HSC legal studies – nature of crime

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# Aim

Legal studies develops students’ knowledge, understanding and critical thinking skills in relation to the legal system and its effectiveness in promoting a just and fair society, with a view to empowering students to participate effectively as responsible citizens at the local, national and international level.

## Principal focus

Through the use of a range of contemporary examples, students investigate criminal law, processes and institutions and the tension between community interests and individual rights and freedoms.

## Themes and challenges

* the role of discretion in the criminal justice system
* issues of compliance and non-compliance in regard to criminal law
* the extent to which law reflects moral and ethical standards
* the role of law reform in the criminal justice system
* the extent to which the law balances the rights of victims, offenders and society
* the effectiveness of legal and non-legal measures in achieving justice.

## Outcomes

A student:

* **H1** identifies and applies legal concepts and terminology
* **H2** describes and explains key features of and the relationship between Australian and international law
* **H3** analyses the operation of domestic and international legal systems
* **H4** evaluates the effectiveness of the legal system in addressing issues
* **H5** explains the role of law in encouraging cooperation and resolving conflict, as well as initiating and responding to change
* **H6** assesses the nature of the interrelationship between the legal system and society
* **H7** evaluates the effectiveness of the law in achieving justice
* **H8** locates, selects, organises, synthesises and analyses legal information from a variety of sources including legislation, cases, media, international instruments and documents
* **H9** communicates legal information using well-structured and logical arguments
* **H10** analyses differing perspectives and interpretations of legal information and issues.

Outcomes referred to in this document are from [Legal Studies Stage 6 Syllabus](https://educationstandards.nsw.edu.au/wps/portal/nesa/11-12/stage-6-learning-areas/hsie/legal-studies) © NSW Education Standards Authority (NESA) for and on behalf of the Crown in right of the State of New South Wales, 2009.

# Learning sequence 1 – the nature of crime

|  |  |
| --- | --- |
| Students learn about: | Students learn to: |
| * the meaning of crime
* the elements of crime: actus reus, mens rea
* strict liability offences
* causation
* categories of crime includingoffences against the person, offences against the sovereign, economic offences (property/white collar/computer), drug offences, driving offences, public order offences, preliminary crimes (attempts and conspiracy)
* summary and indictable offences
* parties to a crime including principal in the first degree, principal in the second degree, accessory before the fact, accessory after the fact
* factors affecting criminal behaviour
* crime prevention: situational and social
 | * describe the nature of crime
* recognise the different categories of crime
* define summary and indictable offences
* examine a range of factors that may lead to criminal behaviour
* investigate a range of situational and social crime prevention techniques
 |

**Teacher note -** this learning sequence is likely to take 1-2 weeks. Prior to starting the crime topic, students should be allowed the opportunity to review the [HSC Legal Studies syllabus.](https://www.educationstandards.nsw.edu.au/wps/portal/nesa/11-12/stage-6-learning-areas/hsie/legal-studies) Please note that cases used in the activities below should be read and assessed for the suitability of the cohort and context.

## Meaning of crime

* Use [Law Access](https://www.lawaccess.nsw.gov.au/Pages/representing/driving_offences_and_crime/criminal_offences.aspx#:~:text=A%20crime%20occurs%20when%20a%20person%20breaks%20a,Commonwealth%20laws%20apply%20in%20all%20states%20and%20territories) to construct a definition of crime.
* Use ABC news, [‘Sydney police say 1996 Olympic swimmer ran drug syndicate’](https://abcnews.go.com/Sports/wireStory/sydney-police-1996-olympic-swimmer-ran-drug-syndicate-75918307) to write 1-2 sentences explaining why society may consider such a crime an offence against the community.

## Elements of crime

* Use the barefoot law [legal dictionary](https://barefootlaw.org/legal-dictionary/actus-reus-mens-rea-3/) to define *mens rea* and *actus reus.*
* Access the [*Criminal Code Act* 1995 (NSW)](http://www5.austlii.edu.au/au/legis/cth/consol_act/cca1995115/sch1.html) (sections 5.1 to 5.5) to summarise the 4 different levels of *mens rea (*fault elements)*.*
* Using a [Think-Pair-Share](https://app.education.nsw.gov.au/digital-learning-selector/LearningActivity/Card/645?clearCache=4eec72d7-545b-68fd-3b1a-38b7dbbb5ac5#.YDguW6--H3U.link) strategy, review the case of [*R v Ryan O'donnell* [2009] NSWSC 42](https://www.caselaw.nsw.gov.au/decision/549ffcdf3004262463c7d6a1) to identify the *Actus Reus* and *Mens Rea.*
* Write one paragraph explaining why it is essential for the prosecution to prove *mens rea* (fault elements)as well as *actus reus* (physical elements) of the crime. Resource for this task: section 12.2 of [ALRC, ‘A common law principle](https://www.alrc.gov.au/publication/traditional-rights-and-freedoms-encroachments-by-commonwealth-laws-ip-46/12-strict-and-absolute-liability/a-common-law-principle-2/)’.

## Strict liability offences

* Define strict liability offences.
* Read the following scenario:

Priyanka was running late to drop her baby to childcare and she was driving very fast. A police officer checked her speed with a mobile radar and determined that she was breaking the law. The police officer pulled Priyanka over and issued her with an on the spot fine for speeding.

* Conduct a class discussion about the scenario, that covers:
	+ whether the police officer has to prove *Actus Reus* for this offence
	+ whether the police officer has to prove *Mens Rea* for this offence
	+ how the rules for strict liability offences benefit the community.

## Causation

* Define causation.
* Research the case of [*R v Todd Munter* [2009] NSWSC](https://www.caselaw.nsw.gov.au/decision/549ff07c3004262463c4f839) and complete the following:
	+ create a simple [story board](https://app.education.nsw.gov.au/digital-learning-selector/LearningActivity/Card/559#.YHz3ldUhObI.link) to summarise the facts of the case
	+ explain why Todd Munter was convicted, even though the victim’s death was caused by a heart attack.
* Write a one paragraph response to the following question:

‘To what extent does the concept of causation protect the interests of victims and society.’

## Categories of crime

**Teacher note –** the syllabus in this section requires that students ‘recognise’ the different categories of crime. To complete the table, students will need access to text books or other resources such as the [*Crimes Act 1900* (NSW)](http://www5.austlii.edu.au/au/legis/nsw/consol_act/ca190082/). Using the *Crimes Act 1900* (NSW) is a more complex way to explore ‘categories of crime’ so the first category would need to be modelled for students and support provided during the activity.

* Complete the following table

|  |  |  |
| --- | --- | --- |
| Category of crime | Explanation of this category | Specific examples |
| Offences against the person |  |  |
| Drug offences |  |  |
| Economic offences:* property
* white collar
* computer
 |  |  |
| Offences against the sovereign |  |  |
| Public order offences |  |  |
| Traffic offences |  |  |
| Preliminary crimes:* attempts
* conspiracy
 |  |  |

* **Using a** [think-pair-share](https://app.education.nsw.gov.au/digital-learning-selector/LearningActivity/Card/645?clearCache=91b1a37f-b074-54f-d538-fc4450316f4b#.YHz58oYiNZg.link) **s**trategy, identify all of the categories of crime that Sam has committed in the scenario below:

**Scenario:** Sam is running late for work so he runs a few red lights. He’s late because he had a fight with his girlfriend about their plans to rob a warehouse with 3 others. His girlfriend hasn’t yet stolen the plans for the warehouse as she agreed to and this will ruin everything for Saturday night. He hopes that punching her in the nose might make her understand that she needs to get on with the job today. When Sam parks at work he lights a joint and smokes this before he goes into the office. When he gets into the office he heads straight to his desk where he checks on the progress of the program he set to run overnight to hack the passwords for the business accounts. It’s worked so he transfers a small amount of money into his personal account. At lunchtime he has a few drinks and then stays on for the rest of the afternoon. A few of his mates from nearby offices join him. At about 4pm he is very drunk and his mates dare him to run through the local shopping centre naked. He is arrested by the local police.

## Summary and indictable offences

* Use NSW State Library ‘[Arrest and questioning’](https://legalanswers.sl.nsw.gov.au/defend-yourself-facing-charge-court/arrest-and-questioning) to complete a definition for summary and indictable offences.
* Access the [Summary Offences Act 1988 No 25](https://www.legislation.nsw.gov.au/view/html/inforce/current/act-1988-025) and scroll down the left hand side menu to identify 2 specific summary offences and the maximum penalty for each.
* Read the following scenario:

Your friend Jack has been charged with swearing at the local shopping centre. He is frightened that he will go to jail and that he will be an old man before he gets out.

* Using your knowledge of summary and indictable offences, write a one paragraph script that you could use to advise your friend on this matter. Your advice will include:
	+ whether he has committed a summary or indictable offence
	+ the court(s) where his case is likely to be heard
	+ the maximum penalties that may apply.

## Parties to a crime

**Teacher note –** for the activities in this section, students will need to be provided with access to the first 4 pages of the PDF document, [Legal Aid, Guide to Accessorial liability](https://www.legalaid.nsw.gov.au/search-results?query=guide+to+accessorial+liability) or access to an alternative resource like text books.

* Write short definitions for the 4 main parties to a crime, including:
	+ principal in the first degree
	+ principal in the second degree
	+ accessory before the fact
	+ accessory after the fact.
* In small groups identify each of the parties in both scenarios below:

**Scenario 1:** Josh is with his friend Sophie at a supermarket. Sophie decides to steal some chocolate bars and asks Josh to stand at the end of the aisle and watch for staff. After they leave the supermarket, the security guard is following them, so Sophie asks another friend Kevin, who is sitting outside the store to hide the bars in his bag.

**Scenario 2:** Josh and his friend Sophie would like to steal some chocolate bars from a supermarket. They ask their friend Anushka, who works at the supermarket, to find out when the store is understaffed. She lets them know that the main boss and security guard are both in a meeting at 3pm on Wednesdays. The next Wednesday at 3pm, Josh and Sophie go to the store and each steal a full bag of chocolate and leave the store.

* Create your own short crime scenario that involves at least 3 parties to a crime
* Swap the completed scenario with another group to identify the parties to the crime in each other’s scenarios.

## Factors affecting criminal behaviour

**Teacher note –** for the activities in this section, students will need to be provided with access to the pdf document [BOCSAR,’What causes crime?’](https://www.bocsar.nsw.gov.au/Pages/Search.aspx?k=%2FPublications%2FCJB%2Fcjb54%2Epdf#k=what%20causes%20crime) or access to an alternative resource that is available to you.

* Conduct a class discussion on ‘whether criminals are born or made.’ Use the results of this discussion to identify what you think is the most likely cause of all crime in NSW.
* Research the factors relevant in causing the criminal behaviour of a convicted person of your choice. For example, review the actions of Kristi Abrahams at ‘[Kristi Abrahams sentenced over Kiesha’s murder](https://www.abc.net.au/news/2013-07-18/kristi-abrahams-sentenced-over-kiesha27s-murder/4827790)’.
* Using [BOCSAR,’What causes crime?’](https://www.bocsar.nsw.gov.au/Pages/Search.aspx?k=%2FPublications%2FCJB%2Fcjb54%2Epdf#k=what%20causes%20crime) make brief notes on the factors affecting criminal behaviour in the table below:

|  |  |
| --- | --- |
| Factor affecting criminal behaviour | Explanation |
| Genetics (biological factors) |  |
| Social factors (family, friends and school performance) |  |
| Economics factors (poverty, unemployment) |  |
| Political factors |  |
| Self interest |  |

* Revisit the original question on the most likely cause of all crime in NSW. Using the thinking routine, [‘I used to think.. now I think’](https://www.inquisitive.com/blog/2019/03/27/visible-thinking/#I-Used-to-Think) highlight how and why your response has changed (or stayed the same).

## Crime prevention: situational and social

* Using the resources below, distinguish between situational and social crime prevention. Responses should refer to examples for each.

Resources for this task:

* + [Youth on track](http://www.youthontrack.justice.nsw.gov.au/)
	+ [Crime Prevention NSW](http://www.crimeprevention.nsw.gov.au/) .
* Use the BOCSAR ‘[crime mapping tool](http://crimetool.bocsar.nsw.gov.au/bocsar/)’, to complete the following:
	+ select a suburb or area of interest
	+ compile a list of the main types of offences that are occurring in that area
	+ based on this list, recommend 2 situational and 2 social crime prevention strategies that you would implement in the area
	+ present and justify your recommendations to the class.