

Criminal law critical thinking examples

[Science](#), [Biology](#)



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Module #4

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The cause of criminal behavior can be attributed under two theories namely, the Positivist and Classical. Under the Positivist theory, it can be referred to the deviant behavior of every human being is based on the one's genetic composition. The intrinsic evil qualities of every individual will force him or her to give in to the criminal behavior. The logical explanation for this theory is that the criminal mind has a close connection to the biosocial perspective which includes the physiological and biological traits acquired by birth. On the other hand, the theory under the Positive School is concentrated in the scientific study of criminal. The Positivist theory was discovered by Lombroso during the 1800s in Italy where it was revealed that there it is vital to distinguish offenders who deliberately commit crimes from those offenders did not have the intention to offend. The Positivist theory refers the criminal behavior to various factors including the biological, physiological and social environment of every individual. As a result, the offender has no moral obligation for the commission of the crime due to his or her mentally

disorder. The best way to understand the criminal behavior of humans is to provide a scientific treatment for the rehabilitation and cure of the offender's pathologies. Some of the experts believed that scientific probe the brain and genetic composition of the offenders should be done to comprehend individual characteristics.

Cullen and Agnew (2011) argued that it was Cesare Lombroso and others who challenged the idea that criminals are rational beings and had the freedom of choice whether to engage in crime. Such theory was influenced by Darwinism and medicine to dissect biological traits of every person that determines the deviant behavior. Some experts believed that commission of crime is not matter of personal choice, but can be related to the constitutional make-up of a person that cannot be controlled.

This was negated by the Classical theory which is focused on the duty of a person to make a choice and become responsible for the consequences of their actions. According to Seiter (2011), Beccaria is the father of Classical theory, wherein the concept of crime causation has a strong connection to punishment and has been proven as a deterrent for future crimes. Such theory was derived from the hedonistic view of human nature which believed that man is a rational being who has the ability to make his own decision. Hence, every criminal act that is wrongful in its nature deserves punishment pursuant to statutory laws and sanctions provided by the penal code. This can be illustrated by the environment where a person lives such as a disorganized inner-city community which has the tendency to develop feelings of isolation, frustration, anxiety, anger because of hopelessness for being excluded from the economic mainstream. With these emotions, comes

the Strain Theory established by Robert Agnew, who believed that a strain is caused by the negative relationships, wherein some people feel that they are being mistreated by society. The explanation for this theory is that there is scarcity in the legitimate avenues for them to become successful in life. Hence, such negative behavior is a consequence of the unachieved goals, loss or death of a loved one, financial issues and other unfortunate life events. The criminal behavior is aggravated the emotions to extreme resentment and frustration or where opportunities for success are not present (Siegel, 2008, p. 133).

Response to Student#1

I agree with the statement that biological and psychological factors can interact with the environment to increase criminal behavior. At a certain point, there is a level of accuracy on the theory that the criminal mind is a product of biosocial perspective based on the prevailing research on brains and genetics (Lilly, Ball and Cullen, 2011). However, it can be argued that the biological traits of a person are different in each one of us, such as the individual characteristics of offenders from non-offenders. Hence, it bears stressing that there must be consideration of biological factors and combination of social factors that can result to individual behavior. Lilly, Ball and Cullen (2011) argued that the policy implications are hypothetically are complicated, but can give the justification that criminality that is deeply rooted in the genetic composition of a person that has to be treated. Another acceptable explanation can be related to the life-course approach which is mainly focused on the early stages of childhood of the criminal. The best analysis of the criminal mind starts during the person's childhood, past

experiences that has influenced one's emotional development. Criminality is also caused by strong social influences forcing a person to develop a deviant behavior. In conclusion, it can be Therefore, it can be resolved that criminal conduct has a close connection to the genetic composition of a person including the brain and biological composition, that is combined with his social interactions.

In the case of juvenile offenders who join gangs to commit crimes, peers are considered a major source of influence to reconcile the effects of structural variables. Guo and Roettger (2008) stated that ethnographic studies have shown the relevance of friends among youth, who had been proven to have a high weakness to peer pressure. The differential association theory and the differential reinforcement theory have been referred to as having an intimate involvement with delinquent friends as the primary factor for a youth offender who decides to join gangs. I also agree that fixed traits are the biological and psychological traits that can no longer be altered. Thus, creating policies based on fixed traits to reduce the crime rate will be futile. However, in the study of adolescent delinquency, the criminal justice policies should aim to improve individual traits or malleable traits among the youth offenders. To be able to achieve this, I agree that a further research should be conducted to aid these offenders who possess these traits to minimize their deviant behavior, or remove the probability that they will give in to their criminal behavior in the future. In addition, Guo and Roettger (2008) stated that the key to familial informal social control is by making a connection the child to family and society. This can be done by instilling discipline and supervision of the offender. The trait theory gives emphasis is

on how people who commit crimes are different, especially in the way they think as a result of their personality, socialization and early childhood. Thus, a juvenile delinquent was not born a criminal. However, such offender was influenced to become a criminal based on his childhood experiences while growing up and lack of social connection with community. Social influences are also essential contributors to why a person is forced to give in to his criminal mind. It can be concluded that the important source of criminal conduct resides not only in the biological and physiological traits of an individual, but is also influenced by his or her relationship with society.

Response to Student #2

Experts have proven that a person's biological makeup and the environment can interact in ways that influence behavior (Bernard, Snipes & Gerould, 2010). There is a genetic difference between those criminals who committed crimes and those who did not commit any crimes. In this approach, the offender is regarded as a person who is ailing and badly needs a treatment to get well. Just like in medicine, the scholars believed that the key in unlocking this mystery is by studying the offenders scientifically, by probing their bodies and brains for evidence of individual differences. This was influenced by Darwinism and medicine which concluded that the criminal possessed biological traits that determine his behavior. The crime was not brought about by a sinful soul by free choice, but rather was predetermined by a person's biological make-up (Lilly, Ball and Cullen, 2011). However, aside from genetics, environment and socialization influences criminal behavior. This was explained in the Strain Theory has been conceptualized by Robert Agnew, who believed that a strain is caused by the negative

relationships where there are some people who feel that they are being mistreated considering that the legitimate avenues for them to succeed are scarce. Such negative behavior was a result of unachieved goals, loss or death of an family member, financial issues and other unfortunate life events that provoked the emotions to extreme resentment and frustration (Siegel, 2008, p. 133). This usually takes place among poor and indigent communities since they fail to achieve their goals in life. As a consequence of poverty, these people find means to achieve these goals using criminality in the form of stealing, theft, robbery or drug-trafficking. This only shows that there are some people who use violent means and reject the socially accepted means to aggressively gain what they want to achieve in life the easier way.

According to Guo and Roettger (2008), genetic variants associated with delinquency have the probability to carry more social stigma and consequences. These shall include incarceration and genetic profiling. Aside from these, some experts opined that law is not equally applied to offenders since there are residents who come from the inner-city communities who believed that police force unfairly target the young black males. Many of the African-Americans believed that the police used racial-profiling techniques, by using the race of the accused in the determination of his or her guilty or innocence. Blacks were given longer jail sentences compared to the white offenders. This will affirm the Theory of Anomie which falls within the scope of Strain Theory which can be applied to lower-class urban areas. It also includes the minority groups and lower-class segments of society where crime rate has been considerably high. However, racial disparities can be felt

in criminal sentencing which strengthened the suspicion of the presence of racial bias in the criminal justice system. Therefore, it is recommended that government should provide equal educational and work opportunities to prevent crimes in the future based on the principle of the Strain Theory.

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