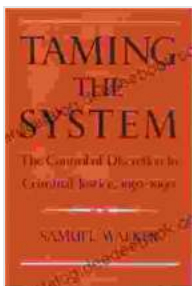


# Control of Discretion in Criminal Justice: A Historical Examination from 1950 to 1990

Discretion, a hallmark of criminal justice systems worldwide, empowers law enforcement officers, prosecutors, and judges to make decisions that impact the lives of individuals accused of crimes. The exercise of this discretion has been a subject of ongoing debate, with concerns raised about the potential for bias, inconsistency, and unfairness. This article delves into the evolution of control over discretion in the American criminal justice system from 1950 to 1990, exploring the factors that shaped its trajectory and the consequences for criminal justice outcomes.

## Judicial Discretion and Sentencing

Historically, judges have enjoyed broad discretion in sentencing convicted criminals. This authority stemmed from the belief that judges, as impartial arbiters of the law, could tailor sentences to the individual circumstances of each case, ensuring fairness and proportionality. However, the 20th century witnessed a growing concern about disparities in sentencing practices and the potential for racial bias to influence judicial decisions.



## Taming the System: The Control of Discretion in Criminal Justice, 1950-1990: Control of Discretion in Criminal Justice, 1950-90 by Samuel Walker

★★★★☆ 4 out of 5

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In response to these concerns, a movement emerged to reduce judicial discretion in sentencing. This movement culminated in the passage of sentencing guidelines, first at the state level and later at the federal level. These guidelines established mandatory minimum sentences and narrowed the range of sentences judges could impose for specific offenses. The goal was to promote consistency, reduce racial disparities, and enhance public confidence in the fairness of the criminal justice system.

### **Prosecutorial Discretion**

Prosecutors possess immense discretionary power in the criminal justice process. They decide whether to charge a suspect, what charges to file, and whether to offer plea bargains. This discretion has been scrutinized for its potential to influence the outcomes of criminal cases, particularly in cases involving plea bargaining.

During the period from 1950 to 1990, there was a shift towards increasing the accountability of prosecutors and limiting their discretionary powers. Prosecutors were required to provide more detailed reasons for charging decisions and plea bargains, and ethical guidelines were established to prevent prosecutorial misconduct. Additionally, the use of plea bargaining expanded, which gave prosecutors more leverage in controlling case outcomes.

### **Police Discretion**

Police officers are granted broad discretion in their interactions with the public, including the authority to stop, question, and arrest individuals. This discretion has been a source of controversy, as it can lead to selective enforcement and discriminatory practices.

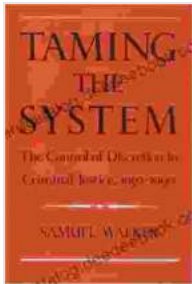
In the 1960s and 1970s, the civil rights movement and the anti-war protests highlighted the need to address police misconduct and racial profiling. In response, police departments implemented reforms, such as community policing initiatives and the adoption of body cameras, to increase transparency and accountability. Additionally, federal guidelines were established to prohibit racial profiling and excessive force.

### **Consequences of Discretion Control**

The control of discretion in criminal justice has had significant consequences for the system and the individuals who come into contact with it. The reduction of judicial discretion in sentencing has led to increased consistency and reduced racial disparities, but it has also raised concerns about the loss of individualized justice. The increased accountability of prosecutors has enhanced public trust in the system, but it has also limited prosecutorial independence and raised concerns about the erosion of plea bargaining. The reforms to control police discretion have improved police-community relations and reduced the potential for abuse, but they have also imposed additional burdens on law enforcement officers.

The control of discretion in criminal justice has been a dynamic and evolving issue throughout American history. From the broad discretion granted to judges in the early 20th century to the increased accountability measures implemented in the late 20th century, the trajectory of discretion control has been shaped by concerns about fairness, consistency, and

racial justice. As the criminal justice system continues to grapple with these issues, it is essential to strike a balance between the need for discretion to accommodate the unique circumstances of each case and the need for accountability to prevent bias and ensure the fair and equitable treatment of all individuals.



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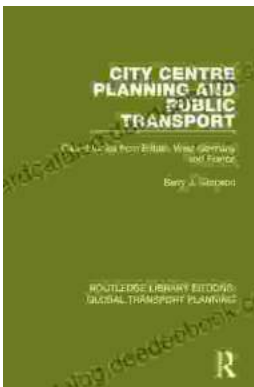
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