

# The nature of crime, corporate crime and white collar crime

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## What is 'Crime'?

There is no universally agreed upon definition.

### The Positivist View

- 'A crime is what the law says it is' (Fattah, prescribed reading, p.31)
- Legal view (focus on the act): a crime... is a legal wrong that can be followed by criminal proceedings which may result in punishment.'

These perspectives overlook the *merits* of the law- they focus instead on the **sources** of the law (legislation and decided cases).

The positivist view does not provide any insight about what conduct *should* be regarded as criminal.

Does the positivist view imply that all crime could be eliminated instantly merely by repealing all the criminal laws?

Conversely, is conduct a 'crime' merely because it is prescribed by the law?

### Alternative views

Some alternative perspectives to the positivist view:

- Crime is conduct which is 'immoral'- conduct which will incur a formal and solemn pronouncement of the moral condemnation of the community. Here, the focus is on the nature or character of the **conduct**
- Crime is conduct which harms a particular person or persons (the victims) or society in general. Here, the focus is on the nature or character of the **result**
- 'A crime is usually an anti-social act of such a nature that its repression is necessary or is supposed to be necessary to the preservation of the existing system of society.' (Fattah, p.36) Here the focus is on the **well-being of society**

Other views or perspectives (criminality is sometimes viewed as reflecting some psychological disturbance. Here the focus is on the attributes of the **perpetrator**.

### Crime- some classifications

1. Indictable offences v. summary offences
2. 'Real' crimes (involving a fault element) v. strict liability offences
3. 'Real' crimes v. 'victimless' crimes
4. 'White collar crime' v. 'Ordinary/street' crime
5. 'White collar crime' v. 'Corporate crime'

## What is White Collar Crime?

Sutherland's definition: '*a crime committed by a person of respectability and high social status in the course of his occupation.*' (1949)

### Hallmarks of white collar crime:

- The offence is committed by an individual, often acting alone
- The offence is non-violent and involves deceit; the offence is intentional
- The perpetrator will rarely have a criminal record
- The motivation behind the offending is usually simple- to make money (opportunity, gambling or another addiction, etc.)
- The offence is often committed secretly- it may take a long time before the wrongdoing is detected ('business offenders and legitimately present at the scene')
- The immediate victim of the crime is often a company, government or other large organisation (although the impact of the crime may be felt by many others)

### Some other characteristics of white-collar crime:

- Even when white-collar crime is detected, it may not be reported to the relevant authorities. Employers may be too embarrassed to report it
- White-collar crime is technical rather than physical in nature. Cases often involve complex 'paper trails' that are too difficult to establish- those responsible for detecting and prosecuting such crimes (like auditors and regulators) need expertise and significant resources. Cases take a long time to be prepared and presented in Court

