

Constitutional Limits on Criminal Law

The Principle of Legality

- No crime without law; no punishment without law
- The Ban on Ex post Facto Laws: Article I of constitution
- 1. Criminalizes an act after the fact 2. Increases punishment after the fact 3. Takes away a defense after the fact (Can't be punished if law is changed after you broke it)
- Purposes of Ban: protects citizens, prevent arbitrary and vindictive laws

The Void-for-Vagueness Doctrine

- Statutes violate due process if they don't define the crime and it's punishment enough for ordinary people to know what is lawful
- Vague laws violate two provisions:
- Fifth Amendment - taking a person's life, liberty, or property without due process of law - Federal Government
- Fourteenth amendment - State government
- Takes aim at two Evils: Failure to give fair warning, Arbitrary and discriminatory law enforcement

The Rule of Lenity: The requirements of the courts to resolve every ambiguity in a criminal statute in favor of the defendant.

Narrow Lenity Rule - New Rule

- Requires courts interpret ambiguous statutes in favor of defendants only in the core felony cases and other requiring fault
- The vast majority of cases don't get the benefit anymore.

Proving Guilt in Criminal Cases

Criminal Conduct

- **Presumption of Innocence** - Prosecutor has the burden to prove the criminal act and criminal intent
- **Burden of Proof:** Beyond a reasonable doubt
- Defendants may lose their life, liberty, or property and face the stigma of a conviction

Justification and excuse defenses:

- They are affirmative defenses
- Defendants must present the evidence and thus have the **Burden of Production**
- **Burden of Persuasion:** Defendants have to prove their defense by a preponderance of the evidence (more likely than not)
- **Preponderant of the Evidence:** More than 50% of the evidence proves justification or excuse

The Bill of Rights and the Criminal Law

Right to the "Freedom of Speech"

- First Amendment: Expressive conduct, Applies to the states, Five categories of expression not protected
- Freedom of Speech does not protect: Obscenity, Profanity, Libel and Slander, Fighting words, clear and present danger.

The Limits Of The Criminal San

Wenbin Ji



The Limits Of The Criminal San:

Prevention and the Limits of the Criminal Law Andrew Ashworth, Lucia Zedner, Patrick Tomlin, 2013-01-31 Exploring the principles and values that should guide and limit the state's use of preventive techniques that involve coercion against the individual this volume arises from a three year study of Preventive Justice The contributions examine whether and when preventive measures are justified whether within or without the criminal law and whether they signal a larger change in the architecture of security Preventive measures include controversial crime control approaches such as pre inchoate offences pre trial detention restraining orders and prevention detention of the dangerous There are good reasons to justify state use of coercion to protect the public from harm but while the rationales and justifications for state punishment have been extensively explored the scope limits and principles of preventive justice have not received the same attention This volume written by world renowned scholars from different disciplinary backgrounds and jurisdictions redresses the balance assessing the foundations for the range of coercive measures that states now take in the name of prevention and public protection The Criminal Code of Saint Lucia, 1920 Saint Lucia, 1920 **The Revised Ordinances of the City of Saint Louis** Saint Louis (Mo.), 1843 Laws at Present in Force in the Island of Saint Lucia, 1853 Charter of the City of St. Louis, Missouri Saint Louis (Mo.), 1915 **The Saint Pauls Magazine**, 1870 The Ordinances of the City of St. Louis, State of Missouri Saint Louis (Mo.), 1861 Reports of Cases Determined in the Supreme Court of the State of California California. Supreme Court, 1906 Acts of the ... General Assembly of the State of Missouri Missouri, 1870 **The Life of Saint Malachy O'Morgair** John O'Hanlon, 1859

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Table of Contents The Limits Of The Criminal San

1. Understanding the eBook **The Limits Of The Criminal San**
 - The Rise of Digital Reading **The Limits Of The Criminal San**
 - Advantages of eBooks Over Traditional Books
2. Identifying **The Limits Of The Criminal San**
 - Exploring Different Genres
 - Considering Fiction vs. Non-Fiction
 - Determining Your Reading Goals
3. Choosing the Right eBook Platform
 - Popular eBook Platforms
 - Features to Look for in an **The Limits Of The Criminal San**
 - User-Friendly Interface
4. Exploring eBook Recommendations from **The Limits Of The Criminal San**
 - Personalized Recommendations
 - **The Limits Of The Criminal San** User Reviews and Ratings

- The Limits Of The Criminal San and Bestseller Lists
- 5. Accessing The Limits Of The Criminal San Free and Paid eBooks
 - The Limits Of The Criminal San Public Domain eBooks
 - The Limits Of The Criminal San eBook Subscription Services
 - The Limits Of The Criminal San Budget-Friendly Options
- 6. Navigating The Limits Of The Criminal San eBook Formats
 - ePub, PDF, MOBI, and More
 - The Limits Of The Criminal San Compatibility with Devices
 - The Limits Of The Criminal San Enhanced eBook Features
- 7. Enhancing Your Reading Experience
 - Adjustable Fonts and Text Sizes of The Limits Of The Criminal San
 - Highlighting and Note-Taking The Limits Of The Criminal San
 - Interactive Elements The Limits Of The Criminal San
- 8. Staying Engaged with The Limits Of The Criminal San
 - Joining Online Reading Communities
 - Participating in Virtual Book Clubs
 - Following Authors and Publishers The Limits Of The Criminal San
- 9. Balancing eBooks and Physical Books The Limits Of The Criminal San
 - Benefits of a Digital Library
 - Creating a Diverse Reading Collection The Limits Of The Criminal San
- 10. Overcoming Reading Challenges
 - Dealing with Digital Eye Strain
 - Minimizing Distractions
 - Managing Screen Time
- 11. Cultivating a Reading Routine The Limits Of The Criminal San
 - Setting Reading Goals The Limits Of The Criminal San
 - Carving Out Dedicated Reading Time
- 12. Sourcing Reliable Information of The Limits Of The Criminal San
 - Fact-Checking eBook Content of The Limits Of The Criminal San
 - Distinguishing Credible Sources

13. Promoting Lifelong Learning
 - Utilizing eBooks for Skill Development
 - Exploring Educational eBooks
14. Embracing eBook Trends
 - Integration of Multimedia Elements
 - Interactive and Gamified eBooks

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