

Seven Deadly Sins

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Constitutional Rights and the Criminal Justice System

David R. Lynch
Molly Sween
Mark Denniston
Bruce Bayley



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Dedication Page

David Lynch

With much thanks as always from Dave to his best friend, Kathy.

Molly Sween

Thank you to my family (Brad, Evelyn, and Amber) for your love and support.

Mark Denniston

A special thank you to my wife Christie for being the rock of support in my life. Also, thank you to the retired Iowa Supreme Court Justice, Jerry L. Larson, for his wisdom.

Bruce Bayley

Thank you to my family.

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Introduction

Imagine legislators who create criminal statutes that go too far in suppressing vulgar and offensive expressions. Imagine a judge who secretly meets with a prosecutor to discuss a case. Or, consider a police officer who is by nature very intrusive. Consider a jailer who is cruel. Picture a juror that is racist or a cunning prosecutor who gets a conviction by fighting dirty. Imagine a juror that is subservient to authority figures. These negative attributes—intolerance, subterfuge, intrusiveness, cruelty, favoritism, craftiness, and subservience to authority—are what could be termed “the seven deadly sins” of the American criminal justice system.

On the other hand, imagine a criminal justice professional who believes in always being humane and tolerant, and knows that he or she must act with transparency. Imagine further that this same person values privacy rights, fair play, and equality. Further imagine that this person is sensitive to the corrupting nature of power, though she and her system colleagues are given extraordinary powers over life, liberty and property. The person just mentioned could be described as adhering successfully to American Constitutional criminal justice values.

Constitutional rights constitute a set of values to which nearly everyone in our society can agree. If America has a “civic religion,” its doctrine would be found in the Constitution. There may be some in our society who do not like even broad constitutional principles (specific and debatable interpretations aside), but such people seem to be exceedingly rare. In any event, the Constitution does not constitute a set of suggestions for those who work in the domain of criminal justice, but rather constitutes a set of mandates.

Properly approached, the study of constitutional rights can be ethically enlightening because it involves much more than the mere mechanical memorization of a body of black letter rules and definitions. The careful

examination of U.S. Supreme Court and other appellate opinions reveals not only the courts' final rulings on various matters, but provides in detail the (often moral) reasoning behind the courts' decisions. In explicating their rationales, judicial opinion writers typically address the opposite point of view before going on to explain why they sided the way they did. In the process of examining such decisions, students discover a court's ethical reasoning behind its ruling. Such cases make for excellent class discussion, and students often wind up teaching one another while making moral sense of the case with the instructor.

With this background, let us now begin our book-length journey of looking closely at many core justice system values housed in the U.S. Constitution. Each of these values shall span two chapters. One chapter per value shall be devoted to case law that will help to identify and illustrate the value in a constitutional sense. Then, a companion chapter shall provide a series of true stories that provide practical examples of the value being played out in the real world of police and corrections.

Seven core values in all will be examined in the chapters that follow. These virtues will be introduced via their mirror opposites, which we call the "seven deadly constitutional sins" of the criminal justice system. Once again, these negative attributes or "sins" are intolerance, subterfuge, intrusiveness, craftiness, favoritism, cruelty, and subservience to authority.