)

If charged with N.J.S.A. 2C:35-6, was defendant less than 3 years older than the juvenile used or employed?

Yes No

Enter Criminal History Category (See Schedule I)

Enter the applicable Table of Authorized Plea Offers, Row Letter and Column Table # _____ Row _____ Column _____

From the appropriate cell and accounting for the timing of the plea (pre-indictment, initial post-indictment or final post-indictment), enter the minimum, presumptive and maximum terms

Enter the Grand Total from the Aggravating and Mitigating Factors

(Must complete and attach Schedule II)

If the Grand Total is 3 or more, enter a plea offer above the presumptive term. If the Grand Total is 7 or more, enter the maximum term. If the Grand Total is negative 3 or more (e.g. -3, -4, etc.), enter a plea offer below the presumptive term. If the Grand Total is negative 7 or more (e.g. -7, -8, etc.), enter the minimum term.

Defendant Name _____

Promis Number _____

Special Application and Enhancement Features

Offense was committed while defendant was knowingly involved in street gang related activity (add 6 to 18 months if offense is a first degree crime, otherwise add 1 to 9 months). (See Feature A) Approved by: _____

Yes No Unk

Offense involved booby traps or fortification. If "Yes", defendant must plead to drug charge and 2C:35-4.1b or c with consecutive terms. (See Feature B)

Yes No Unk

Offense involved violence which is subject to the No Early Release Act. If "Yes", the defendant must plead to drug charge and violent crime. (See Feature C1)

Yes No Unk

Offense involved bodily injury (add 6 months) or significant bodily injury (add 12 months). (See Feature C2).

Yes No Unk

Defendant actually or constructively possessed an assault firearm or machine gun; or brandished, pointed, discharged or threatened to discharge any firearm; or was in immediate personal possession of any firearm. If "Yes" defendant must plead to drug charge and 2C:39-4.1 with consecutive terms. (See Feature D)

Yes No Unk

Offense occurred while under supervision (e.g. parole, probation, ISP, etc.) (add 6 months) or by escapee or parole absconder (add 12 months). (See Feature E)

Yes No Unk

Defendant has violated a Drug Offender Restraining Order (add 3 to 9 months). (See Feature F)

Yes No Unk

Offense involved 2C:35-7 while on school property. (Mandatory minimum of 3 years unless less than 1 oz. of marijuana, or add 1 year if Extended Term). (See Feature G)

Yes No Unk

Offense occurred on school property and involved 2C:35-6 (add 12 months) or involved 1st degree offense under 2C:35-5 (add 18 months). (See Feature G)

Yes No Unk

Offense involved distribution to a minor or pregnant female (double the plea offer). (See Feature H)

Yes No Unk

Offense occurred in a correctional facility or drug treatment facility or involved distribution to person entering or leaving a drug treatment facility (add 6 months). (See Feature I)

Yes No Unk

Defendant is subject to Anti-Drug Profiteering Penalty. (See Feature J)

Yes No Unk

Downward departure for trial proof issues? Yes No

Extent of Reduction _____

Approval is required if adjustment is greater than 6 months (4th degree), 9 months (3rd degree), 12 months (2nd degree) or 24 months (1st degree).

Approved by _____

Downward departure for substantial cooperation? Yes No

Extent of Reduction _____

(Approval is required. If Yes, treat worksheet as a **confidential** record)

Approved by _____

Plea Offer _____

Expires On _____ Completed by _____

NOTICE: This plea offer is subject to withdrawal and modification based on new information about the offense or defendant, including, but not limited to, defendant's conduct occurring after this offer was issued (e.g. committing a new offense or failing to appear in court).

DETERMINATION OF CRIMINAL HISTORY CATEGORY

Defendant Name _____

Promis Number _____

Prior Convictions/Adjudications*

| | Date Sentence Imposed | Offense | Degree | Criminal History Points |
|-----|-----------------------|---------|--------|-------------------------|
| 1. | | | | |
| 2. | | | | |
| 3. | | | | |
| 4. | | | | |
| 5. | | | | |
| 6. | | | | |
| 7. | | | | |
| 8. | | | | |
| 9. | | | | |
| 10. | | | | |

* Use asterisk to indicate juvenile disposition.

Total number of Criminal History Points

Table 1.

| Degree | Adult Conviction points | Juvenile Adjudication points |
|--------------------|-------------------------|------------------------------|
| First | 20 | 10 |
| Second | 12 | 6 |
| Third | 6 | 3 |
| Fourth | 4 | 2 |
| Disorderly Persons | 2 | 1 |

Select the appropriate Criminal History Category from Table 2 below.

Table 2.

| Criminal History Category | Criminal History Points or Criteria |
|----------------------------|--|
| I (Minor) | 0 to 9 |
| II (Significant) | 10 to 19 |
| III (Serious) | 20 or more |
| IV (Extended Term) | Previous conviction for distribution or possession with intent to distribute CDS, regardless of the degree of the prior drug distribution-type offense or the number of criminal history points. |
| V (Enhanced Extended Term) | Defendant has prior distribution-type conviction <i>and</i> has 10 or more criminal history points, not counting the least serious prior drug distribution-type offense used to establish the defendant's eligibility for an extended term pursuant to <u>N.J.S.A. 2C:4-6f</u> . |

Enter Criminal History Category

AGGRAVATING AND MITIGATING FACTORS
 (Consult Brimage Guidelines 2 for definitions and rules regarding “double counting”)

Defendant Name _____

Promis Number _____

| AGGRAVATING FACTORS | Points | Yes | No | Insufficient Facts | Value |
|---|--------|--------------------------|--------------------------|--------------------------|-------|
| 1. <u>Community Impact.</u> | | | | | _____ |
| a. Children were present in premises; OR | 2 | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | |
| b. Offense occurred in a drug-free park, public housing, or public building zone; OR | 2 | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | |
| c. Offense occurred in a designated “Quality of Life” special enforcement zone | 3 | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | |
| 2. <u>Bail Violation.</u> | | | | | _____ |
| Offense occurred while on bail or defendant has committed a bail violation after arrest in present case (3 points or 4 points if defendant was fugitive or failed to appear in court in present case) | 3 or 4 | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | |
| 3. <u>Risk of Injury to Officers or Others.</u> | | | | | _____ |
| a. Offense involved threatened violence; OR | 3 or 4 | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | |
| b. Resisting arrest; OR | 3 to 5 | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | |
| c. Flight or Eluding; OR | 4 or 5 | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | |
| d. Attempted destruction of evidence/hindering apprehension | 3 | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | |
| 4. <u>Organization.</u> | | | | | _____ |
| a. Part of a sophisticated drug-distribution operation; OR | 3 or 4 | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | |
| b. Defendant is involved in organized criminal activity; OR | 3 or 4 | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | |
| c. Middle or upper-echelon participant in a drug-distribution scheme; OR | 3 or 4 | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | |
| d. Defendant substantially influenced another person in committing the offense; OR | 3 | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | |
| e. Defendant contributed special skills to the criminal conduct | 3 | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | |
| 5. <u>Profiteering.</u> | | | | | _____ |
| a. Criminal conduct provided a substantial source (3 points) or primary source (4 points) of income or livelihood; OR | 3 or 4 | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | |
| b. Offense involved actual distribution for money (2 points, or 3 points if sale to undercover officer or informant); OR | 2 or 3 | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | |
| c. Defendant is eligible for anti-drug profiteering penalty | 4 | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | |

AGGRAVATING TOTAL

AGGRAVATING AND MITIGATING FACTORS
 (Consult Brimage Guidelines 2 for definitions and rules regarding “double counting”)

Defendant Name _____

Promis Number _____

| MITIGATING FACTORS | Points | Yes | No | Insufficient Facts | Value |
|--|-----------------|--|--|--|-------|
| 1. <u>Non-Pecuniary Distribution.</u> Offense involved distribution of CDS only to friends/relatives (other than minors) | 3 | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | _____ |
| 2. <u>Defendant’s Role in Criminal Scheme.</u> a. Defendant was only minimal (3 points) or minor (2 points) participant in the criminal conduct; OR b. Defendant was substantially influenced by another person more mature (other person’s identity must be known) | 2 or 3 2 | <input type="checkbox"/> <input type="checkbox"/> | <input type="checkbox"/> <input type="checkbox"/> | <input type="checkbox"/> <input type="checkbox"/> | _____ |
| 3. <u>Voluntary Renunciation.</u> Defendant voluntarily terminated participation in the scheme before arrest or police intervention | 4 | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | _____ |
| 4. <u>Drug Treatment.</u> Defendant is enrolled and participating in an approved drug treatment program (Outpatient 2 points; Residential 3 points) | 2 or 3 | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | _____ |
| 5. <u>No Court Involvement.</u> Defendant has no prior conviction, juvenile adjudication or adult PTI or conditional discharge | 3 | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | _____ |
| 6. <u>Youthful Offender.</u> Defendant was less than 21 years old at time of offense (2 points); or defendant was at least 21 but less than 26 (1 point). (Do not use if defendant falls into Criminal History Category IV or V, has pending charge for <u>N.J.S.A. 2C:35-6</u> , or is subject to Special Application and Enhancement Feature A (street gang involvement)). | 1 or 2 | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | _____ |

MITIGATING TOTAL

GRAND TOTAL (Subtract Mitigating Total from Aggravating Total)