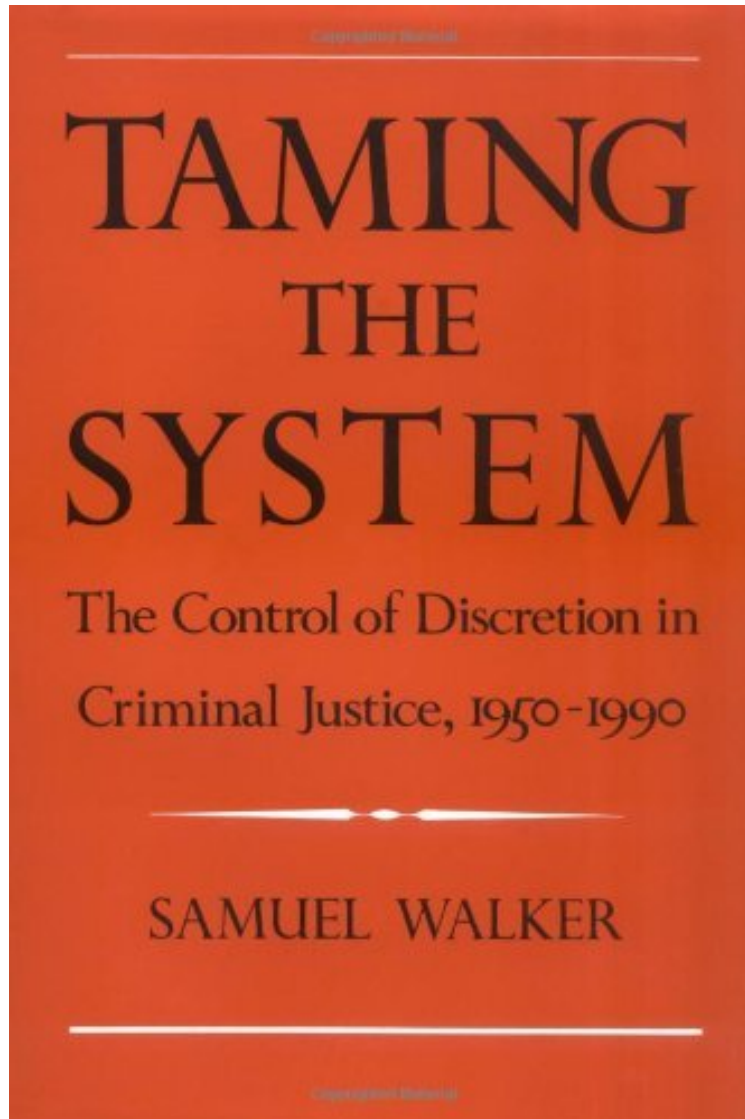


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Taming the System: The Control of Discretion in Criminal Justice, 1950-1990

Samuel Walker

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Samuel Walker : Taming the System: The Control of Discretion in Criminal Justice, 1950-1990 before purchasing it in order to gage whether or not it would be worth my time, and all praised Taming the System: The Control of Discretion in Criminal Justice, 1950-1990:

5 of 5 people found the following review helpful. Useful for some things, but heavy bias and exaggerated claims decreases quality By G. Gawne Walker's text is largely an account of the history of major discretionary control measures in the latter half of the 20th century. It's historical account is useful as a resource, and contains a good

amount of detail while not losing sight of a larger picture. There are two main problems: one, while masquerading as a fair and balanced view, it is unapologetically biased, and two, he has a number of unsupported assumptions that cause him to push toward exaggerated claims regarding the control of discretion. Walker is a major proponent of the Due Process school of thought, and he rarely lets an opportunity to assert his views pass. This would not be a problem if it was made plain what is a bias and opinion, and what is historical fact, but he mixes the two quite heavily, all while the text treats all the material as equally empirical. For those unfamiliar with contemporary criminal justice, there are two major models of thought: due process and crime control. Due process is very concerned with protecting the rights of the accused and limiting discretion of the players, while crime control favors controlling crime even at the reduction of control measures on agents of the Justice System. They tend to line up ideologically with liberalism and conservatism in the political sphere, though not always. However, just like liberalism and conservatism, both extreme views have a mixture of negative and positive aspects, and the optimum course is most often achieved by finding the 'golden mean'. The biggest issue here is that Walker automatically assumes that discretion in the system is a negative thing, and must inherently be controlled for there to be such a thing as justice. He paints the implementation of discretionary controls as a necessary, long overdue process that has been slowly making gains in its efforts to do away with the dastardly status quo of wild, untamed discretion, where injustice thrives as everyone exercises discretion. He goes so far as to imply that differing perspectives, particularly crime control perspectives, are in opposition to justice. There are some major problems with this. For one, in his zeal to control discretion, he loses sight of the benefits that discretion can bring. Sociological research from a variety of sources is increasingly showing that heavily controlling a person's discretion actually results in poorer performance of tasks involving cognitive or creative skills. (If you're wondering where I'm getting this from, as a starting point, look at the Youtube video of Dan Pink's TED talk about motivation.) Granted, this book is a bit dated (being almost 20 years old now), so it's somewhat understandable that it's not up on the latest research, but the core of this perspective is one advocated by business and management gurus for some time now. Peter Drucker, Ken Blanchard, and Warren Bennis have all argued similar points. Rather than control discretion, the concern should be to guide decision making to the best course of action while still giving CJ actors the autonomy to make decisions. But, he focuses only on controlling discretion (lest it be abused, though 'abuse of discretion' and 'discretion' are conflated throughout the text), and loses sight of this. Additionally, the author makes exaggerated claims that are unsupported by his evidence, or unsupportable period. For example, in his conclusion he states the following: "A final point is that controls which limit the discretion of criminal justice officials in the interest of promoting justice do not endanger the community." (pg 151) In this text, he provides perhaps three or four examples of situations where such controls were used that evidence suggests did not have a major negative effect on the safety of the community. Such a small body of evidence is little justification for such a sweeping statement. The fact of the matter is, regardless of the intent of the control implementers, there could easily be discretionary controls placed on CJ officials that do endanger a community. That potential does exist, regardless of past practice, which is why such care and effort needs to be taken in the formulation of such rules. To state otherwise is irresponsible in the extreme, as it can lead to people exercising less regard for the potential consequences of the measures they wish to enact. And this is just one example. But, ultimately, these are my frustrations with the text, and, though I'd think anyone would be annoyed by an author presenting a biased view as an empirical one, I'd imagine there are many people who'll be fans of this book. It's by no means the worse case of unacknowledged bias and exaggerated conclusions, but this is supposed to be a fair and balanced, academically oriented text, which is why I feel it should be held to a higher standard of specificity and evenness. I'll venture that if you're strongly liberal/due process oriented, you'll probably eat it up, whereas if you're conservative/a fan of crime control, you'll find it very frustrating.

It is a truism that the administration of criminal justice consists of a series of discretionary decisions by police, prosecutors, judges, and other officials. *Taming the System* is a history of the forty-year effort to control the discretion. It examines the discretion problem from the initial "discovery" of the phenomenon by the American Bar Foundation in the 1950s through to the most recent evaluation research on reform measures. Of enormous value to scholars, reformers, and criminal justice professionals, this book approaches the discretion problem through a detailed examination of four decision points: policing, bail setting, plea bargaining, and sentencing. In a field which largely produces short-ranged "evaluation research," this study, in taking a wider approach, distinguishes between the role of administrative bodies (the police) and evaluates the longer-term trends and the successful reforms in criminal justice history.