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Criminal Justice

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Exercising Discretion

In many jobs, there is a usually a particular set of rules that we must adhere to. However, often times, when certain situations arise, people are given the freedom, and are sometimes even encouraged to bend the rules if needed. This is called exercising discretion, or using one's own judgment to adequately assess a situation and react accordingly. Sometimes the standardized rules are simply not appropriate for a particular scenario and the person handling it must decide which method of handling the situation is the *best* method.

It is easily justifiable for a server, receptionist, or construction worker to exercise discretion because it usually does not bend any societal or legal rules; however, when law enforcement officers do the same thing, the topic becomes much more controversial.

In this paper, I will discuss why I think the use of discretion is typically acceptable, its benefits to law enforcement and public safety, its effect on the function of the criminal justice system, the ethics of discretion, and whether or not it should be eliminated.

While I can understand why some people might be against the use of discretion in law enforcement, I firmly believe that exercising it is a very good thing. Simply put, there are many situations that may come up that do not deserve the consequences of their actions. For example, if a man were going twenty miles over the speed limit to get his wife, who was in labor, to the

hospital, I do not believe he should be given a hefty ticket—he is not joyriding or racing anybody. I think the biggest factor in these situations is whether or not the action was justified under the circumstances. Furthermore, law enforcement officers have undergone training so that they can judge situations as accurately as possible. I think that it is safe to say that most police officers have a pretty good idea who the true bad people are, and can recognize when a good person is simply in a bad situation.

The topic of exercising discretion becomes even fuzzier concerning the topic of whether or not it helps law enforcement and public safety, or if it hinders it. What if an officer let a seemingly good person off with a warning who later went on to murder somebody? What if the person they pulled over was actually drunk and caused a car accident right after they drove away? There will always be “What if...?” situations, but the fact of the matter is that sometimes one must use their own judgment. This is especially important for police officers because discretion also allows them to decide whether or not a situation has become dangerous. If a police officer feels he or she is being threatened, then exercising their discretion allows them to act accordingly. It can prevent a crazed man from going postal and killing dozens, or it may stop that drunk driver from killing innocent people in a car accident. Ultimately, the freedom to judge a situation will help and save more lives than if it were not allowed.

Discretion is especially effective in helping the criminal justice system function efficiently. Some things are more important for a police officer to tend to than others may be. Situations in which minor laws have been broken or bent may tie up the available police officers from other, more important things they could be doing. On the other hand, using discretion allows a police officer to judge how serious a situation is, or will become. If used correctly, it

will maximize efficiency of an officer's time and resources, and ultimately, benefit the entirety of the criminal justice system.

Lastly, the biggest controversy surrounding the exercise of discretion among law enforcement officers concerns the ethics associated with it. Is it wrong to let somebody who was very clearly violating a law off with a warning, even though somebody else doing the exact same thing may get ticketed or arrested? The truth is that human beings are no exact science: the way we think, feel, and behave varies considerably depending on how we were raised, our genetic make-up, culture, and whatever circumstances may be involved. Without discretion used in this field, there would be an enormous amount of injustice present in many people's lives. Truthfully, there will always be a few people whose discretion is inadequate for a situation and who will handle a situation poorly, but overall, this is a practice that affects society in a very positive way.

Overall, the use and exercise of discretion is something that should not be eliminated from the fields of law enforcement. Though some situations may seem foggy and unclear at times, discretion allows police officers and others to act the best way possible given the circumstances. There are always exceptions to the rule; however, I firmly believe that discretion in law enforcement is much more beneficial to society than harmful.