

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

John O'Hanlon



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