

COURSE GUIDE

CSS354 SPECIAL CATEGORIES OF OFFENDERS

Course Team Ogunrekun Olawale Olusola (Developer/Writer) –
LASU Dr. Adeniyi T. Adegoke (Co-developer/writer)
- NOUN
Prof. Abdul R. Yesufu (Programme Leader) - NOUN
Dr. Adeniyi T. Adegoke (Coordinator) - NOUN



NATIONAL OPEN UNIVERSTIY OF NIGERIA

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National Open University of Nigeria
Headquarters
University Village
Plot 91, Cadastral Zone,
Nnamdi Azikwe Expressway
Jabi, Abuja

Lagos Office
14/16 Ahmadu Bello Way
Victoria Island, Lagos

e-mail: centralinfo@nou.edu.ng

URL: www.nou.edu.ng

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Introduction

CSS354: Special Categories of offenders is a 3 credit unit course. It is a compulsory course for all undergraduate students in the field of criminology and security studies of the university. This course is also recommended to any other postgraduate students especially those in the school of Arts and social sciences who may have interest in the study of criminology. The course can also be taken as an elective or required course by other postgraduate students whose main fields of discipline is not criminology and security studies.

However, the course shall consist of 20 units. In the first 2 modules of this course, we focus on the sociological and legal definition of crime and the different types of crime that can be committed. Module 3 and 4 also try to look at the definition of offence and punishment and the different types of offences and punishment. Module 5 focused on the types of offenders, purpose and types of sentencing structure while the last module tries to look at the Police and their role in the administration of criminal justice in Nigeria.

More interestingly, the material draws its case studies from major experiences in Nigeria and Africa with the aim of exposing the reader to the different kinds of crime and offences and in particular the peculiar characters of different offenders. However, having known that our study on special categories cannot be complete if we fail to have the knowledge of what operates in some other continents, we shall also site examples from other parts of the world including America and Europe.

The course has no compulsory pre-requisite for it to be registered for. The course guide informs us on what this course is all about, what students will learn in each unit, what text materials we shall be using and how we can make the best use of these materials. This course guide also emphasize on the need for students to take tutor-marked assignment so seriously. However, necessary information on tutor-marked assignments shall be made known to students in a separate file, which will be sent to each of them at the appropriate time. This course is also supported with periodic tutorial classes.

What Will You Learn in This Course

CSS354: Special categories of offenders as a course in the field of Criminology at the National open University of Nigeria focuses on a wide range of issues that bothers on the Legal and Sociological view of crime as well as theoretical background to crime. It also tries to put the students through on the definition of offence and the types of offences;

the meaning of punishment and the types; theoretical background to punishment.

Furthermore, detailed analysis of the types of offenders, purpose and types of sentencing structure was also done with cases sited not only in Nigeria and Africa but also from Europe and America. The important role of the police in the administration of criminal justice in Nigeria was also discussed extensively to equip the students with the knowledge of legal systems in Nigeria and its operation.

Course Aims

The overall aim of CSS354: Special categories of offenders as a course aims to explore the background to crime and the sociological and legal view of crime. It also investigates the term offence and who an offender is and the various categories of offenders. The material draws its case studies from the local and international environments.

Course Objectives

With utmost desire to achieve the aims set out above, the course has some set of objectives as demonstrated in all the units of the course. Each unit has its own objectives. Objectives are always included at the beginning of every unit to assist the student in the appreciation of what he or she will come across in the study of each unit to facilitate his or her better understanding of the course-CSS354: Special categories of offenders. The student is, therefore advised to read these objectives before studying the entire unit(s). The reason is that it is helpful to do so. You should always look at the unit objectives after completing a unit. In this way, you can be sure that you have done what was required of you by the unit.

Working through This Course

In completing this course, the student is required to study the whole units, and try to read all (or substantial number of) the recommended textbooks, journals and other reading materials including electronic resources. Each unit contains self assessment exercise(s) and the student is required to submit his or her assignment for the purpose of assessment. At the end of the course, the student(s) shall be examined. The time of the final examination and venues shall be communicated to all the registered students in due course by relevant school authorities-study centre management. Below are the components of the course and what you are required to do.

Course Materials

Major components of the course include:

1. Course Guide
2. Study units
3. Textbooks
4. Assignments File
5. Presentation Schedule

It is incumbent upon every student to get his or her own copy of the course material. You are also advised to contact your tutorial facilitator if you have any difficulty in getting any of the text materials recommended for your further reading.

Study Units

In this course there are twenty units, which include:

Module 1 Definition of Crime from the Legal and Sociological Perspective

- Unit 1 Definition of Crime
- Unit 2 Legal Definition of crime
- Unit 3 Sociological Definition of Crime

Module 2 Theoretical Background to Crime and the Types of Crime

- Unit 1 Types of Crime 1
- Unit 2 Types of Crime 2
- Unit 3 Theoretical Background to Crime

Module 3 Definition and Types of Offences

- Unit 1 Definition of Offence
- Unit 2 Types of Offences 1
- Unit 3 Types of Offences 2
- Unit 4 Types of Offences 3
- Unit 5 Types of Offences 4

Module 4 Theoretical Background to Punishment

- Unit 1 What is Punishment?
- Unit 2 Types of Punishment
- Unit 3 Theoretical Background to Punishment

Module 5 Offenders and Sentencing Structure

- Unit 1 Pre-sentencing
- Unit 2 Purpose of Sentencing
- Unit 3 Types of Sentencing Structure

Module 6 Police and the Administration of Criminal Justice

- Unit 1 Definition and Historical Background of Police
- Unit 2 Functions and obstacles of Policing in Nigeria
- Unit 3 Role of Police in the Administration of Criminal Justice

Textbooks and References

The following textbooks are recommended to students taking the course:

Siegel, L.J. (2006). *Criminology*. Belmont USA: Thompson Learning Incorporation.

The American Heritage Dictionary of the English Language (2009). Fourth Edition Houghton Mifflin Company.

Reid, S.T (2006). *Crime and Criminology*. New York: McGraw-Hill Companies Incorporation.

Diamond, John L. (1985). Kidnapping: A Modern Definition, *American Journal of Criminal Law* 13.

Hillebrand, Joseph R. (1991). "Parental Kidnapping and the Tort of Custodial Interference: Not in a Child's Best Interest". *Indiana Law Review* 25.

Brewer, J.D. (1994). *The danger from Strangers: Confronting the threat of Assault*; Norwell Mass Klumer Academic.

West Encyclopaedia of American Law (2008).

Gaines, Letal (2003). *Police Administration*. New York: McGraw Hill Companies.

Brookman, F. (2005). *Understanding Homicide*. London: Sage Publications Ltd.

Groth, Nicholas A. (1979). *Men who Rape: The Psychology of the Offender*. New York: Plenum Press.

Lee, Ellis (1989). *Theories of Rape: Inquiries into the Causes of Rape*. Taylor and Francis.

Frank Schmalleger (2006). *Criminal Law Today: An Introduction with Capstone Cases*. Upper Saddle River: Pearson Prentice Hall.

Ladan, M.T. (1998). *Crime Prevention and Control and Human Rights in Nigeria*. Zaria Econet Publication Co Ltd.

Danbazau, A.B. (1999). *Criminology and Criminal Justice*. Kaduna: Nigeria Defence Academy Press.

Bohn, R.M and Haley, K.N. (2002). *Introduction to Criminal Justice* (3rd Ed.). California: McGraw Hill.

Assignment File

In this file, you will find the necessary details of the assignments you must submit to your tutor for assessment. The marks you get from these assignments will form part of your final assessment in this course.

Assessment

There are two aspects to the assessment of the course. First are the tutor-marked assignments; secondly, there is a written examination. In tackling the assignments, you are expected to apply information and knowledge acquired during this course. The assignments must be submitted to your tutor for assessment in accordance with the deadlines stated in the Assignment File. The work you submit to your tutor for assessment will count for 30% of your total course work. At the end of the course, you will need to sit for a final three-hour examination.

Tutor-Marked Assignment

There are twenty tutor-marked assignments in this course. You need to submit four assignments out of which the best three will be used for your assessment. These three assignments shall make 30% of your total course work. Assignment questions for the units in this course are contained in the Assignment File. You should be able to complete your assignments from the information and materials contained in your set textbooks, reading and study units.

However, you are advised to use other references to broaden your viewpoint and provide a deeper understanding of the subject. When you have completed each assignment, send it, together with TMA (tutor-marked assignment). Make sure that each

Assignment gets to your tutor on or before the deadline. And in case you are unable to complete your work on time, contact your tutor or better-still your study centre manager (overseer) before the submission deadline of assignments lapses to discuss the possibility of an extension.

Final Examination and Grading

The final examination of CSS354 shall be of three hours' duration and have a value of 70% of the total course grade. The examination shall consist of questions which reflect the type of self-testing, practice exercises and tutor-marked problems you have come across. All areas of the course will be assessed. You are advised to revise the entire course after studying the last unit before you sit for the examination. You will find it useful to review your tutor-marked assignments and the comments of your tutor on them before the final examination.

Course Marking Scheme

This table shows how the actual course marking is broken down:

Assignment	Marks
Assignment 1- 20	Four assignments are to be submitted, out of which the three best shall be considered at 10% each, making 30% of the overall scores
Final Examination	70% of overall course marks
Total	100% of course marks

Table 1: Course Marking Scheme

Presentation Schedule

The Presentation Schedule included in your course materials gives you the important dates for the completion of tutor-marked assignments and attendance at tutorials. Remember, you are required to submit all your assignments by the due date. You should guard against falling behind in your work.

Course Overview

This table brings together the units, the number of weeks you should take to complete them and the assignments that follow them.

Unit	Title of Work	Week's Activity	Assessment
	Course Guide		
Module 1 Definition of Crime from the Legal and Sociological Perspective			
1	Definition of Crime	1	Assessment 1&2
2	Legal Definition of Crime		
3	Sociological Definition of Crime	2	Assessment 3
Module 2 Theoretical Background to Crime and the Types of Crime			
1	Types of Crime 1	3	Assessment 4
2	Types of Crime 2	4	Assessment 5
3	Theoretical Background to Crime	5	Assessment 6
Module 3 Definition and Types of Offences			
1	Definition of Offence	6	Assessment 7&8
2	Types of Offences 1		
3	Types of Offences 2	7	Assessment 9
4	Types of Offences 3		Assessment 10
5	Types of Offences 4	8	Assessment 11
Module 4 Theoretical Background to Punishment			
1	What is Punishment	9	Assessment 12&13
2	Types of Punishment		
3	Theoretical Background to Punishment	10	Assessment 14
Module 5 Offenders and Sentencing Structure			
1	Presentencing	11	Assessment 15
2	Purpose of Sentencing	12	Assessment 16
3	Types of Sentencing Structure	13	Assessment 17
Module 6 Police and the Administration of Criminal Justice			
1	Definition and Historical Background of Police	14	Assessment 18
2	Functions and Obstacles of Policing in Nigeria	15	Assessment 19
3	Role of Police in the Administration of Criminal Justice	16	Assessment 20

How to Get the Best from This Course

In distance learning, the study units replace the lecturer. This is one of the great advantages of distance learning; you can read and work through specially designed study materials at your own pace, and at a time and place that suits you best. Think of it as reading the lecture instead of listening to a lecturer. In the same way that a lecturer might set you some reading to do, the study units tell you when to read your set of books or other materials. Just as a lecturer might give you an in-class exercise, your study units provide exercises for you to do at appropriate points. Each of the study units follows a common format. The first item is an introduction to the subject matter of the unit and how a particular unit is integrated with the other units and the course as a whole.

Next is a set of learning objectives. These objectives shall let you know what you should be able to do by the time you have completed the unit. You should use these objectives to guide your study. When you have finished the units, you must go back and check whether you have achieved the objectives. If you make a habit of doing this, you will significantly improve your chances of passing the course. The main body of the unit guides you through the required reading from other sources.

Reading Section

Remember that your tutor's job is to assist you. When you need help, don't hesitate to call and ask your tutor to provide it. Read this Course Guide thoroughly

Organize a study schedule. Refer to the 'Course overview' for more details. Note the time you are expected to spend on each unit and how the assignments related to the units. Whatever method you chose to use, you should decide on and write in your own dates for working on each unit. Once you have created your own study schedule, do everything you can to stick to it.

The major reason that students fail is that they get behind with their course work. If you get into difficulties with your schedule. Please let your tutor know before it is too late for help.

Turn to Unit 1 and read the introduction and objectives for the unit. Assemble the study materials .Information about what you need for a unit is given in the 'Overview' at the beginning of each unit. You will almost always need both the study unit you are working on and one of your set books on your desk at the same time.

Work through the unit. The content of the unit itself has been arranged to provide a sequence for you to follow. As you work through the unit, you will be instructed to read sections from your set books or other articles. Use the unit to guide your reading.

Review the objectives for each study unit to confirm that you have achieved them. If you feel unsure about any of the objectives, review the study material or consult your tutor.

1. When you are confident that you have achieved a unit's objectives, you can then start on the next unit. Proceed unit by unit through the course and try to pace your study so that you keep yourself on schedule.
2. When you have submitted an assignment to your tutor for marking, do not wait for its return before starting on the next schedule. When the assignment is returned, pay particular attention to your tutor's comment, both on the Tutor-Marked Assignment form and also on what is written on the assignment. Consult your tutor as soon as possible if you have any questions or problems.

After completing the last unit, review the course and prepare yourself for the final examination. Check that you have achieved the unit objectives (listed at the beginning of each unit) and the course objectives (listed in the course Guide)

Facilitators/Tutors and Tutorials

There are between 8 and 12 hours of tutorials provided in support of this course. The dates, time and venue of these tutorials shall be communicated to you. The name and phone number of your tutor will be made known to you immediately you are allocated a tutorial group. Your tutor will mark and comment on your assignments, keep a close *watch on your progress and on any difficulties you might encounter and provide* assistance to you during the course. You must mail your tutor marked assignments to your tutor well before the due date (at least two working days are required). They will be marked by your tutor and returned to you as soon as possible. Do not hesitate to contact your tutor by telephone, e-mail, or discussion board if you need help. You will definitely benefit a lot by doing that. Contact your tutor if:

1. you do not understand any part of the study units or the assigned readings;
2. you have difficulty with the self-tests or exercises; and

3. you have a question or problem with an assignment, with your tutor's comments on an assignment or with the grading of an assignment.

You should make an effort to attend the tutorials. Thus, it is the only opportunity you have to enjoy face to face contact with your tutor and to ask questions which are answered instantly. You can raise any problem encountered in the course of your study. To gain the maximum benefit from course tutorials, prepare a question list before attending them. You will learn a lot from participating in discussion activity.

Summary

CSS354: Special Categories of offender aims to expose the reader or student to the meaning of crime and offences and also discussed in detail the different categories of offenders and the punishment meted out to them and the role of the police in the administration of justice.

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MODULE 1 DEFINITION OF CRIME FROM THE LEGAL AND SOCIOLOGICAL PERSPECTIVE

Unit 1	Definition of Crime
Unit 2	Legal Definition of Crime
Unit 3	Sociological Definition of Crime

UNIT 1 DEFINITION OF CRIME

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1.0	Introduction
2.0	Objectives
3.0	Main Content
3.1	What Do We Know About Crime?
3.2	Who is a Criminal?
4.0	Conclusion
5.0	Summary
6.0	Tutor-Marked Assignment
7.0	References/Further Reading

1.0 INTRODUCTION

Sociologists argue that if we are interested in knowing why people engage in behaviour that is detrimental to society, we should go beyond the legal definition and include behaviour that is defined as criminal but for which no arrests are made. The focus is on behaviour. Why do people do what they do?

2.0 OBJECTIVES

At the end of this unit, you should be able to:

- explain the meaning of crime
- analyse the personalities of a criminal

3.0 MAIN CONTENT

3.1 What Do We Know About Crime?

The various sources of statistical information gave us knowledge and information about crime. These sources of information include official statistics, survey statistics (especially criminal victimization survey data)

and self report studies. Each of these sources of information offers different kinds of information about crime (and criminal victimization).

Braithwaite (1989:44 - 49) states that there are 13 facts about crime which criminology needs to explain and which more common – sense knowledge can sometimes fail to appreciate:

1. Crime is committed disproportionately by males
2. Crime is perpetrated disproportionately by 15 – 25 year – olds.
3. Crime is committed disproportionately by Unmarried people.
4. Crime is committed disproportionately by people living in large cities.
5. Crime is committed disproportionately by people who have experienced high residential mobility and who live in areas characterized by high residential mobility.
6. Young people who are strongly attached to their school are less likely to engage in crime.
7. Young people who have high educational and occupational aspirations are less likely to engage in crime.
8. Young people who do poorly at school are more likely to engage in crime
9. Young people who are strongly attached to their parents are less likely to engage in crime.
10. Young people who have friendships with criminals are more likely to engage in crime themselves.
11. People who believe strongly in complying with the law are less likely to violate the law.
12. For both men and women, being at the bottom of the class structure-whether measured by person socio-economic status, socio-economic status of the area of residence being unemployed or belonging to an oppressed racial minority – increases rates of offending for all types of crime apart from those for which opportunities are systematically less available to the poor.
13. Crime rates have been increasing since the Second World War in most countries, developed and developing.

These facts above given by Braithwaite sometimes did not agree with realities. In some respects, for example, they do not quite reason with the phenomenon of white – collar crime. That kind of law breaking behaviour appears to be committed by older, married males. Moreover, caution does noted to be asserted more generally about these facts given that they are (and can only be) derived from the variety of sources of information available about crime.

In every society, there are some types of behaviour for which actors are rewarded. Also, there are other types of behaviour that compel the same society to inflict punishment upon the actors. Yet there are other

behaviour for which society only ridicules the actors. People are discouraged in one way or the other from engaging in acts that society frowns at.

In modern complex societies, behaviour which are considered to be inimical to the interest of members of that same society are regarded as criminal act and are embodied in the criminal code. At present, the criminal code of Nigeria forbids a person from taking the life of another. Any person that violates this law may be hanged by the order of a court of justice. Acts that violate the criminal laws of a country are referred to as crimes.

Criminal behaviour and anti-social behaviour are not the same thing. An act may be anti-social but not criminal. If during an examination, a student is found to be copying the answers from his notebook such an act may be anti-social but not criminal if the criminal code of such a country does not contain a clause that says copying answers from a notebook during an examination is a criminal offence.

3.2 Who is a Criminal?

A criminal could be said to be a person whose behaviour violates the criminal law. However, it is the court that actually determines whether a person could be a criminal or not.

A legal definition of a criminal therefore is that of a person who, after court proceeding is found to have broken the criminal law. The criminal code distinguishes between serious crimes and less serious ones.

Felony is a term used for serious offences like Armed Robbery, Murder, rape etc. Misdemeanour refers to less serious crime like driving a car that has not been licensed or stealing five naira from somebody. Felony and misdemeanour are relative to time and space and one who commits a felony is usually given a very severe punishment, sometimes the death sentences is imposed. Incase of misdemeanour, the offender may be asked to pay a few naira as fine and sometimes is given a few month's imprisonment.

4.0 CONCLUSION

From this unit, students of criminology should have a broader knowledge of the meaning of crime and who a criminal is.

5.0 SUMMARY

We have been able to discuss the meaning of crime as it relates to different societies based on the socio-cultural beliefs and norms of the society. We've also been able to diagnose who a criminal is from the legal point of view due to the fact that it is the court which determines whether a person is a criminal or not from the point of the law.

6.0 TUTOR-MARKED ASSIGNMENT

From the legal point of view, explain who is a criminal.

7.0 REFERENCES/FURTHER READING

Ladan, M. T. (1998). *Crime Prevention and Control and Human Rights in Nigeria*. Zaria: Econet Publication Co Ltd.

Danbazau, A. B. (1999). *Criminology and Criminal Justice*. Kaduna: Nigeria Defence Academy Press.

Bohn R.M. and Haley, K.N. (2002). *Introduction to Criminal Justice*, (3rd ed). California McGraw Hill.

Tappan, P.W. (1964), "Who is the Criminal?" in Wolfgang *et al.* the *Sociology of Crime and Delinquency*. New York: John Whitey and Sons WC.

UNIT 2 LEGAL DEFINITION OF CRIME

- 1.0 Introduction
- 2.0 Objectives
- 3.0 Main Content
 - 3.1 Legal Definition of Crime
 - 3.2 Problems with the Legal Definition of Crime
 - 3.3 Elements of Crime
- 4.0 Conclusion
- 5.0 Summary
- 6.0 Tutor-Marked Assignment
- 7.0 References/Further Reading

1.0 INTRODUCTION

The problems associated with the legal definition as well as the element of crime and factors that excuse a person from being criminally responsible will also be analyzed.

2.0 OBJECTIVES

At the end of this unit, you should be able to:-

- understand crime from the legal point of view
- explain the problems with the legal definition of crime
- identify seven elements of crime.

3.0 MAIN CONTENT

3.1 Legal Definition of Crime

According to Tappan “ Crime is an intentional act in violation of the criminal law, committed without defence or excuse, and penalized by the state as a felony or misdemeanour”. (Tappan, 1964).

Crime is a violation of the criminal law which is often followed by legal punishment. A crime is an act or omission which attracts sanctions. In studying the offender, there can be no presumption that arrested, arraigned, indicted or prosecuted persons are criminals unless they are also held guilty beyond all reasonable doubt of a particular offence by a court of law.

3.2 Problems with the Legal Definition of Crime

However, it has been observed that the legal definition of crime has its own problem as observed by Bohn Haley (2002).

1. **Over- Criminalization:** - The first problem of the legal definition is over criminalization. This simply means the prohibition by the criminal law of some behaviour that should not be prohibited. Over criminalization arises primarily in the area of victimless crimes. This includes gambling, prostitution involving consenting adults, homosexual acts between consenting adults and the use of some illegal drugs such as marijuana.
2. **Non-Enforcement:-** This is the second problem with the legal definition of crime. This is a situation in which some behaviour are prohibited by the criminal law, but the law is not routinely enforced. This is very common with many white-collar and government crimes. It is also common for Blue law which requires stores and other commercial establishments to be closed on Sundays. One lesson you should learn about non-enforcement of law is that it causes disrespects for the law. People come to believe that because criminal laws are not routinely enforced, there is no need to routinely obey them.
3. **Under-Criminalization:** - This is another problem associated with legal definition of crime. Under-criminalization is the failure to prohibit some behaviour that, arguably, should be prohibited by the criminal law, but are not. For instance, you might suffer some harmful and distinctive actions or inactions that are not criminal, which, in reality ought to be prohibited. You might even get frustrated in your relationship with people and you feel such act should have been regarded as crime but are not.

Looking at the legal definition of crime, Stephen (1993) stated that crime is “an act or omission in respect of which legal punishment may be inflicted”. Likewise Bennette (1987) is of the view that crime is an act or omission, which may attract fine, imprisonment or even death sentence. Therefore, in legal terms, we can say that the criminality of an act is defined in an important way as the punishment which follows it.

3.3 Elements of Crime

From the legal point of view, a crime has not been committed unless all seven of the following elements are present. These are Harm, legality, Actus- reus, mens- rea, causation, concurrence and punishment.

Let us look at each of these elements one after the other:

1. **Harm:** For crime to occur there must be an external consequence or harm. The harm may be physical or verbal. For example. If you physically slap me without any legal justification, then it can be regarded as physical harm. If you threaten to beat or kill another person, whether or not the threat is carried out is a verbal harm. Also, if you write something false about me or bear false witness against me that dishonours or injures me, it is a physical harm. The question that comes to mind is whether the legal element of harm is present in all crimes. For instance, if you look at victimless offences such as prostitution, gambling, marijuana use, one may say that before anyone engage in these acts, there is usually an element of agreement and consent. Therefore, the participants may not see their habits as acts of harm perpetrated in the society. However, the family of the participants and the moral fabric of the society is jeopardized by such behaviour (Bohn & haley 2002)
2. **Legality:** As one of the element of crimes legality has two aspects. First, the harm must be legally forbidden for an act to be a crime. The second aspect is that the criminal law must not be retroactive or expose facto.
3. **Actus- Reus:** This is a Latin word which refers to a criminal action or inaction that causes harm. If you as an individual do not act in situation where the law requires you to act, you are committing a crime. Also, it is expected of a parent to provide food, shelter, clothing and education for the children. If a parent acts contrary to the expectation, then he is committing a crime. We can therefore say that actus reus is the physical element or the guilty act and it require proof. Where there is no actus reus, there is no crime.
4. **Mens Rea:** - This is another Latin word that refers to a criminal intent or a guilty state of mind. It is the mental aspect of a crime. Here, criminal conduct is limited to intentional or purposeful action or inaction and not the accidents. For example, if I slap you and you did not retaliate immediately but allowed a day or two to pass before you slapped me, it will be viewed as intentional and purposeful. As such, you should be criminally responsible for the outcome of your action. This is what is regarded as mens rea
5. **Causation:** - This is a process where the criminal act must lead directly to the harm without a long delay. It is a casual relationship between the legally forbidden harm and the actus reus. The purpose of the requirement of causation is to prevent

people from facing the threat of criminal charges for the rest of their lives. When the cause of a crime is known, it makes it possible to understand the intricacies surrounding its committal.

6. **Concurrence:** - For any act to be considered crime there must be concurrence between actus reus and men rea. In other words, the criminal conducts and the criminal intent must occur together. For example, if you invite an electrician to your house to repair your television set, and that electrician comes to the house and repair your television, on his way out, he picks your handset and leaves. In this situation, you cannot accuse the electrician of being guilty of entering your house illegally (trespass), because that was not his initial intention. However, the electrician can be found guilty of stealing the handset.
7. **Punishment:** - For any behaviour to be considered a crime, there must be a statutory provision for a punishment or at least the threat of punishment. Without the threat of punishment, a law is unenforceable and is therefore not a criminal law.

4.0 CONCLUSION

From this unit, student of criminology should have a broader knowledge of the meaning of crime from the legal point of view. Elements needed to be considered when using legal definition of crime.

5.0 SUMMARY

We have been able to discuss the legal definition of crime and its problems. We have also been able to look at factors that may excuse a person from being criminally responsible for his action.

6.0 TUTOR-MARKED ASSIGNMENT

Discuss some of the limitations of the legal definition of crime.

7.0 REFERENCES/FURTHER READING

Tappan, P.W (1964). *“Who is the Criminal?”* New York: John Wiley.

Danbazau, A.B. (1999). *Criminology and Criminal Justice*. Kaduna: Nigeria Defence Academy Press.

Ladan, M.T. (1998). *Crime Prevention and Control and Human Rights in Nigeria*. Zaria: Econet Publication Co. Ltd.

UNIT 3 SOCIOLOGICAL DEFINITION OF CRIME

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 - 3.1 Sociological Definition of Crime
 - 3.2 Merits and Demerits of Sociological Approach to Crime
- 4.0 Conclusion
- 5.0 Summary
- 6.0 Tutor-Marked Assignment
- 7.0 References/Further Reading

1.0 INTRODUCTION

In this unit, we shall examine the sociological approach to the study of crime. The approach uses socio-cultural norms as the yardstick for the definition of crime. We shall also focus attention on the merits and demerits of this approach

2.0 OBJECTIVES

At the end of this unit, you should be able to:

- explain the sociological definition of crime
- identify the merits and demerits of sociological approach to crime.

3.0 MAIN CONTENT

3.1 Sociological Definition of Crime

A typical definition is where crime is seen as a behaviour that violates the norms of society. It can also be seen as anti-social behaviour. A norms is any standard or rule regarding what human being should or should not think, say or do, under given circumstances. Even though the sociological definition of crime is broad, it is more encompassing than the narrower definition of crime from the legal point of view.

Durkheim (1993) defined crime within a social context. He saw crime as a social product, determined by social conditions, capable of being controlled only in social terms. Crimes is therefore normal in all societies, and “a society-exempt from crime would necessitate a standardization of moral concept of all individuals, which is neither

possible nor desirable". Durkheim was of the opinion that crime is a normal phenomenon in the society, a natural and inevitable product of collective life and social evolution. He held that the collective conscience of a people defines what crime is. Durkheim believed that crime play a definite role in social life. He therefore defined conscience".

Selling (1938) argues that crime "is a violation of culture, norms, which is something beyond mere violation of law perse". He maintains that mere violation of the criminal law state of collectivity as "an act which offends strong and defined state of collectivity as an artificial criterion of criminality. He suggests that, as part of the general study of human behaviour, criminology should concern itself broadly with all anti-social conduct injurious to the society.

A sociological approach accounts for the broader context in which crime occurs. Sociological approach of crime will enable us to have a broader knowledge of crime as well as understand the human condition and societies in general. It will also allow us to better understand the societies in which crime occurs.

According to MC Connell (2004), sociological approach to crime will enable us to understand the economics, gender education, race, religion, family life and all other social phenomena that are directly involved in crime.

3.2 Merits and Demerits of Sociological Approach to Crime

MERITS

1. The act is the violation of the socio-cultural values or norms of that group. If you go strictly by the legal definition, only those that have been convicted are regarded as criminals. It is only those that violate the codified rules that can be considered criminals. These have the effect of rendering a very limited understanding of crime, because there are some criminal acts that are not in the codified rules.
2. In the sociological approach, emphasis is placed on the socio-cultural forces or reactions that produce the criminal. Even though we concentrate on the socio-cultural forces, we do not forget the individuals, because they are clustered with other individual who are alike in attributes in terms of theoretical or practical definition. The uniqueness of the individual, however, is retained by the fact that, on several attributes of the group, he or she will appear identical.

3. Crime itself is seen as a subject-matter of sociology. As far as crime is a social phenomenon and sociologists are trained to deal with social problems.
4. Other disciplines like law might define crime, but the final definition rests in what should come from sociologist.
5. Sociologist also recognizes the functions of crime. Crimes provide job for lawyers, police, prison officials, economics and financial crimes commission (EFCC) official, independent corrupt practices and other related offences commission (ICPC) officials e.t.c

DEMERITS

1. First, norms vary from one group to another within a single society. There is no uniform definition of anti-social behaviour. For example, if you live in a Muslim community, you are forbidden from eating pork. Any disobedience is a sin, and the disobedient person will be punished. However, if you live in a Christian community, eating pork is not an offence, rather is regarded as a delicacy. So within the same society, the same behaviour may be perceived differently.
2. Norms are always subject to interpretation. Each norm has a history of how it came into existence. For example, in some communities, children are not allowed to eat egg. It is believed that children who eat eggs are likely to steal. On the other hand, this is not so in another community. In fact eating eggs is allowed for children as part of the vital food to assist them to grow healthy.
3. Furthermore, it is good for us to note that norms change from time to time and from place to place. For example, in Zamfara State, the sale of alcohol is not permitted and you are not supposed to drink alcohol. If you are caught drinking alcohol, you will be punished according to Muslim law. However, in Lagos State, people are allowed to sell and drink alcohol. This is because it is socially acceptable. Such behaviour is not perceived as an offence to anybody.

4.0 CONCLUSION

At the end of this unit, students should have a broader understanding of crime and societies in general. You should also have a deeper knowledge of the entire society in which crime occurs. It is hoped that

this course will enable student to engage in critical and informed discussions of crime as they occur in everyday life.

5.0 SUMMARY

This course has enabled students to know what constitute crime from the sociological perspective and the merit and demerits of this approach

6.0 TUTOR-MARKED ASSIGNMENT

Using sociological approach, discuss what you understand by crime.

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MODULE 2 THEORETICAL BACKGROUND TO CRIME AND THE TYPES OF CRIME

Unit 1	Types of Crime 1
Unit 2	Types of Crime 2
Unit 3	Theoretical Background to Crime

UNIT 1 TYPES OF CRIME 1

1.0	Introduction
2.0	objectives
3.0	Main Content
3.1	Definition of Offence
3.2	Types of Offences
3.3	Characteristics of Offenders
4.0	Conclusion
5.0	Summary
6.0	Tutor-Marked Assignment
7.0	References/Further reading

1.0 INTRODUCTION

Many attempts have been made to explain the concept of offences, offender, the types of offenses and the character of the offenders. One thing that is certain is that there are different types of crimes/offences and offenders in every society. In this unit, we shall explain what is offence, the types offences and the general characteristics of the offenders.

2.0 OBJECTIVES

At the end of this unit, you should be able to:

- define offence
- explain the types of offences
- explain the characteristics of offenders.

3.0 MAIN CONTENT

3.1 Definition of Offences

According to the American Heritage Dictionary of the English Language (2009) defines offence as the following:

- (1) A violation or breaking of a social or moral rule, transgression; sin.
- (2) A transgression of the law; misdemeanor.
- (3) A cause of transgression or wrong.
- (4) Something that offends or displeases.
- (5) The act of offending or displeasing.
- (6) The feeling of resentful displeasure caused to give offense.
- (7) The act of attacking; attack or assault: weapons of offense.
- (8) An intentional unlawful act that causes damage to another and for which the law imposes an obligation for damages.
- (9) An injury or wrong done to one.

An Offender

An offender is a person who committed a crime, although what constitute a crime differs by culture and the legal jurisdiction. Offenses include rape, burglary, robbery, etc. Despite the torrent of the punitive state, people in conflict with the law are made up as clients of criminal justice. Offenders are the people who flouts particular relationship of justice. Offenders are found around the police station, prisons and court. The crime committed may be civil, that is, between the plaintiff and the defendant or between the state and the accused in case of its criminal severity.

It is sometimes argued that anybody that violate the criminal law should be deemed a criminal, regardless of whether or not he is apprehended, tried and punished by a court of law. As said earlier “a criminal is generally believe to be any one convicted of a crime.” However, there is a difference between someone who has merely been convicted of a single crime and someone with a pattern of criminal behaviour. Repetitive criminals may be psychopaths or sociopaths. Criminality has been existing from the creation of earth.

Pritchard (1837) observed that criminal offenders are people who lacked the ability to form attachments to others and who were unable to experience normal human affection or emotions. These individuals had little regard for the feelings or rights of others. A good number of these offenders are not reported or they escape police prosecution or conviction by the law courts on account of corruption on the part of the police and court officials. It should be emphasized at this point that there are exception in the legal definition of a criminal. It is not all people who violate the criminal law that are found guilty and punished accordingly. For example, the law excuses certain categories of persons, i.e imbeciles, moron etc similarly by virtue of the position certain person occupy, they have immunity against criminal actions such as diplomats, Governors and President.

3.2 Types of Offences

The following are the broad categories of offenses:-

- (1) Crimes against persons:
 - Murder
 - Assault and battery
 - Sexual battery
 - Kidnapping
 - Extortion
- (2) Crimes against Public Morality:
 - Fornication and illicit Cohabitation
 - Adultery
 - Incest
 - Prostitution
 - Obscenity
 - Gambling
 - Intoxication
 - Drug abuse
 - Profanity
 - Indecent Exposure
 - Pornography
- (3) Crimes against Justice and Public Administration:
 - Bribery
 - Perjury
 - Obstruction of Justice
 - Resisting Arrest
 - Escape
 - Criminal Contempt
- (4) Victimless Crimes:
 - Gambling
 - Illegal Sex Acts between Consenting Adults
 - Drug Abuse
- (5) Crimes against Property or Habitation:
 - Larceny (theft)
 - Burglary
 - Arson
- (6) Crimes against Public Order:
 - Disorderly Conduct
 - Breach of Peace
 - Vagrancy

- (7) White - Collar Crimes:
 - Tax Fraud
 - Bankruptcy Fraud
 - Insider Trading
 - Computer Crimes
 - Insurance Fraud

- (8) Crimes Committed by Government Authorities:
 - Civil Rights Violations
 - Public Brutality
 - Political Bribe Taking
 - Genocide
 - Torture

3.3 Characteristics of Offenders

Researchers have indicated that there are certain social characteristics associated with those people who are arrested and prosecuted by the criminal justice system. Although self-report studies dispute this offender profile, the appearance of these categories of people can be explained in a number of ways.

JUVENILE DELINQUENCY: refers to criminal offences committed by 14 - 17 years old. According to Matza, D. (1964) that children commits offence as a result of influence from their peer group and on assuming adult roles and responsibilities their criminal career stops. However, a small hard core of persistent offenders remains to continue their criminality into Adulthood. Many factors have been observed to be the causes of Juvenile Delinquency such as poverty, a large family, parents with criminal records and low intelligence in the child. In essence, age is a variable most often associated with crimes, most of which are committed by young people (Juvenile).

SEX DIFFERENCES:- A second demographic factor associated with crime is gender. Historically, crime rates for men have been significantly higher than those for women, with the exception of those crimes that by definition are committed predominantly by women such as prostitution. The following are the explanation given for the sex-ratio of criminality.

Sex-role socialization: It means that the males develop attitudes and skills which aid their criminality. According to Reid (2006), aggression, technical knowledge and confidence to walk city street late at night whereas, the girls are socialized into more passive behaviour and are expected (by parent and teacher) to conform to norms and morals more strictly than boys. He observed that most offences committed by

females are non-violent, with theft, including shoplifting, remaining as women's biggest category of serious crime. Recently, there have been a rise in the proportion of women convicted of violent crimes. Greater emancipation of women, leading to increased self confidences and assertiveness have accounted for this rise.

Domestic responsibilities is one of the reason for low reduction of many women to commit crimes. In Nigeria, crimes such as burglary, stealing cars, and theft etc required mobility, freedom and employment which are not available to many of them.

CLASS DIFFERENCES:- Most of the crimes committed by the working classes are reported than the middle class. Several reason accounted for this discrepancy. Middle - class crime is under-reported by the police because middle class people are treated differently than working-class people when a crime is committed. The elaborated language code, education and status of a middle-class person are often regarded favourably by the police, who may not regard such people as immediate suspects.

Middle class crimes are not as visible as working class crimes and are therefore less likely to be reported. Such crimes include embezzlement, fraud and tax offences. This type of crime is referred to as white - collar crime. This under-representation in the official statistics was first described extensively by E. Sutherland in the 1940's. Sutherland observed that pilfering from work has passed unnoticed or were dealt with internally.

RACE AND ETHNICITY:- Race and ethnicity are of other factors often associated with crime. Members of race or ethnicity are prone to crime if there is discrimination in the National Policy. For example in South Africa discrimination created a political revolt of the blacks. Gilroy, P. (1983) claims that ethnic minority crimes are often conscious, deliberate political acts in the fight against racism and that many belief about blacks and crime.

It has also been found that more offences are committed in Urban areas than in Rural localities. This may be because there is greater opportunity to commit crimes in cities, as there are more cars, larger shops, banks etc. More so, informed methods of social control operate more strongly in the rural areas, as people tend to know each other better and are reluctant to commit offences against their neighbours. This may mean that much rural crime is committed by people from outside the locality. Policing in rural and urban areas may be different too.

4.0 CONCLUSION

From this unit, a student of criminology will be able to discuss the meaning of offence and who an offender is and the types of offences from the legal point of view.

5.0 SUMMARY

We've been able to discuss in detail the meaning of an offence, the definition of an offender and the different types of offences.

6.0 TUTOR-MARKED ASSIGNMENT

What are the characteristics of offenders?

7.0 REFERENCES/FURTHER READING

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UNIT 2 TYPES OF CRIME 2

CONTENTS

- 1.0 Introduction
- 2.0 Objectives
- 3.0 Main Content
 - 3.1 The Concept of Crime
 - 3.2 The Causes of Violent Crime
- 4.0 Conclusion
- 5.0 Summary
- 6.0 Tutor-Marked Assignment
- 7.0 References/Further Reading

1.0 INTRODUCTION

In this unit, we shall examine the concept of crime from many angles. It has been researched that the causes of violence are many but we shall try to examine some of these causes.

2.0 OBJECTIVES

At the end of this unit, you should be able to:

- explain the concept of crime
- discuss the causes of violent crime.

3.0 MAIN CONTENT

3.1 The Concept of Crime

The concept of crime formulates the basis for a study of criminal behaviour. The word is difficult to explain for not all agree on how it should be defined. Social scientists argue that if we are interested in knowing why people engage in behaviour that is detrimental to society, we should go beyond the legal definition and include behaviour that is defined as criminal but for which no arrests have been made. Accused persons who are not prosecuted because of legal technicalities should be included.

The concept of crime must be examined more closely, the definition of a crime must be precise, unambiguous and useable. It must classify who is and who is not a criminal. Crime is an act defined by law. Unless the elements specified by criminal law are present and proved beyond a reasonable doubt, a person should not be convicted of a crime.

Crime is an intentional act or omission in violation of criminal law (statutory and case law), committed without defense or justification and sanctioned by the law as felony or misdemeanor. To be convicted of a crime, a person must violate the criminal law. Criminal law comes from three sources: Constitution, Statutes and Court Decisions.

Individuals are not always held responsible for acts that cause harm or injury to others; the law recognizes some excruciating circumstances. An act or omission of an act is not a crime if the individual has a legally recognized justification or defense for the act. For example, a person faced with the possibility of being killed might use the defense of justifiable homicide.

Group and individuals within society differ in their definition of crime, some would equate crime with all antisocial behaviour. Others would argue that crimes are acts such as racism, sexism and imperialism that violate basic human rights. Similarly, some use moral rather than legal criteria to define what is or is not a crime. Although there is no universally accepted definition the most common one - the breaking of law - officially labels people and separate society into criminal categories.

Criminality is a social status determined by the way in which an individual is perceived and treated by legal authorities. Generally, the law designates as criminal any behaviours that violate the strongly held norms of society. Everyone would agree, for example, that the law should protect property from theft and vandalism. There would also be universal agreement that society must protect its citizens from bodily harm (rape, assault and murder). But although there may be consensus in society on certain laws, the political nature of the law making and enforcement process has important negative implications for those caught up in them.

3.2 The Causes of Violent Crime

There are various reasons advanced for the causes of violence:

(1) PERSONAL TRAITS AND MAKEUP

Psychologists discovered that murderous youths suffer signs of major neurological impairments (such as abnormal EEGS, multiple psychomotor impairments and severe seizures) low intelligence as measured on standard IQ tests, psychotic close relatives, and psychotic symptoms such as paranoia, illogical thinking and hallucinations.

Lewis, D. O. (1998) finds that death row inmates have a history of mental impairment and intellectual dysfunction. Abnormal personality structures including such traits as depression, impulsivity, aggression, dishonesty, pathological lying, lack of remorse, borderline personality syndrome and psychopathology have been associated with various forms of violence.

(2) HUMAN INSTINCT

The work of Sigmund Freud demonstrated that human aggression and violence are produced by instinctive drives. Freud maintained that human possess two opposing psychological drives that interact to control behaviour, eros the life instinct which drives people forward, self-fulfillment and enjoyment and thanatos; the death instinct which produces self - destruction. Thanatos can be expressed externally (as violence and sadism) or internally (as suicide, alcoholism or other self - destructive habits).

Lorenz, K. C was a biologists and an anthropologists. He speculated that instinctive violence - promoting traits may be common in the human species. His argument was based on the fact that aggressive energy is produced by inbred instincts that are independent of environmental forces. Lorenz found that humans possess some of the same aggressive instincts as animals. But among lower species, aggression is rarely fatal when a conflict occurs. This inhibition against killing members of their own species protects animals from self- extinction. Human lacking this inhibition against fatal violence are capable of killing their own kind in war or as a result of interpersonal conflicts. He stated that as technology develops and more lethal weapons are produced, the extinction of the human species becomes a significant possibility.

(3) EVOLUTIONARY FACTORS

Many criminologists especially evolutionary theorists have found out that violent behaviour is committed predominately by males. Historically, sexually aggressive males have been the ones most likely to produce children. Their offspring carry genes that support aggression. They argued that in all species, the males competitive success is determined by their being dangerous and aggressive enough to scare off rivals. Among humans, just the reputation for being dangerous can last a life time.

(4) SUBSTANCE ABUSE

Many people who are substance abuser are prone to violent behaviour patterns. Siegel, L. J (2006) linked Substance Abuse to violent behaviour. He stated that it has been linked in one of three ways:

(a) Psychopharmacological Relationship

Alcohol abuse has long been associated with all forms of violence because drinking reduces cognitive ability, making miscommunication more likely while at the same time limiting the capacity for rational dialogue and compromise. Researches have shown that appropriately half of all sexual assaults are associated with the perpetrator's and / or victims alcohol consumption.

(b) Economic Compulsive Behaviour

Researches have support the claim that drug users / dealers resort to violence to obtain the financial resources to support their habit. Addicts commit crimes to support their habit and some may result in violence confrontations.

(c) Systemic Link

According to Siegel, L. J (2006), He asserted that violence escalates when drug - dealing gangs flex their muscle to dominate territory and drive out rivals. Criminology studies of gangs that sell drugs show that their violent activities may result in a significant proportion of all urban homicides.

(5) IMPROPER SOCIALIZATION AND UPBRINGING

Socialization is an interactional process in which an individuals behaviour and attitude are modified to conform with the member's expectation of the groups to which one belongs. Hence improper socialization and upbringing is responsible for the onset of violent acts, such absent or deviant parents, inconsistent discipline, physical abuse and lack of supervision have all been linked to persistent violent offending. Also a number of research studies have found that children who are clinically diagnosed as abused later engage in delinquent behaviours, including violence at a rate significantly greater than that of children who were not abused.

(6) EXPOSURE TO VIOLENCE

People who are constantly exposed to violence at home at school or in environment may adopt violent methods themselves. People are exposed to violence when they associate with violent peers. It can also occur if people are forced to live in violent, dangerous neighborhoods.

(7) CULTURAL VALUES/SUBCULTURE OF VIOLENCE

It has been observed that violence is the product of the beliefs, values and behaviours that develop in the nation's poorest and most disorganized areas. Regions or areas that experience violence seem to cluster together. To explain this phenomenon, criminologists have used the concept that some areas contain an independent subculture of violence. The subculture's norms are separate from society's central, dominant value system. In this subculture, a patent theme of violence influences lifestyles, the socialization process and interpersonal relationships. Even though they share some of the dominant cultural values, they expect that violence will be used to solve social conflicts and dilemmas. In subgroups, violence has become legitimized by customs and norms.

4.0 CONCLUSION

From this unit, student of criminology and security studies should have a broader knowledge of the meaning of crime from different points of view. It is equally important for the students to be aware of the remote and fundamental causes of crime.

5.0 SUMMARY

In this unit, we have been able to discuss the meaning of crime from different point of view. It is only when the causes of violent crime are known that solution will be provided for it.

6.0 TUTOR-MARKED ASSIGNMENT

What are the causes of violent crime?

7.0 REFERENCES/FURTHER READING

Siegel, L. J. (2006). *Criminology*. Belmont, USA: Thomson Learning Inc.

UNIT 3 THEORETICAL BACKGROUND TO CRIME

CONTENTS

- 1.0 Introduction
- 2.0 Objectives
- 3.0 Main Content
 - 3.1 Theoretical Perspective on Crime
- 4.0 Conclusion
- 5.0 Summary
- 6.0 Tutor-Marked Assignment
- 7.0 References/Further Reading

1.0 INTRODUCTION

In this unit, we shall examine theoretical perspectives on crime, non sociological theories of crime, sociological theories of crime. We shall focus attention on the Strain or Motivational theory, Control or Bond theory, Cultural Deviance theory Differential Association theory, Theories of the Sub-Cultural Nature of Crime.

2.0 OBJECTIVES

At the end of this unit, you should be able to:

- understand the non sociological theories of crime
- examine the various types of sociological theories of crime.

3.0 MAIN CONTENT

3.1 Theoretical Perspectives on Crime

Crime has been variously explained by many people. In this section we shall classify all of them either Non sociological or sociological:

NON SOCIOLOGICAL THEORIES OF CRIME

American law is based on the classical school of criminology. The classical schools believed that human being are naturally pleasure loving and would use their free will (liberty) to choose acts that bring pleasure(hedonism) to them as against those that will bring pain and suffering. Thus human being can be held responsible for either of the action taken. Human actions are not determined by inside forces but can be seen as matters of conscious decision and freewill. Deviance behavior derives from the individual deliberate of wrong over right. They viewed criminal as lacking will power or a sense of morality and are therefore as

a menace to society. Therefore to deter others from criminal behaviors, the school advocated for painful punishment for the criminal acts punishment should fit the seriousness of the crime and these punishments should be applied to similar offenders.

BIOLOGICAL THEORIES

The first biological theories was Cesare Lombroso (1836-1909) a human physician who worked in prisons. He rejected freewill as an explanation of behaviors and replaced it with biological determine.

1. He believed that some people were born criminals and could be identified by their body structure and facial features. He studied Italian army recruits, asylum and prison inmates. He subjected them to scientific scrutiny and he declared that criminals have a distinctive physique – low foreheads, prominent jaws and cheekbones, protruding ears, excessive hairlines, and usually long arms that taken together make them resemble the apelike ancestors of human beings.

William Sheldon (1949) a psychologists and physician took a different track, positing that body structure might predict criminality. He developed a classification of three body types which are called (1) Endomorphs (soft and round and usually fat) (2) Mesomorphs (muscular and athletic) and (3) Ectomorphs (skinny and fragile). He argues that the mesomorphs were more often delinquents than the other types.

Another theoretical explanation of deviance is the chromosomal deficiency hypothesis. In the early 1960's a certain human male was found to have an extra Y chromosome. Instead of having an XY combination, he possessed an XYY combination. The individual with XYY chromosome were said to be tall, aggressive, antisocial males, with low IQs and severe acne. These set of individual were believed to be found in greater proportions in mental institutions or prisons than in the general population.

PSYCHOANALYTIC THEORIES

The psychological explanations of deviance focus on cases of individual abnormality, this time involving personality problems. Generally, deviants and criminals are considered sick or maladjusted. Crime results from mental illness or psychological abnormality. Many early psychiatric studies found offenders to be generally psychopathic or emotionally ill. Some personality traits are hereditary but most psychologists believe that temperament is shaped primarily by social experiences

SOCIOLOGICAL THEORIES OF CRIME

The following are fundamental perspectives on Crime that dominate sociological, scene.

1. Strain or Motivational theory
2. Control or Bond theory
3. Cultural Deviance theory
4. Differential Association theory
5. Family Factors theory
6. Theories of the Sub-Cultural Nature of Crime

CONTROL OR BOND THEORY

The words control theory was coined by Travis Hirschi. He based his assumption on the fact that deviant acts may result when an individual's bond to society is weak or broken. He claims that the essence of social control lies in people's anticipation of the consequences of their behavior. In a situation whereby an individual has little to lose from deviance, he is most likely to become rule-breaker.

There are four elements according to Travis Hirschi that bond and conformity arises from four types of social controls:

1. **Attachment.** Individual bonds to his family, peer group, schools e.tc. Encourages conformity with societal rules and regulations.
2. **Opportunity.** If individuals perceive legitimate opportunity in the society, they tend to conform with rules and regulations. But if the opportunities or successes are not open to them, then they may drift more toward deviance.
3. **Involvement.** Involvement in various life activities and interaction with other people reduce deviant behavior. For example, a person that is employed tend to be conformist than a person that is not employed or drop out.
4. **Belief.** Strong beliefs in moral values, cultural norms and respect for authority restrain individuals from deviance. By contrast, people with a weak conscience are more vulnerable to temptation of deviance.

Travis Hirschi argued that it depend upon the nature and quality of each of these four elements in a particular case, they produce either conformity or non-conforming behavior.

LABELLING

The central contribution of symbolic-interaction analysis is labeling theory. It was primarily associated with Howard S. Becker although other people like Erving Guffaw also contributed. The labeling theory asserts that deviance and conformity result, not so much from what people do but from how others respond to the actions. Labeling theory seeks to understand how an individual or a group interacts with others in a way that results in their becoming defined or labeled as deviant (McGee) Frank Tanenbaum defined labeling as the process of making the criminal, therefore, is a process of tagging, defining, identifying, segregating, describing, emphasizing, evoking the very traits that are complained of (Eamon 2004).

Howard Becker (1963) asserts what occurs in the labeling process “social group creates deviance by making the rules whose infraction constitutes deviance and by applying those rules to particular people and labeling them as outsiders. From this point of view, deviance is not a quality of the act the person commits, but rather a consequence of the application by others of rules and sanctions to an offender. The deviant is one to whom that label has been successfully applied; deviant behavior is behavior that people so label.

Most of the time, it is official agents of social control like the police, the courts, mental institutions and schools that do the labeling of the deviants. Labels like ‘trouble maker’ Lustler, Kook or Blockhead etc. that stick to a person, often for the like (Becker 1963).

Therefore, the theory of labeling is based on two assumptions.

2. For someone to be called deviant, it means he must have broken the law or rules. But rule breaking per say is not sufficient to label the deviant.
3. It is the reactions of the society to the deviant behavior especially if the social norm violated and detected that define or labeled as deviance. Hence, the perpetrator is labeled deviant and this label leads to social disapproval and host of other consequences.
4. Once it has been acquired, it becomes extremely difficult to shed the label. The labeled person tends to behave in the expected manner.

STRAIN OR MOTIVATIONAL THEORY

Robert Merton (1930 – 2003), the Harvard sociologist modified Durkheim concept of Anomie and applied it explicitly to deviant behavior. The word anomie according to Durkheim is used to describe a

social context in which the moral order has broken down for an individual or group, a situation in which normal social structural constraints or behaviour become inoperative. Merton identifies two important and related elements in any society, cultural goals and institutionalized means. Cultural goals are the things a society's normative system defines as worth being and having. The institutionalized means are the ways a society accepts as legitimate for attaining the cultural goals. (McGee). Anomie arises when individuals are unable to obtain the goals they have been taught to strive for with means that the society puts at their disposal. The following are the Merton's mode of individual adaption from Anomie.

Conformity. Conformity is taken or pursuing of conventional goals by approved means that is, accepting both cultural goals and cultural means of achieving them.

Those who achieve success that is those who gain wealth and prestige through talent and hard work have pursued it through the conventional goals by approved means. But not everyone who desires conventional way has the opportunity to attain it.

INNOVATION

Innovators are deviants who desire to achieve success but the legitimate means may have been blocked for them, perhaps they were denied educational opportunities or acquisition of skilled trades. Therefore resulted in using forbidden means to achieve it. These people accept the goal or success while rejecting the conventional means of becoming rich. They make money through illegal ways. Examples are burglaries, Robbers, Drug trafficking, Prostitution etc.

RITUALISM

People who lose sight of the goal while slavishly adhering to the means are ritualists. They resolve the strain of limited success by abandoning cultural goals in favour of almost compulsive efforts to live respectably. Ritualists concentrate on obeying all the rules of the system rigidly and without question. Some civil service bureaucrats fall into the category. They are honest in character.

RETREATISM

Retreatism is the rejection of both the cultural goals and the accepted means of material success. It is the inability to succeed. Retreatists are alcoholics, Drug-addicts, street or area boys who are alienated from society. They do not believe in hard work, honest investment and

education, even in seeking wealth. They are unwilling or unable to compete and drop out entirely.

REBELLION

Rebellion is the rejection of both conventional goals (cultural definition of success) and approved means (the normative means of achieving it). They seek to change the goals and the institutions that support them. They go advocating for radical alternatives to existing social order.

DIFFERENTIAL ASSOCIATION THEORY

Edwin H. Sutherland (1883 – 1950) in his book “Principles of Criminology” published in 1939 proposed the theory of differential association to explain criminal behavior. Its basic assumption is that criminal behavior, like any other social behavior, is learned through association with others. He argued that either physiological or inherited, not the product of warped psychology.

Sutherland argued that any person’s tendency toward conformity or deviance depends on the relative frequency of association with others who encourage conventional behaviours or norm violation. He stressed that if criminal behavior is learned as any other behavior is learned, then it learned through association with others especially interaction within intimate personal groups. Since by interaction and association with others, motives, attitudes, values, norms and rationalization are taught. Therefore, differential association means the differences in the people with whom one associate will determine how we behave. How much we deviate from or conform to the norms depends on the people we associate with.

4.0 CONCLUSION

From this unit, students of criminology should be able to know the theoretical perspectives on crime.

5.0 SUMMARY

In this unit, it has been classified by existing researches on crime that both sociological and non sociological tools have been used to investigate the background to crime and the different approaches to curbing this crime.

6.0 TUTOR-MARKED ASSIGNMENT

Critically examine the labeling theory.

7.0 REFERENCES/FURTHER READING

Bohn, R.M. and Haley, K.N. (2002). *Introduction to Criminal Justice*, (3rd ed.). California: McGraw Hill.

Siegel, L.J. (2006). *Criminology*. Belmont, USA: Thompson Learning Inc.

MODULE 3 DEFINITION AND TYPES OF OFFENCES

Unit 1	Definition of Offence
Unit 2	Types of Offences 1
Unit 3	Types of Offences 2
Unit 4	Types of Offences 3
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UNIT 1 TYPES OF OFFENCES 1

CONTENTS

1.0	Introduction
2.0	Objectives
3.0	Main Content
3.1	Corruption
3.2	Computer Crime
3.3	False Pretense
4.0	Conclusion
5.0	Summary
6.0	Tutor-Marked Assignment
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1.0 INTRODUCTION

More than a decade ago the concepts corruption computer crime, False Pretence came into our language to designate criminal acts against a person or person's property by an offender. It involves violation of criminal law. Technically crime is composed of two elements, the act itself and criminal intent. Intent is another matter of degree ranging from willful conduct to negligence in which a person does not deliberately set out to hurt anyone but acts in a manner that may reasonably be expected to cause harm. Juries weigh the degree of intent in determining the seriousness of a crime.

In this unit, we shall be looking at the offenses such as corruption, computer crime and false pretence and its various implications.

2.0 OBJECTIVES

At the end of this unit, you should be able to:

- discuss corruption and its different types
- explain computer crime
- explain the word false pretense.

3.0 MAIN CONTENT

3.1 Corruption

The word corruption is from the latin word corruptus, the past participle of corrumpere to destroy (com means intensive while rumpere, to break). Corruption is defined according to Oxford Dictionary, the process of being corrupt, or condition of being corrupt, a deformed or alter form of a word or phrase, dishonest or impurity. Corruption may be looked at from the following angles.

- (1) **Political Corruption:-** It is the dysfunction of a political system or institution in which government officials, political, official or employees seek illegitimate personal gain through actions such as bribery, extortion etc.
- (2) **Corporate Corruption:-** It is the abuse of power by corporate managers against shareholders or consumers. For example, EFCC investigated the cases of corruption that involved personal enrichment of shareholders and depositors money by the bank executives.
- (3) **Putrefaction:** Literally means the decomposition of recently - living bio - matter. However, with the Nigeria State it could be used as an imagery to typify the existing decomposing state of our national fabric ravaged by corruption.
- (4) **Data Corruption:-** An unintended change to data in storage or in transit corruption (linguistics) the change in meaning to a language or a text introduced by cumulative errors in transcription as changes in the language speakers' comprehension.
- (5) **Bribery:-** As an aspect of corruption, it takes place in many places such as in politics, business or even in sport. Bribery was defined as corruption in the administration of justice. The modern concept of bribery includes the voluntary gift or receipt of anything in value in order to carry out an official task.
- (6) **Police Corruption:-** There are numerous forms of Police Corruption. They range from taking small gifts or payment from business people and the populace. In Nigeria, issue of corruption among the police cut across the all ranks. The junior policemen extort money in the open place along the major roads from especially the commercial motorists. To the extent that if these motorists refuse to give them it has resulted to cases of killing of innocent people. The cases of Senior Policemen Corruption is different ranging from misappropriation and embezzlement of police allocation and even collecting bribes from offenders and in some case set them free without prosecuting them in the law court.

In many occasions in Nigeria, Police have been subject of ridicule because of their atrocities during election. Police are used to harass the opponent and they also involve in the rigging of election. Extortion refers to obtaining property from others by wrongful use of actual or threatened force, fear, or violence or the corrupt taking of a fee by a public officer.

SELF ASSESSMENT EXERCISE 1

Why is the fight against corruption in Nigeria not working?

CAUSES OF CORRUPTION IN NIGERIA

Corruption is defined as an illegal act of using one's own position in one's own interests or to one's own personal advantage. Many people have argued that corruption has become embedded in our society. The major causes of corruption in Nigeria are the following:

- (1) Weak Government Institutions.
- (2) Poor Pay Incentives.
- (3) Lack of Openness and Transparency in Public Services.
- (4) Absence of key and Corruption Tools.
- (5) Ineffective Political Processes.
- (6) Culture and Acceptance of Corruption by the Populace.
- (7) Absence of Effective Political Financing.
- (8) Poverty.
- (9) Ethnic and Religions Difference.
- (10) Resource Scramble.

The fight against corruption in Nigeria is not working because of the following factors:

- (1) Insincerity of Government
- (2) Pre bargaining and Negotiation: highly placed officials caught of corrupt practices are made to part with some of their looted funds and are thereafter set free.
- (3) Low deterrent: the punitive measures for corruption practices need to be strengthened.
- (4) Lack of Virile Political and Social Movements to tackle corruption. The majority of the people are yet to be mobilized in the fight against corruption.
- (5) Lack of access to public information. A lot of secrecy still pervades Government documents.
- (6) Insecurity of Informants. There is need to enact laws to protect informants as well as reward them.
- (7) Low public participation in Governance.

- (8) Corrupt Electoral System.
- (9) Nepotism.
- (10) Systemic Disorder.
- (11) Weak Government Institutions

One of the major challenges that has faced the Nigerian Nation over the year is the issue of corruption and its debilitating ancillaries - bribery, graft, fraud and nepotism. The genesis of this dilemma can be traced to when oil took over from groundnuts in the North, cocoa in the West and rubber in the East and became the nation's main sources of National income. The earning from the sales of crude oil opened Nigeria to inflow of large sums of money. The military government at that time were involved in many gigantic projects especially infrastructures such as roads, bridges, airports etc. Huge amount was spent on Festac 77. The result of this was huge contracts were awarded without regard for normal processes. Government also spent money on projects without much control paving the way for corruption to take place.

Corruption in Nigeria undermines democratic institutions, retards economic development and contributes to government instability. Corruption attacks its foundation of democratic institutions by distorting electoral processes, preventing the rule of law and creating bureaucratic quagmires whose only reasons for existence is the soliciting of bribes. Economic development is stunted because outside direct investment is discouraged and small business within the country often find it impossible to overcome the start up costs required because of corruption.

Kofi Annan equally asserted that "corruption hurts the poor disproportionately by diverting funds intended for development, undermining a government's ability to provide basic services and discouraging foreign investment and aid.

AGENTS ESTABLISHED FOR COMBATING CORRUPTION IN NIGERIA

(i) ECONOMIC AND FINANCIAL CRIMES COMMISSION (EFCC)

The Economic and Financial Crimes Commission (EFCC) was formed in 2003. It is a Nigeria law enforcement agency that investigates financial crimes such as advance fee fraud (419 fraud), corruption, money laundering etc. It was established partially in response to pressure from the Financial Action Taskforce on money laundering (FATF), which named Nigeria as one of 23 countries non - cooperative

in the International Community's efforts to fight money laundering. The Agency has addressed financial corruption by prosecuting and convicting a number high profile corrupt individuals ranging from Nigeria's former chief law enforcement officer to several Bank Chief Executives.

(2) INDEPENDENT CORRUPT PRACTICES AND OTHER OFFENCES COMMISSION (ICPC)

Independent corrupt practices and other related offences commission was inaugurated on September 29, 2000 by the Nigeria President, Chief Olusegun Obasanjo (GCFR). The commission is at the hub of Nigeria's fight against corruption. The main duty of the commission is to receive complaints, investigate and prosecute offenders. Other duties include education and enlightenment of the public about and against corruption and related offences. The commission also has the task of reviewing and modifying the activities of the public bodies, where such practices may aid corruption.

The government's campaign against corruption manifests also in the setting up of the Due process office. This office oversees and demands that standard processes be followed in the execution of government activities and projects, thereby blocking avenues for bribery and corruption. They investigate official act already done or to be done or with the corrupt intent to influence the action of a public official or any person involved with the administration of public affairs.

3.2 Computer Crime

The widespread use of computers to record business transactions has encouraged some people to use them for illegal purpose. Computer crime encompasses a broad range of potentially illegal activities. Generally, however, it may be divided into two types of categories (1) Crimes that target computer networks or devices directly. Examples are: (a) Malware (Malicious code) (b) Denial of service attacks (c) Computer virus (2) Crimes facilitated by computer networks or devices, the primary target of which is independent of the computer network or device. Example of this are: (a) Cyber stalking (b) Fraud and Identity theft (c) Phishing scams (d) Information warfare.

SPECIFIC COMPUTER CRIMES

(1) SPAM

It is the unsolicited sending of bulk email for commercial purposes, it is unlawful to varying degrees.

(2) FRAUD

Computer fraud is any dishonest misrepresentation of fact intends to let another to do or refrain from doing something which causes loss. In this context, the fraud will result in obtaining a benefit by:

- (a) Altering computer input in an unauthorized way. This requires little technical expertise and is not an uncommon form of theft by employees altering the data before entry or entering false data, or by entering unauthorized instructions or using unauthorized processes.
- (b) Altering, destroying, suppressing or stealing output usually to conceal authorized transactions, this is difficult to detect.
- (c) Altering or deleting stored data or
- (d) Altering or misusing existing system tools or software packages or altering or writing code for fraudulent purpose. This requires real programming skills and is not common.

Csonka, (2006) also stated that other forms of fraud which are facilitated using computer system include bank fraud, identify theft, extortion and theft of classified information.

(3) OBSCENE OR OFFENSIVE CONTENT

Generally, obscene or offensive content are always distasteful. In some instances there offensive materials or contents may be illegal. Communication which have offensive contents are unlawful. It is in sensitive area in which the courts can become involved in arbitrating between groups with entrenched beliefs.

(4) HARASSMENT

Harassment has direct obscenities and derogatory comments which are direct to specific individual. It may be directed to race, gender, religion, nationality sexual orientation. The medium of these harassment are through chat rooms, through newsgroups and by sending hate e-mail to interested parties. Infact, any comment that may be found derogatory or offensive is considered harassment.

(5) DRUG TRAFFICKING

Internet facilities have become a medium of selling illegal substances by the Drug Traffickers. Some drug traffickers arrange deals at internet cafes, use courier web site to track illegal packages of pills and swap recipes for amphetamines in restricted access chat rooms.

(6) CYBERTERRORISM

A cyberterrorist is someone who intimates or coerces a government or organization to advance his or her political or social objectives by launching computer-based attack against computer, network and the information stored on them. Parker (1983) defined cyberterrorism as an act of terrorism committed through the use of cyberspace or computer resources.

Cyberterrorism may also include simple propaganda in the internet, carrying out an actual attack using the internet or computer resources and as well as hacking activities tending to cause fear among people, demonstrate power, collecting information relevant for running peoples' lives robberies, blackmailing etc.

According to Siegel, L. J. (2006), He categorizes computer crime into the followings:

1. Theft of services, in which the criminal uses the computer for unauthorized purposes or an unauthorized user penetrates the computer system. Included within this category is the theft of processing time and services not entitled to an employee.
2. Use of data in a computer system for personal gain.
3. Unauthorized use of computer employed for various types of financial processing to obtain assets.
4. Theft of property by computer for personal use or conversion to profit. For example, using a computer to illegal copy and sell software.
5. Making the computer itself the subject of a crime. For example, when a virus is placed on it to destroy data.

The following are several common computer crime techniques (Siegel 2006).

1. **The Trojan Horse:** one computer is used to reprogram another for illicit purpose.
2. **The Salami Slice:** An employee sets up a dummy account in the company's computerized records. A small amount - even a few pennies - is subtracted from customers' accounts and added to the account of the thief. Even if they detect the loss, customers do not complain because a few cents is an insignificant amount to them. The pennies picked up higher and they eventually amount to thousands of dollars in loses.
3. **Super - Zapping:** Most computer programs used in business have built on antitheft safeguards. However employees can use a repair or maintenance program to supersede the antitheft

program. Some tinkering with the program is required but the Super - Zapper is soon able to order the system to issue cheque to his or her private account.

4. **The Logic Bomb:** A program is secretly attached to the company's computer system. The new program monitors the company's work and waits for a sign of error to appear, some illogic causes the logic bomb to kick into action and exploit the weakness. The way the thief exploits the situation depends on his or her original intent - theft of money or defense secrets, sabotage, or the like.
5. **Impersonation:** An unauthorized person uses the identity of an authorized computer user to access the computer system.
6. **Data Leakage:** A person illegally obtains data from a computer system by leaking it out in small amounts.

SELF ASSESSMENT EXERCISE 2

Explain common computer crime techniques.

3.3 False Pretenses

To obtain property by false pretenses is when a person or persons obtains property by lying about a past or existing fact. This offence consists of obtaining title to personal property of another by an intentional false statement of past or existing fact with intend to defraud the other. False pretenses is a statutory offense in most jurisdiction. The subject matter of false pretenses is not limited to tangible personal property - statutes include intangible personal property and services. For instance in some countries it applies to obtaining "any money, goods, property, services choose in action or any other thing of value.

False pretense is defined under common law as a representation of a present or past fact which the thief knows to be false and which he intends will and does cause the victim to pass title of his property. It is the acquisition of title from a victim by fraud or misrepresentation of a material past or present fact.

It is important that the victim of the false pretenses must actually be deceived by misrepresentation and fact that the victim is deceived must be a major (if not the only) factor of the victim's transferring title to the defendant. Simply making a false promise or statement is not sufficient. It is not a defense to false representation. No matter how gullible the victim, if he / she was in fact deceived the offense has been committed on the other hand the offense requires the victim believe the representation to be true. If the person to whom the representation has been made has doubts or serious misgivings about the truth of the

representation but nonetheless goes through with the transaction he has not been deceived - he has basically assumed the risk of a false representation.

The misrepresentation has to be affirmative. A failure to disclose a fact does not fit this misrepresentation in common law, unless there is a fiduciary duty between the thief and victim. Courts have also held that representation be of a present or past is more foolish. People who deceive using present facts are more dangerous than those who deceive by false promises. At trial, the prosecution must show not only that the misrepresentation was false, but that the thief knew of the falsity. Additionally, the thief must intend to defraud. Moreover, opinion and puffing are not considered misrepresentation as they color the facts but do not misrepresent them.

Additionally, title must pass between parties. So, deceiving a third party to pass property for specific purpose, courts have held that this is larceny by trick in that larceny by trick simply uses a deception to deprive the owner of possession, not title.

4.0 CONCLUSION

At the end of this unit, students should have a broader understanding of corruption and its different types. You should also have a deeper knowledge of computer crime. It is hoped that the students in this course will have wider knowledge of the false pretense.

5.0 SUMMARY

In this unit, we have been able to describe fully what is meant by False pretense, Corruption and Computer Crime. Efforts have also been made to explain causes and of corruption? Why the fight against corruption in Nigeria is not working? Now, better understanding of specific computer crimes and computer crime techniques have been developed. Concept of false pretense was extensively explained.

6.0 TUTOR-MARKED ASSIGNMENT

1. What is False Pretenses?
2. What are the causes of Corruption?
3. List and discuss the specific Computer Crime.

7.0 REFERENCES/FURTHER READING

Gaines, Letal (2003). *Police Administration*. New York: McGraw Hill Companies.

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UNIT 2 TYPES OF OFFENSES II

CONTENTS

- 1.0 Introduction
- 2.0 Objectives
- 3.0 Main Content
 - 3.1 Kidnapping
 - 3.2 Assault and Battery
 - 3.3 Robbery
- 4.0 Conclusion
- 5.0 Summary
- 6.0 Tutor-Marked Assignment
- 7.0 References/Further Reading

1.0 INTRODUCTION

Virtually every society in the world applies more stringent normative controls to issues of crimes. Criminal offenses ranging from that which involves the theft of property belonging to others, to more serious violent offences. In this unit, attempt will be made to explain what is kidnapping, reason for kidnapping. Assault and battery are considered offense against individual. Robbery as a crime / offense has been known to be of more violent crime than victim being injured with weapon.

2.0 OBJECTIVES

At the end of this unit, you should be able to:

- understand what Kidnapping is
- explain the types of Kidnapping
- differentiate Assault and battery
- discuss the types of Battery
- explain the word Robbery and its types.

3.0 MAIN CONTENT

3.1 Kidnapping

Originally the word Kidnapping means the stealing of children since 'Kid' is a child in Scandinavian languages but now applies to adults as well.

Kidnapping is the taking of a person against his / her will (or from the control of a parent or guardian) from one place to another under circumstances in which the person so taken does not have freedom of movement, will or decision through violence, force, threat or intimidation. Although it is not necessary that the purpose be criminal (since all Kidnapping is a criminal felony) the capture usually involves some related criminal act such as holding the person for ransom, sexual and / or sadistic abuse or rape. It includes taking due to irresistible impulse and a parent taking and hiding a child in violation of court order. An included crime is false imprisonment. Any harm to the victim coupled with kidnapping can raise the degree of felony for the injury and can result in a capital (death penalty) offenses in some countries even though the victim survives. (Hill, G. N and Hill, K. T. 2005).

Kidnapping can also be defined as the forcible and unlawful abduction and conveying away of a man, woman or child from his or her home, without his or her will or consent and sending such person away, with an intent to deprive him of some rights.

In criminal law, kidnapping is the taking away of a person against the person's will, usually to hold the person in false imprisonment, a confinement without legal authority. This may be done for ransom or in furtherance of another crime.

Kidnapping is a common law offense requiring:

- (a) That one person takes and carries a minor away.
- (b) By force or fraud.
- (c) Without the consent of the person taken and
- (d) Without lawful excuse.

It would be difficult to kidnap without also committing false imprisonment which is the common law offense of intentionally or recklessly detaining the victim without lawful authority. The use of force to take and detain will also be regarded as an assault and other, related offenses may also be committed before, during or after the detention. Most kidnapping status recognize different types and levels of kidnapping and assign punishment accordingly.

- (1) First-degree kidnapping occurs when a person abducts another person to obtain ransom which lasts for more than 12 hours and the abductor intends to injure the victim, to accomplish or advance the commission of a felony; to terrorize the victim or a third person; or to interfere with a governmental or political

function. An abduction that results in death is also first - degree kidnapping.

- (2) Second – degree kidnapping occurs when a person abducts another person which lacks the aggravating circumstances in first degree kidnapping. Both first degree and second degree kidnappings have two keys elements. There are asportation and aggravating circumstances. Kidnapping laws are similar to laws on lawful or felonious restraint, parental kidnapping and false imprisonment. These crime cover the range of unlawful movement.

KIDNAPPING VERSUS ABDUCTION

According to Black' Law Dictionary, the crime of kidnapping is labeled abduction when the victim is a woman and of a child is often called child stealing, particularly when done not to collect a ransom but rather with the intention of keeping the child permanently. It can refer to children being taken away without their parent's consent but with the consent of the child.

However the offense of kidnap in the case of a competent minor requires the absence of consent from the minor. This means that a parent commits kidnapping if he takes the child against its will but if a 3rd party takes the child away from the parents with the child's consent the 3rd party does not commit the offense of kidnapping.

TYPES OF KIDNAPPING

- (1) Bride kidnapping is a term often applied loosely, to include any bride 'abducted' against the will of her parents the 'abductor'.
- (2) Child Abduction is the abduction or kidnapping of a child (or baby) by an older person.
- (3) Express kidnapping is a method of abduction where a small ransom that a company or family can easily pay is requested.
- (4) Tiger kidnapping is taking a hostage to make a loved one or associate of the victim do something. For example a child is taken hostage to force the shopkeeper to open the safe. The term originates from the usually long preceding observation like a tiger does on the prowl.
- (5) Dognapping is the crime of taking a caime from its owner. A person who is convicted for kidnapping is usually sentenced to prison for a certain number of years. In some cases, the term of imprisonment may be the remainder of the offender's natural life.

In jurisdiction that authorize the death penalty, a kidnapper is charged with a capital offense if the kidnapping results in death. Kidnapping is also severely punished because it is a dreaded offense. It usually occurs in connection with another criminal offense or underlying crime. It involves violent deprivation of liberty and it requires a special criminal boldness. Furthermore, the act of moving a crime victim exposes the victim to risks above and beyond those that are inherent in the underlying crime.

- (6) Carjacking; a specialized form of kidnapping. It occurs when one person forces a driver out of the drivers seat and steals the victim. Carjacking is a felony whether the aggressor keeps the victim in the car or force the victim from the car.
- (7) Unlawful restraint cases. Felonious or unlawful restraint also known as simply kidnapping, is the lawful restraint of a person that exposes the victim to physical harm or places the victim in slavery. It is a lesser form of kidnapping because it does not require restraint for a specified period or specific purpose (such as to secure money or commit a felony). False imprisonment is a relatively offensive, harmless restraint of another person. It is usually a misdemeanor punishable by no more than a year in jail. Parent kidnapping is the abduction of a child by a parent. The law on parent kidnapping varies from country to country. Some countries define it as a felony, others as a misdemeanor.

KIDNAPPING AND THE MILITANCY IN NIGERIA

Niger – Delta is the region or part of Nigeria where oil are deposited in large quantity. Due to exploration of the crude oil, there have been deforestation, spillage of oil in the river making it difficult for the indigenes whose main occupation is fishing. There have been serious agitation over the control of their resources and the activities of expatriate in the area.

Kidnapping has been part of method adopted by the militants to drive their point. The rate of kidnapping has taken an alarming dimension now such that it has spread from Niger Delta to all eastern parts, because it has become a big business. Kidnapping of expatriates in the Niger Delta is one of weapon employed by the various ethnic militias operating in the area, but it has been extended to kidnapping children of prominent citizens in the area.

We can differentiate some types of kidnapping in Niger Delta:

- (1) Ethnic militia who employ kidnapping as the major weapon of agitation from oppression, exploitation and environmental degradation.
- (2) The militants who were dislodged from their Niger Delta bases but committing the crime of kidnapping as a means of survival.
- (3) These set of people are not militants but general trend of Nigerians who like to go into any business that they consider lucrative at the moment.

The possibility of apprehending kidnappers by the law enforcement officers in Nigeria are very remote which encourages the trade especially in Easter parts. Nigerian police are well trained to detect the kidnapper and the victim of kidnapping but the issue of corruption and extortion at the checkpoint have override the sense of duty.

According to Jamiu (2009), the only antidote to kidnapping is for the culprits to be apprehended and allow the law to take its course, as is done in advanced countries. The National Assembly should enact laws concerning kidnapping and its punishment.

SELF ASSESSMENT EXERCISE 3

1. What do you understand by the concept kidnapping?
2. List and discuss the types of robberies you know.

3.2 ASSAULT AND BATTERY

ASSAULT

An assault involves: An intentional, unlawful threat or 'offer' to cause bodily injury to another by force;

- (1) An act that creates an apprehension in another of an imminent, harmful or offensive contact.
- (2) Act consists of a threat of harm accompanied by an apparent, present ability to carry out the threat.

It should be noted that an assault can be completed even if there is no actual contact with the victim and even if the offender had no actual ability to carry out the apparent threat. For example, a person who threaten to slap another person in the course of minor disagreement may be liable for assault even though the person had actual intention to slap.

BATTERY

A battery is a harmful or offensive touching of another. It is the willful or intentional touching of a person against that person's will by another person, or by an object or substance put in motion by that other person. It should be noted that an offensive touching can constitute a battery even if it does not cause injury, and could not reasonably be expected to cause injury. For example, if a person splits on another person, he has committed a battery even though there is little chance that the splitting will cause any injury except person's dignity. Under modern statutory schemes, battery is often divided into grades that determine the severity of punishment.

- (1) Simple battery may include any form of non - consensual harmful or insulting contact, regardless of the injury caused. Criminal battery requires an intent to inflict an injury on another, as distinguished from a tortuous battery.
- (2) Sexual battery may be defined as non - consensual touching of the intimate parts of another. Sexual battery may mean oral, and or virginal penetration of another by any other object.
- (3) Family - violence battery may be limited in its scope between persons within a certain degree of relationship, statutes for this offense have been enacted in response to increasing awareness of the problem of domestic violence.
- (4) Aggravated battery generally is seen as a serious offense of felony grade, involving the loss of the victim's limb or some either type of permanent disfigurement. As successor to the common - law crime of mayhem, this is sometimes subsumed in the definition of aggravated assault.

The main distinction between the two offenses is the existence or non existence of a touching or contact. While contact is an essential element of battery, there must be an absence of contact for assault. Sometimes, assault is defined loosely to include battery.

Assault and battery are offenses in both Criminal and Tort Law hence they can give rise to criminal or civil liability. In Criminal Law, an assault may additionally be defined as any attempt to commit a battery. Intention is an essential elements of both offenses. Generally, it is only necessary for the defendant to have an intent to do the act that causes the harm. In other words, the act must be done voluntarily. Although an intention to harm the victim is likely to exist, it is not a required element of either offense. There is an exception to this rule for the attempted battery type of criminal assault. If a defendant who commits this crime does not have an intent to harm the victim, the individual cannot be guilty of the offense.

CONSENT

Whereas defendant has the plaintiff's consent to commit an act of assault or battery, the plaintiff may not later bring a lawsuit. The most typical context for consent occurs in sports. Consent also exists in the context of authorized medical or surgical procedures. Consent must be given voluntarily in order to constitute a defense.

POLICE CONDUCT

A Police officer is privileged to apply the threat of force or if necessary to apply actual force, in order to effect a lawful arrest. A defendant who suffers injury as the result of reasonable force exerted by the Police to effect a lawful arrest will not be able to sustain a lawsuit against the arresting officers for assault or battery.

SELF-DEFENSE

It is reasonable for a person to make use whatever degree of force necessary to protect himself from bodily harm whether this defense is valid is usually determined by a jury. An act of self - defense must ordinarily be proportionate to the threat. A person who initiates a fight cannot claim self - defense unless the opponent responded with a greater and unforeseeable degree of force. When an aggressor retreats and is later attacked by the same opponent, the defense may be asserted. The use of Deadly force in response may be justified if it is initially used by the aggressor. But the degree of force used is reasonable depends upon the circumstances. The usual test applied involves determining whether a reasonable person in a similar circumstance would respond with a similar amount of force. Factors such as age, size and strength of the parties are also considered. Furthermore, A plaintiff may be expected to withdraw from the threat, if possible, before engaging in forcible resistance. However if the plaintiff is in his own home and the defendant is not a member of the plaintiff's household, a plaintiff will typically not be required to further withdraw from the threat once the plaintiff has retreated to his own home.

DEFENSE OF OTHERS

Both defense of others and self - defenses are similar. Defending a person in distress is a valid defense and which occurs in the context of one family member. The defender's right to claim the defense of others depend upon whether the person protected had a justified claim of self - defense. Other jurisdictions do not permit this defense unless there was an actual threat or battery against the other person.

VOLUNTARY (MUTUAL) COMBAT

Voluntary combat between two people especially between the plaintiff and defendant for the sake of fighting and not as a means of self - defense (it is unlikely that either will be able to sue the other) the plaintiff may not recover for an assault or battery unless the defendant beat the plaintiff excessively or used unreasonable force.

DEFENSE OF PROPERTY

Individuals are allowed to use a reasonable amount of force or threat to protect their property from theft and damage. The privilege to defend one's property is more limited than that of self - defense because society places a lesser value on property than on the integrity of human beings. There is no privilege to use force that may cause death or serious injury against trespasser unless the trespass itself threatens death or serious injury. But in some cases however deadly force might be justified if it is used to prevent or stop a felony. If possession of real or personal property is in dispute, the universal rule is that force cannot be used. The dispute must be settled by a court.

DISCIPLINE

Assault and Battery are sometime legally allowed in application of restraint in order to discipline others. For example, parents are legally authorized to apply reasonable physical discipline upon their children. Even school teachers are permitted to apply a certain level of physical restraint or discipline against their students. Equally, the staff of a mental health facility may have legal authority to apply reasonable restraint to prevent a patient from causing harm to himself, to others, or to property.

PUNISHMENT

The law considers an assault and battery to be an invasion of the personal security of the victim for which the wrongdoer is required to pay for damages. The determination of the amount of damages to which a victim might be entitled if a defendant is found civilly liable is usually made by a jury. Generally, a plaintiff is entitled to compensatory damages that compensate for injuries that are both directly and indirectly related to the wrong.

Examples of compensatory damages include damages for pain and suffering, damages for medical expenses and damages for lost earnings resulting from the victim's inability to work. Normal damages, given

although there is no harm at all or merely a slight one, may also be awarded in an assault and battery action.

If a defendant is found criminally liable, the punishment is imprisonment, a fine or both. When the offense is committed with an intent to murder or do serious harm. It is called aggravated assault and battery. An aggravated assault and battery is often committed with a dangerous weapon and it is punishable as a felony generally.

SELF ASSESSMENT EXERCISE 4

List and Discuss the defenses of Battery.

ROBBERY

Robbery is considered a violent crime because it involves the use of force to obtain money or goods. Robbery is punished severely because the victim's life is put in jeopardy, in fact, the severity of punishment is based on the amount of force used during the crime, not the value of the items taken. Thus robbery is not just a property crime but also a crime against the person, a crime that might result in personal violence. The use of or threat of force must be such that it would make a reasonable person fearful. (Reid, 2006).

The distinction is difficult to make between theft and robbery. For example, if a person picked a wallet from other person pocket without his knowledge, the act may be classified as either larceny, theft or robbery. But robbery, for example, is the situation when a person or persons take by violence the property, of the victim. Sometime it may involve struggling between the victim and the offender. Some jurisdictions classify robbery according to the degree of force used or threatened thus, a country might define armed robbery as a more serious crime than robbery without a weapon. The issue of weapon has been defined in various ways. Weapon does not necessarily means a gun, a knife or some other obviously dangerous instrument. A toy pistol or even hands may meet the weapon requirement.

Asportation is an important element of robbery. Asportation means "the taking away" the property must be taken or carry away. Another element in robbery, is that the perpetrator threaten to use force or in some other way intimidates the victim

According to Reid (2006) explains the robbery status as follows:-

- i. A person commits the offense of robbery if in the course of committing a theft, the:

- (a) Uses physical force on the person of another and such person is aware of such force, or
 - (b) threatens another with or purposely puts him in fear of immediate use of physical force.
- ii. An act shall be deemed “in the course of committing a theft” if it occurs in an attempt to commit theft, in an effort to retain the stolen property immediately after its taking or in immediate flight after the attempt or commission.
 - iii. Robbery is a class B felony except that if the defendant:
 - (a) Was actually armed with a deadly weapon, or
 - (b) Reasonably appeared to the victim to be armed with a deadly weapon or
 - (c) Inflicted or attempted to inflict death or serious injury on the person of another, the offense is a class B felony except that if the defendant was actually armed with a deadly weapon, and the deadly weapon was a firearm he shall be sentenced in accordance with the criminal code.

TYPES OF ROBBERIES

Researches carried out have shown that Robberies are of many types such as:

1. **Robbery of people who, as part of their employment, are in charge of money or goods.** This category includes robberies in jewelry stores, banks, offices and other places in which money changes hands.
2. **Robbery in an open area:** These robberies include street mugging, purse snatchings, and other attacks. Street robberies are common in Urban cities such as Lagos, Port Harcourt etc.
3. **Commercial robbery:** This type of robbery occurs in business ranging from banks to liquor stores. Banks have been target for armed robbers in Nigeria recently although it is becoming difficult because of awareness and increasing higher level of security.
4. **Robbery on private premises:** This type of robbery involves breaking into people’s house. The trend of night robberies has taken a new dimension because robbers do take away heavy properties except money, jewelries handset, etc because of police check points and tight security measures.
5. **Robbery after a short, preliminary association.** This type of robbery comes after a chance meeting - in a bar, at a party or after a sexual intercourse encounter.

6. **Robbery after a longer association between victim and offender.** An example of this type of robbery would be an intimate acquaintance robbing his paramour and then fleeing the jurisdiction.
7. **Carjacking.** This is a completed or attempted theft of a motor vehicles by force or threat of force. Incidence of car snatchers have reduced in the country. Carjackers after snatching cars do keep the Car Owners in the booth of the cars and they will be driven away from the spot with intention that the cars do or do not have security. After a while he will be thrown away from the booth into the bush.

TYPES OF ROBBERS

As we have different types of robberies, there are equally different types of personality involves in the robberies. The following are the types of robbers according to Conklin, J (1972).

1. **PROFESSIONAL ROBBERS:** These robbers have a long-term commitment to crime as a source of livelihood. This type of robber plans and organizes crimes prior to committing them and seeks money to support a hedonistic lifestyle. Professional robbers some are exclusively robbers and some combine other criminal acts. Planning and skill are the trademarks of the professional robbers, who usually operates in groups with assign role. Professional usually steal large amounts from commercial establishments.
2. **OPPORTUNIST ROBBERS:** These robbers steal to obtain small amounts of money when an accessible target presents itself. They are not committed to robbery but will steal from cab drivers, drunks, elderly and other vulnerable persons if they need some extra spending money. These are juvenile gang who are seldom organized and spend little time discussing weapon use getaway plans or other strategies.
3. **ADDICTS ROBBERY:** These people steal to support their drug habits. They have a low commitment to robbery because of its danger but a high commitment to theft because it supplies needed funds. The addict is less likely to plan crime or use weapons than the professional robber but as more cautious than the opportunist. Addicts choose targets that present minimal risk. However, when desperate for funds, they are sometimes, careless in selecting the victim and executing the crime.

4.0 CONCLUSION

Students who have gone through this unit should be able to explain the crimes committed by individuals such as kidnapping, assault and battery and robbery. You should be able to explain the current crime rates as it involves kidnapping especially in the eastern part of the country and Nigeria as a whole.

5.0 SUMMARY

In this unit, we have been able to explained in detail what is meant by Murder, Assault and Battery and Kidnapping. The difference between Assault and Battery and the types of Battery. We are able to explain the types of Kidnapping. Examples of Kidnapping was drawn for Nigeria with emphases on Niger Delta. Murder as a crime were extensively dealt with.

6.0 TUTOR-MARKED ASSIGNMENT

1. Differentiate between Assault and Battery.
2. Discuss the different types of Kidnapping you know.
3. Analyze the rate of Kidnapping and Militancy in Nigeria.

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UNIT 3 TYPES OF OFFENSES III

CONTENTS

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1.0 INTRODUCTION

Most sociologists include three elements in a working definition of crime (offence):

1. The actor must violate the penal code through either omission or commission of an act.
2. The actor must have acted voluntarily and
3. The kind and degree of social injury to the state must be specified.

In criminal matters, the charges are brought on behalf of the 'people of Nigeria' emphasizing the idea that the action inflicted a social injury on all the citizens of the political jurisdiction.

Based on the above background we will be looking at these offences - Homicide, Rape, Burglary, Arson and Treason.

2.0 OBJECTIVES

At the end of this unit, you should be able to:

- know the different types of offences
- the motive behind committing these offences
- and the punishment meted out to the offenders.

3.0 MAIN CONTENT

3.1 Homicide

(Latin homicidium, homo human being + caedere to cut, kill) refers to the act of human killing a human being. A common form of homicide for example, would be murder. It can also describe a person who has committed such an act, though this use is rare in Modern English. Homicide is not always an illegal act so although homicide is often used as a non-criminal homicide. Homicide do not always involve a crime. Sometimes the law allows homicide by allowing certain defenses to criminal charges one of the most recognized is self-defense which provides that a person is entitled to commit homicide to protect his or her own life from a deadly attack.

Homicides may also be non-criminal when conducted with the sanction of the state. The most obvious examples is capital punishment, in which the state determine that a person should die. Homicides committed in action during war are usually not subject to criminal prosecution either. In addition, members of law enforcement entities are also allowed to commit justified homicides within certain parameters which when met, do not usually result in prosecution.

SELF ASSESSMENT EXERCISE 1

What is Homicide?

3.2 Rape

Rape has been a recognized crime throughout history. In early civilization rape was common. Men staked a claim of ownership on women by forcibly abducting and raping them. Rape has been associated with armies and warfare. Soldiers of conquering armies have considered sexual possession of their enemies women one of the spoils of war. Rape is referred to as sexual assault. Sexual assault by a person involving sexual intercourse with or without sexual penetration of another person without that person consent.

The word rape itself originates from the latin verb rapere, to seize or take by force. The word originally had no sexual connotation and is still used generically in English. Rape is defined in common law as the carnal knowledge of a female forcibly and against her will. Rape was often viewed as a sexual offense in the traditional criminological literature. But criminologists now consider rape a violent, coerced act of aggression, not a forceful expression of sexuality. There

has been a national campaign to alert the public to the seriousness of rape, to offer help to victims.

TYPES OF RAPE

There are several types of rape, generally categorized by reference to the situation in which it occurs, the sex or characteristics of the victim and / or the sex or characteristics of the perpetrator. Some rapes are planned, others are spontaneous, some focus on a particular victim, where as others occur almost as an afterthought during the commission of another crime such as a burglary. Some rapists commit a single crime, where as others are multiple offenders, some attack alone, and others engage in group or gang rapes. Because there is no single type of rape or rapist, criminologists have attempted to define and categories the vast variety of rape situation. Criminologists now recognize that there are numerous motives for rape and as a result various types of rapists. According to Nicholas Groth, made an expert classification and treatment of sex offenders. He believe that every rape encounter contains at least one of these three elements (1) anger (2) power (3) sadison. Different types of rape include but are not limited to (1) Gang rape (2) Individual rape (3) Serial rape (4) Acquaintance rape (5) Date rape (6) Marital rape (7) Statutory rape.

STATUTORY RAPE:- The term statutory rape refers to sexual relations between an underage minor female and adult male. Although the sex is not forced or coerced, the law says that young girls are incapable of giving informed consent, so the act is legally considered nonconsensual. Typically, a country's law will define an age of consent above which there can be no criminal prosecution for sexual relations.

MARITAL RAPE:- Which is forcible rape of a woman by her husband but infact prosecution of such cases are rarely reported and are not very successful when prosecuted. Historically, a husband had unlimited sexual access to his wife, she was expected and in most cases she herself is expected to comply with his sexual desires. The husband could be charged with rape only if he forces his wife to have sexual intercourse with a third person.

ACQUAINTANCE RAPE:- Involves someone known to the victim including family members and friends. Included within acquaintance rapes are the subcategories of date rape, marital rape. It is difficult to get accurate data on acquaintance rape because women may be more reluctant to report acts involving acquaintances. By some estimates, about 50 percent of rapes involve acquaintances. Strangers rape are typically more violent than acquaintance rapes, attaches are more likely to carry a weapon, threaten the victim and harm her physically.

DATE RAPE:- This is another type of rape. Date rape refers to forced sexual intercourse during a situation in which the alleged victim has agreed to some forms of social contact but not sexual intercourse. Date rape can take any form some occur on first dates, others occur after the couple has been involved for some time. In long-term or close relationships, the male partner may feel he has invested so much time and money in his partner that he is owed sexual relations or that sexual intimacy is an expression that the involvement is progressing. Date rape use a variety of methods to coerce sex including getting their dates drunk, threatening them with termination of the relationship, threatening to disclose negative information, making them feel guilty or altering false promise to obtain sex. Date rape is believed to be frequent on campus, fewer cases of date rape are reported to the police.

SERIAL RAPE:- Some rapists are one-time offenders, but others engage in multiple or serial rapes. Some serial rapists commit blitz rapes in which they attack their victims without warning, whereas others try to capture their victims by striking up a conversation or offering them a ride. Others use personal or professional relationships to gain access to their targets. For example, police officers and other criminal justice personal.

RAPE AND LAW

Rape has created much conflict in the legal system. Women mostly in Africa do report the cases of rape and even if they choose to report sexual assaults to police, the police, prosecutors and court personnel and the legal technicalities that authorize invasion of women's privacy which a rape case is tried in court are all impediment. Police officers may be hesitant to make arrests and testify in court when alleged assaults do not yield obvious signs of violence or struggle (presumably showing the victim strenuously resisted the attack). Police are also loath to testify on the victim's behalf if she had previously known or dated her attacker. Nowadays, both the police and courts are now becoming more sensitive to the plight of rape victims, even case of rape by acquaintance are now investigated because they are aggravated rapes involving multiple offenders, weapons and victim injuries.

MOTIVATION

Many theories have propounded to explains the motivation for rape in criminological studies. These motivation are multi-factorial and are subject to debate several factors such (1) anger (2) a desire for power (3) sadism (4) sexual gratification (5) evolutionary pressure etc have been proposed.

CONSENT

To prove any allegation of rape, the absence of consent of sexual intercourse on the part of the victim is critical. Consent need not be expressed any may be implied from the context and from the relationship of the parties but the absence of objection does not of itself constitute consent.

Duress, the use of force or threats to have sexual intercourse leads to the presumption of lack of consent. Duress may be actual or threatened force or violence against the victim or somebody else close to the victim. Even blackmail may constitute duress.

Valid consent is also lacking if the victim lacks an actual capacity to give consent, as in the case of a victim who is a child or who had a mental impairment or developmental disability. Consent can always be withdrawn at any time, so that any further sexual activity after the withdrawal of consent constitutes rape. The law would invalidate consent in the case of sexual intercourse with a person below the age at which they can legally consent to such relations. Such cases are sometimes called statutory rape.

INVESTIGATION OF CASES OF RAPE

From observation it has been proved that the vast majority of rapes have been committed by person familiar or known to the victim, the initiation and process of a rape investigation depends much on the victim's willingness and ability to report and describe a rape.

In the course of investigation of cases of rape, evidences have to prove such biological evidence like semen, blood, vaginal secretions, saliva, vaginal epithelial cells may be identified and genetically typed by a crime laboratorist. The information derived from the analysis can often help determine whether sexual contact occurred, provide information regarding the circumstances of the incident and be compared to reference samples collected from patients and suspects.

SELF ASSESSMENT EXERCISE 2

What do you understand by the word Rape?

BURGLARY

The word burglary comes from two German words; "berg" meaning house and "laron" meaning thief (i.e house thief).Burglary is also called breaking into someone's house and this is regarded as a crime. Burglary

occurs when a person unlawfully enters or remain in a dwelling, a structure or a conveyance to commit crime.

Sir Mathew Hale defined burglary in common law as the breaking and entering the house of another in the night time with intention to commit a felony therein whether felony be actually committed or not.

From this definition; (1) House includes a temporarily unoccupied dwelling, but not a building used only occasionally as habitation. (2) Breaking does not require that anything be broken in terms of physical damage occurring. A person who has permission to enter part of a house but not another part, commits a breaking and entering when they use any means to enter a room where they are not permitted so long as the room was not open to enter. (3) Night time is defined as hours between half an hour after sunset and half an hour before sunrise. Burglary is prosecuted as a felony or misdemeanor and involves trespassing and left entering a building or automobile or entering unlawfully with intent to commit theft or any crime not necessarily a theft.

Burglary may be an element in crimes involving rape, arson, kidnapping, identity theft or violation of civil rights, Burglary occurring at night is punished more severely than burglary occurring at other time. In some countries, night time burglary was punished as burglary in the first degree while daytime burglary was punished as burglary in the second degree.

The uniform crime Reports (UCR) define burglary as “the unlawful entry into a structure to commit a felony or theft” The requirement of entering presents problems too if a person use an instrument to open the building and if only the instrument entered the building the action did not constitute entering unless the instrument was used in the commission of the felony for which the premises were entered. However, the entry by any part of the offender could constitute an entry.

ANALYSIS OF BURGLARY

The words of Burglary and burglars have been studied by several approaches. Some sociologists have studied the people convicted of burglary, trying to discover whether these types of criminals have any distinguishable characteristics. Other have looked at the circumstances surrounding the crime, for example the type of establishment burglarized, the value of the loss, the type of entry and the hour of the day or night when the crime occurred. Still others have looked at characteristics of the area in which the crime occurred. Some researchers have concentrated on the characteristics of burglary. Studies

have shown that burglars are young, unskilled. Most do not travel far from their homes to commit their crimes. Most burglars choose victims by their accessibility.

Burglary has been considered as an inchoate crime by some academics. Other academics said that because the intrusion itself is harmful, this justified punishment even when no further crime is committed. Burglary can be seen as an inchoate or incomplete offense as a preliminary step to another crime, because it disrupts the privacy and security of persons in their homes and in regard to their personal property. However, it is complete as soon as the intrusion is made.

SELF ASSESSMENT EXERCISE 3

Define the term Burglary.

TREASON

Oran's Dictionary of law (1983) defines treason as a citizen's action to help a foreign government overthrow, make war against or seriously injure the parent nation. Treason is often considered as attempt to conspire or overthrow the government even if no foreign country is aided or involved by such an endeavour.

Treason is the crime that covers some of the more serious acts of disloyalty to one's sovereign or nation. Historically, treason also covered the murder of specific social superiors such as the murder of a husband by his wife (treason against the king was known as high treason against a lesser superior was petit treason). A person who commits treason is known in law as a traitor. The word traitor outside legal share means a person who betrays or is accused of betraying their own political party, nation, family, friends, ethnic group, team, religion, social class or other group to which they may belong. An example of traitor was seen in the Bible when Judas Iscariot betrayed Jesus Christ.

In English law, high treason was punishable by being hanged, drawn and quartered (men) or burnt at the stake (women), the only crime which attracted those penalties (until the Treason Act 1814). The penalty was used by late Monarchs against people who could reasonably be called traitors, although most modern jurists would call it excessive. Many of them would now just be considered dissidents.

Early in Islamic history, the only form of treason was seen as the attempt to overthrow a just government or waging war against the state. Quran prescribed punishment ranging from imprisonment to severing of limbs and the death penalty depend on the severity of the crime.

However, contrary to popular belief Apostasy was not considered Treason, and there is no example of punishment during Prophet Muhammed's time. Currently, the consensus among major Islamic Schools is that it is considered treason if a muslim converts. The penalty is death. Many Islamic theologians believe that the death penalty is acceptable punishment for treason and other mischief on the Pand (Wikipedia the encyclopedia).

SELF ASSESSMENT EXERCISE 4

Does the term Treason applies in Nigeria.

ARSON

Arson is defined as any willful or malicious burning or attempt to burn with or without intent to defraud, a dwelling house, public building, motor vehicle or aircraft, personal property of another etc. This definition included only those fires that found to be set maliciously or willfully. Fires of unknown or suspicious origin are excluded. Arson is resulted in extensive property damage as well as personal injuries and deaths. Arson has been attributed to children as well as to the Adults.

There are six types of Arsonists:-

- (1) **Revenge Arsonists:-** are the most prevalent type. Most are family members or friends who have been involved in an argument with the people against who they seek revenge. Many are intoxicated at the time of the crime. Potentially, they are more dangerous than other types and they make little attempt to concede their acts.
- (2) **Vandalism Arsonists:-** These are teenagers who think it is fun to destroy property by fire. These teenagers often commit in pair or groups in contrast to other types who commits alone most of the time.
- (3) **Crime - concealment Arsonists:-** Are offenders who set fires to conceal other crimes that they have committed. For example Cocoa House in Ibadan was set on fire because of the offender intended to conceal fraud they perpetrated.
- (4) **Insurance - Claim Arsonists:-** set fires so they can make claims against their Insurance Companies. Often they commit their crimes during the day in contrast to crime - concealment arsonists, who usually work at night.

- (5) **Excitement Arsonists:-** Are often intoxicated and set fire to inhabited buildings at night for the fun they find in the activity. Perhaps pyromaniacs best fit the common stereotype of arsonists. They are the pathological fire starters who do not seem to commit the crime for any practical or financial reason but rather because of an irresistible impulse.
- (6) **Arson for hire or profit:-** Most of the arsonists are never caught and therefore little is known about their characteristics.
- (7) **Suicide Arsonists:-** Are offenders who set fires on the building in order to commit suicide. The suicide bombers are examples of these suicide arsonists.

SELF ASSESSMENT EXERCISE 5

Can a person commit Arson and get away with it without punishment?.

4.0 CONCLUSION

We've been able to discuss in detail the different types of crimes which will be of a great value to students of criminology and security studies.

5.0 SUMMARY

In this unit, we have dealt with what is meant by Homicide, Rape, Burglary, Arson and Treason. What are the types of rapes.

6.0 TUTOR-MARKED ASSIGNMENT

1. List and discuss the types of rape you know.
2. Is burglary a felony or misdemeanor?
3. There are 6 different types of Arsonists. Discuss them

7.0 REFERENCES/FURTHER READING

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UNIT 4 TYPES OF OFFENCES IV (TERRORISM)

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- 2.0 Objectives
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 - 3.1 Definition and History of Terrorism
 - 3.2 Contemporary Forms of Terrorism
 - 3.3 What Motivates Terrorism
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1.0 INTRODUCTION

In this unit, we shall discuss in detail the meaning of terrorism and the different form of terrorism in different parts of the world committed with the motive behind terrorist acts.

2.0 OBJECTIVES

At the end of this unit, you should be able to:

- explain what is meant by terrorism
- discuss briefly the history of terrorism and the different forms of terrorism
- explain the motive behind terrorists acts.

3.1 Terrorism

Despite its long history, it is often difficult to precisely define terrorism and to separate terrorist acts from interpersonal crimes of violence for example, if a group robs a bank to obtain funds for its revolutionary struggles, should the act be treated as terrorism or as a common bank robbery? Therefore, for an act to be considered terrorism, which is a political crime, the act must carry with it the intent to disrupt and change the government and must not be merely a common – law crime committed for greed or egotism.

According to the United States Department, the term terrorism means premeditated, politically motivated violence perpetrated against non combatant targets by sub national groups or clandestine agents, usually intended to influence an audience. The term international terrorism means terrorism involving citizens or the territory of more than one

country. A terrorist group is any group practicing, or that has significant sub-groups that practice international terrorism.

The word terrorist is often used interchangeably with the term guerilla, however the terms are quite different. Guerilla comes from the Spanish term meaning "little war" which developed out of the Spanish rebellion against French troops after Napoleon's 1808 invasion of the Iberian Peninsula. Terrorists have an urban focus. Operating in small bands, or cadres, of three to five members, they target the property or persons of their enemy, such as members of the ruling class. Guerillas, on the other hand are located in rural areas and attached to the military, the police and government officials. Their organizations can grow quite large and eventually take the form of a conventional military force.

Brief History of Terrorism

Acts of terrorism have been known throughout history. The assassination of Julius Caesar on March 15, 44 BC, is considered an act of terrorism. Terrorism became widespread at the end of the middle ages, when political leaders were subject to assassination by their enemies. The literal translation of assassin refers to the acts of ritual intoxication undertaken by the warriors before their missions. In the first century CE, a Jewish sect known as the Zealots took up arms against the Roman occupation, using daggers to slit the throats of Romans and of Jews who collaborated.

The term terrorist first became popular during the French Revolution. From the fall of the Bastille on July 14, 1789 until July 1794, thousands suspected of counter revolutionary activity were killed on guillotine. More than hundred years after the French Revolution, terrorism continued around the world. The Hur Brotherhood in India was made up of religious fanatics who carried out terrorist acts against the ruling class. In Eastern Europe, the internal Macedonian Revolutionary Organization campaigned against the Turkish government, which controlled its homeland (Macedonia became part of the former Yugoslavia).

During the World War II, resistance to the occupying German troops was common throughout Europe. The Germans considered the resistors to be terrorists, but the rest of the world considers them heroes.

3.2 Contemporary Forms of Terrorism

Today, the term terrorism encompasses many different behaviours and goals. Some of the more common forms are discussed below:

1. **Revolutionary Terrorists:-** Revolutionary terrorists use violence to frighten those in power and their supporters in order to replace the existing government with a regime that holds acceptable political or religious views. Terrorist actions such as kidnapping, assassination and bombing are designed to draw repressive responses from governments trying to defend themselves. These responses help revolutionaries to expose, through the skilled use of media coverage, the government's inhumane nature.
2. **Political Terrorists:** Political terrorism is directed at people or groups who oppose the terrorists' political ideology or whom the terrorists define as "outsiders" who must be destroyed. Political terrorists may not want to replace the existing government but to shape it so that it accepts its views. United States Political terrorists tend to be heavily armed groups organized around such themes as white supremacy, militant tax resistance and religious revisionism.

Examples of such in Nigeria are the militant groups in the Niger Delta and the Oodua Peoples Congress in the western part of Nigeria and the recent arrest of a young man in United Kingdom named Abdul Mutallab who was arrested after an unsuccessful attempt to bomb an airplane enroute to United Kingdom.

3. **Nationalist Terrorism:-** Nationalist terrorism promotes the interests of a minority ethnic or religious group that believes it has been persecuted under majority rule and wishes to come out with its own independent homeland.

In the Middle East, terrorist activities have been linked to the Palestinian liberation organization (PLO). They had directed terrorist activities against Israel. Although the PLO now has political control over the west bank and the Gaza strip, splinter groups have broken from the PLO. Hundreds on both sides of the conflict have been killed during terrorist attacks and reprisals.

The Middle East is not the only source of nationalistic terrorism. The Chinese government has been trying to suppress separatist groups fighting for an independent state in the north – western province of Xinjiang. The province has witnessed more than 150 deaths.

4. **State Sponsored Terrorism:-** Sponsored terrorism occurs when a repressive government regime forces its citizens into obedience oppresses minorities, and stifles political dissent. Death squads and the use of government troops to destroy political opposition parties are often associated with Latin American political

terrorism. Much of what we know about state – sponsored terrorism comes from the efforts of human rights groups.

London based Amnesty international maintains that tens of thousands of people continue to become victims of security operations that result in disappearances and executions. Political prisoners are now being found in about 100 countries; people have disappeared or are being held in secret detention in about twenty countries. Government sponsored death squads have been operating in more than thirty five countries known for encouraging violent control of dissidents include Brazil, Colombia, Guatemala, Honduras, Peru, Iraq and the Sudan.

3.3 What Motivates Terrorists

What could motivate someone like Osama bin Laden to order the deaths of thousands of innocent people? How could someone who had never been to the United States or suffered personally at its hands develop such lethal hatred?

Terrorists engage in criminal activities such as bombings, shootings and kidnappings. What really motivates these individuals to risk their lives and those of innocent people? One view is that terrorists are emotionally disturbed individuals who act out their psychosis within the confines of violent groups. According to this view, terrorist violence is not so much a political instrument as an end in itself; it is the result of compulsion or psychopathology. Terrorists do what they do because of a garden variety of emotional problems, including but not limited to self – destructive urges, disturbed emotions combined with problems with authority and inconsistent and troubled parenting. As terrorism expert Jerold M. Post puts it, "political terrorists are driven to commit acts of violence as a consequence of psychological forces and their special psychology is constructed to rationalize acts they are psychologically compelled to commit.

Another view is that terrorists hold extreme ideological beliefs that prompt their behaviour. At first they have heightened perceptions of oppressive conditions, believing that they are being victimized by some group or government. Once these potential terrorists recognize that these conditions can be changed by an active governmental reform effort that has not happened, they conclude that they must resort to violence to encourage change. "Successful" terrorists believe that their "Self sacrifice" Outweighs the guilt created by harming innocent people. Terrorism, therefore, requires violence without guilt, the cause justifies the violence.

4.0 CONCLUSION

This unit has been able to expose you to what terrorism is and the background to terrorist acts coupled with the motive behind culprits who carry out terrorism.

5.0 SUMMARY

In this unit, you have learnt the following:

- The definition of terrorism
- Brief history of terrorism and the forms of terrorism
- What motivate terrorists acts?

6.0 TUTOR MARKED ASSIGNMENT

The rate of terrorists acts in the recent century has been on the increase. In your own opinion, what are the fundamental issues behind terrorism.

7.0 REFERENCES/FURTHER READING

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MODULE 4 THEORETICAL BACKGROUND TO PUNISHMENT

Unit 1	What is Punishment?
Unit 2	Types of Punishment
Unit 3	Theoretical Background to Punishment

UNIT 1 DEFINITION OF PUNISHMENT

CONTENTS

1.0	Introduction
2.0	Objectives
3.0	Main Content
3.1	What is Punishment?
3.2	History of Punishment
3.3	Reasons for Punishment
4.0	Conclusion
5.0	Summary
6.0	Tutor-Marked Assignment
7.0	References/Further Reading

1.0 INTRODUCTION

The right of society to punish is derived from a supposed agreement which the persons who compose the primitive societies entered into, in order to keep order and indeed the very existence of the State.

According to others, it is the interest and duty of man to live in society. To defend this right, society may exert this principle in order to support itself and this it may do, whenever the acts punishable would endanger the safety of the whole.

2.0 OBJECTIVES

At the end of this unit, you should be able to:

- explain what is meant by punishment
- discuss the historical background of punishment
- explain the reasons for punishment.

3.0 MAIN CONTENT

3.1 What is Punishment?

Punishment is the practice of imposing something unpleasant or aversive on a person or animal or property, usually in response to obedience, defiance, or behaviour deemed morally wrong by individual, government or religious principles. To attain their social end, punishment should be exemplary or capable of intimidating those who might be tempted to imitate the guilty; reformatory or such as should improve the condition of the convicts; personal or such as are at least calculated to wound the feelings or affect the right of the relations of the guilty

Punishments are either corporal or not corporal. The formal are, death, which is usually denominated capital punishment; imprisonment which is either with or without labour and in earlier ages banishment which is no more in practice. The punishments which are not corporal are: fines, forfeitures, suspension or deprivation of some political or civil right, deprivation of office etc.

The reason for punishment is to reform the offender, to deter him and others from committing like offences and to protect the society. Punishment ought to match the enormity of the offence. It should never exceed what is a requisite to reform the criminal and to protect society. For whatever goes beyond this, is cruelty and revenge, the relic of a barbarous age.

DEFINITION OF PUNISHMENTS IN DIFFERENT FIELDS

In common usage, the word "punishment" might be described as "an authorized imposition of deprivations of freedom or privacy or other goods to which the person otherwise has a right or the imposition of special burdens because the person has been found guilty of some criminal violation, typically (though not invariably) involving harm to the innocent" (according to the Stanford Encyclopedia of Philosophy).

IN LAW

The most common applications are in legal terms and punishments is viewed as being the infliction of some kind of pain or loss upon a person for a misdeed i.e. for transgressing a law or command (including prohibitions) given by some authority (such as an educator, employer or supervisor, public or private official)

IN PSYCHOLOGY

In psychology, punishment is the reduction of a behaviour via a stimulus which is applied ("positive punishment") or removed ("negative punishment"). Making an offending student lose recess or play privileges are examples of negative punishment while extra cores or spanking are examples of positive punishment. The definition requires that punishment is only determined after the fact by the reduction in behaviour; if the offending behaviour of the subject does not decrease, then it is not considered punishment. There is some conflation of punishment and aversives, though an aversive that does not increase behaviour is not considered punishment.

HISTORY AND RATIONALE FOR PUNISHMENT

The progress of civilization has resulted in a change alike in the theory and in the method of punishment. In primitive society, punishment was left to the individuals wronged or their families, and was vindictive or retributive in quantity and quality it would bear no special relation to the character or gravity of the offense.

Gradually, there arise the idea of proportionate punishment of which the characteristic type is "an eye for an eye". The second stage was punishment by individuals under the control of the state, or community. In the third stage, with the growth of law, the state took over the primitive function and provided itself with the machinery of justice for the maintenance of public order. Hence forward, crimes are against the state and the exaction of punishment by the wronged individuals is illegal. Even at this stage, the vindictive or retributive character of punishment remains but gradually and specifically after the humanist movement under thinkers like Beccaria and Jeremy Bentham, new theories begin to emerge.

Two chief trains of thought have combined in the condemnation of primitive theory and practice. On the one hand, the retributive principle itself has been very largely superseded by the protective and the reformative; on the other hand, punishments involving bodily pain have become objectionable to the general sense of society. Consequently corporal and even capital punishment occupy a far less prominent position, and tend everywhere to disappear. It began to be recognized also that stereotyped punishments, such as belong to penal codes, fail to take due account of the particular and circumstances of the offender. A fixed fine, for example, operates very unequally on rich and poor.

Modern theories date from the 18th Century, when the humanitarian movement began to teach the dignity of the individual and to emphasize

his rationality and responsibility. The result was the reduction of punishment both in quantity and in severity, the improvement of the prison system, and the first attempts to study the psychology of crime and to distinguish between classes of criminals with a view of their improvement. These latter problems brought about the outcome of criminal anthropology and criminal sociology, sciences so called because they view crime as the outcome of anthropological viz Social conditions. The law breaker is himself a product of social evolution and cannot be regarded as solely responsible for his disposition to transgress. Habitual crime is thus to be treated as a disease. Punishment can, therefore, be justified only insofar as it either protects society by removing temporarily or permanently one who has injured it, or acting as a deterrent or aims at the moral regeneration of the criminal. Thus, the retributive theory of punishment with its criterion of justice as an end in itself gives place to a theory which regards punishment solely as a means to an end, utilitarian or moral, according as the common advantage or the good of the criminal is sought.

Michael Foucault describes in detail the evolution of punishment from hanging, drawing and quartering of medieval times to the modern systems of fines and prisons. He sees a trend in criminal punishment from vengeance by the king to a more practical, utilitarian concern for deterrence and rehabilitation.

3.2 History of Punishment

The progress of civilization has resulted in a change alike in the theory and in the method of punishment. In primitive society, punishment was left to the individuals wronged or their families and was vindictive or retributive. In quantity and quality, it would bear no special relation to the characters or gravity of the offence. Gradually, there arose the idea of proportionate punishment of which the characteristic type is an eye for an eye. The second stage was punishment by individual under the control of the state or community. In the third stage, with the growth of law, the state took over the primitive function and provided itself with the machinery of justice for the maintenance of public order. Henceforth, crimes are against the state and the exaction of punishment by the wronged individual is illegal.

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3.3 Reasons for Punishment

There are many possible reasons that might be given to justify or explain why someone ought to be punished. The following are a broad outline of typical, possible justifications:-

1. **Rehabilitation:** - Some punishment includes work to reform and rehabilitate the wrongdoer so that they will not commit the offence again. This is distinguished from deterrence, in that the goal here is to change the offender's attitude to what they have done, and make them come to see that their behaviour was wrong.
2. **Incapacitation/Societal Protection:** - Incapacitation is a justification of punishment that refers to when the offender's ability to commit further offenses is removed. This is a forward-looking justification of punishment that views the further reduction in re-offending as sufficient justification for the punishment. This can occur in one of two ways; the offender's ability to commit crime can be physically removed, or the offenders can be geographically removed.

The offender's ability to commit crime can be physically removed in several ways. This can include cutting the hands off a thief, as well as other crude punishments. The castration of offenders is another punishment that can be justified by incapacitation. Incapacitation, in this sense, can include any number of punishments including taking away

the driving license of a dangerous driver but can also include capital punishment.

Selective incapacitation is a modified form of incapacitation that rationalizes the practice of giving only dangerous and persistent offenders long, and in some case indefinite, prison sentences.

The approach adopts a utilitarian viewpoint that regards the protection and subsequent happiness, of the majority as justification of giving excessive and indefinite prison sentences. There is however, strong moral opposition to this concept.

3. **Deference/Prevention:** This is to act as a measure of prevention to those who are contemplating criminal activity.
4. **Restoration:** - For minor offences, punishment may take the form of the offender righting the wrong. For example, a vandal might be made to clean up the mess he/she has made. In more serious cases punishment in the form of fines and compensation payments may also be considered a sort of restoration. Some libertarians argue that full restoration or restitution on an individualistic basis is all that ever just, and that this compatible with both retributivism and a utilitarian degree of deterrence.
5. **Retribution:** This is the practice of “getting even” with a wrongdoer. The suffering of the wrongdoer is seen as good in itself, even if it has no other benefits. One reason for modern centrally-organised societies to include this judicial element is to diminish the perceived need for “street justice”, blood feud and vigilantism. However, some argue that this is a “zero sum game”, that such acts of streets justice and blood revenge are not removed from society, but responsibility for carrying them out is merely transformed to the state.

Retribution sets an important standard on punishment i.e. the transgressor must get what he deserves but no more. Therefore, a thief put to death is not retribution; a murderer put to death is retribution. Adam Smith who is credited as the father of capitalism wrote extensively about punishment. In his view, an important reason for punishment is not only deterrence, but also satisfying the resentment of the victim. Moreover, in the case of the death penalty, the retribution goes to the dead victim and not his family.

6. **Education:-** From German criminal law, punishment can be explained by positive prevention theory to use criminal justice system, to teach people what are the social norms for what is

correct and acts as a reinforcement. It teaches people to obey the law and eliminates the free-rider principle of people not obeying the law getting away with it.

- 7. Denunciation/Condemnation:** - Punishment can serve as a means for society to publicly express condemnation of a crime. This serves the dual function of curbing public anger away from vigilante justice, while concurrently stigmatizing the condemned in an effort to deter future criminal activity. This is also known as the “Expressive Theory”.

4.0 CONCLUSION

From the unit, students would have been more informed about the background of punishment and the basis for which offenders or criminals are punished.

5.0 SUMMARY

We’ve been able to discuss extensively the meaning of punishment and historical background to punishment coupled with the reasons for punishment which basically is not meant to inflict harm or pain on the offender but to rehabilitate him or her from committing the same offence in the future.

6.0 TUTOR-MARKED ASSIGNMENT

1. Explain the historical background to punishment?
2. What is the purpose of punishment?

7.0 REFERENCES/FURTHER READING

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UNIT 2 TYPES OF PUNISHMENT

CONTENTS

- 1.0 Introduction
- 2.0 Objectives
- 3.0 Main Content
 - 3.1 Types of Punishment I
 - 3.2 Detailed Explanation of Punishment
- 4.0 Conclusion
- 5.0 Summary
- 6.0 Tutor-Marked Assignment
- 7.0 References/Further Reading

1.0 INTRODUCTION

Punishment is a measure of state compulsion assigned by a court's judgment. Punishment shall be applied to a person who has been found guilty of the commission of a crime. It consists of the restriction of the rights and freedom of this person. Punishment shall be applied for the purpose of restoring social justice and also for the purpose of reforming a convicted person and of preventing the commission of further crimes.

2.0 OBJECTIVES

At the end of this unit you should be able to:

- list out the penalties of punishment
- explain the component of some of the penalties of punishment.

3.0 MAIN CONTENT

3.1 Types of Punishment

The following penalties may be applied under the stationary law of any country.

- (a) Fines
- (b) Deprivation of the right to hold specified offices or to engage in specified activities
- (c) Deprivation of a special and military rank or honorary title, class rank and of government decorations.
- (d) Compulsory works
- (e) Corrective labour
- (f) Confiscation of property.
- (g) Restricted liberty.

- (h) Arrest.
- (i) Deprivation of liberty for a definite period
- (j) Deprivation of liberty for life
- (k) Capital punishment

3.2 Detailed Explanation of Punishment

- (a) **FINE:-** A fine is a monetary extraction imposed within the limits established by law in an amount corresponding to a definite number of minimum wages as fixed by law at the time of imposing the penalty. The amount of fine shall be determined by a court of law, depending on the gravity of the crime committed and taking account of the convicted person's property status. In the event that the person maliciously evades payment of a fine, the latter shall be replaced with arrest which may eventually lead to a jail term.
- (b) **ARREST:-** Arrest consists of the maintenance of a convicted person in conditions of strict isolation from society, and shall be imposed for a term of one to six months. In the event that compulsory works or corrective labour is replaced by arrest, the latter may be imposed for a term of not less than one month. Arrest shall not be imposed on persons who have not attained the age of 18years by the time of adjudication, nor upon pregnant women or woman who have children of less than eight years of age.
- (c) **DEPRIVATION OF LIBERTY FOR LIFE:-** Deprivation of liberty for life is established only as an alternative to capital punishment for the commission of especially grave crimes of attack on human life, and may be imposed in cases where the court of law desires it possible to not apply capital punishment. Deprivation of liberty for life shall not be imposed on women, or upon persons who have committed crimes at ages below 18years, nor upon men who have attained 65years of age by the time of adjudication.
- (d) **CORRECTIVE LABOUR:** Corrective labour can be imposed for a term from two months to two years. And shall be served at the convicted persons place of work. In the event a person who is sentenced to corrective labour maliciously shirks the serving of his punishment, a court of law may replace the remaining part of the term of corrective labour with a penalty in the form of restricted liberty or arrest.

- (e) **RESTRICTION OF MILITARY SERVICE:** restriction in military service shall be imposed upon convicted servicemen undergoing military service. Deductions for the benefit of the state shall be made from the upkeep of a person convicted to restriction in military service in the amount fixed by the courts judgment. During the serving of this punishment, the convicted person may not be promoted in his post or in military rank, and the period of punishment shall not be counted in the period of seniority for purposes of promotion in rank.
- (f) **CONFISCATION OF PROPERTY:** Confiscation of property consist of the compulsory seizure and transfer to the state, without compensation, of all or part of the effects constituting the property of the convicted person. Confiscation of property is established for grave and especially grave crimes committed for mercenary motives, and may be imposed by a court of law only in cases provided by the law. In some countries, possessions needed by the persons who are dependent on him shall not be subject to confiscation.
- (g) **DEPRIVATION OF THE RIGHT TO HOLD SPECIFIC OFFICES OR TO ENGAGE IN SPECIFIC ACTIVITIES**

Deprivation of the right to hold specified offices or to engage in specified activities consists of the prohibition to hold offices in the civil service and local self-government bodies, or to engage in a professional or any other activities. In the event that this type of penalty is imposed in addition to compulsory or corrective work, and also in the event of conditional conviction, its term shall be counted from the time of the enforcement of the court's judgment.

CAPITAL PUNISHMENT

Capital punishment or the death penalty is the killing of a person by judicial process as a punishment for an offense. The term capital originates from Latin "Capitals", literally "regarding the head". Hence, a capital crime was originally one punished by the severing of the head.

Capital punishment has in the past been practiced in virtually every society, although currently only 58 nations actively practice it, with 95 countries abolishing it (the remainder having not used it for 10 years or allowing it only in exceptional circumstances such as wartime). It is a matter of active controversy in various countries and states, and positions can vary within a single political ideology or cultural religion.

HISTORY

Execution of criminals and political opponents has been used by nearly all societies – both to punish crime and to suppress political dissent. In most places that practice capital punishment, it is reserved for murder, espionage, treason or as part of military justice. In some countries, sexual crimes such as rape, adultery, incest and sodomy carry the death penalty as do religious crimes such as apostasy in Islamic nations.

In many countries that use the death penalty, drug trafficking is also a capital offense. In China, human trafficking and serious cases of corruption are punished by the death penalty. In militaries around the world, courts martial have imposed death sentences for offenses such as cowardice desertion, insubordination and mutiny. The use of formal execution extends to the beginning of recorded history. Most historical records and various primitive tribal practices indicate that the death penalty was a part of their justice system. Communal punishment for wrongdoing generally included compensation by the wrong doer, corporal punishment, shunning, banishment and execution. Usually, compensation and shunning were enough as a form of justice. The response to crime committed by neighbouring tribes or communities included formal apology, compensation or blood fends.

A blood fend or vendetta occurs when arbitration between families or tribes fails or an arbitration system is non-existent. This form of justice was common before the emergence of an arbitration system based on state or organized religion. It may result from crime, land disputes or a code of honour. "Acts of retaliation underscore the ability of the social collective to defend itself and demonstrate to enemies (as well as potential allies) that injury to property, rights, or the person will not go unpunished". However, in practice, it is often difficult to distinguish a war of vendetta and one of conquest.

Several historical penalties include breaking wheel, boiling to death, flaying, slow slicing, disembowelment, crucifixion, impalement, crushing (including crushing by elephant), stoning, execution by burning, sawing or neck lacing

MOVEMENT TOWARDS HUMANE EXECUTION

In early New England, public executions were a very solemn and sorrowful occasion, sometimes attended by large crowds, who also listen to a Gospel message and remarks by local preachers and politicians. Trends in most of the world have long been to move to less painful, or more humane executions. France developed the guillotine for this reason in the final years of the 18th Century while Britain banned drawing and quartering in the early 19th Century. Hanging by turning the victim off a

ladder or by kicking a stool or a bucket which causes death by suffocation, was replaced by long drop" hanging" where the subject is dropped a longer distance is dislocate the neck and sever the spinal cord. In the United states, the electric chair and the gas chamber were introduced as more humane alternatives to hanging but have been almost entirely superseded by lethal injection, which in turn has been criticised as being too painful. Nevertheless, some countries still employ slow hanging methods, beheading by sword and even stoning, although the latter is rarely employed.

The latest country to abolish the death penalty for all crimes was Togo, on June 23, 2009. Human Rights activists oppose the death penalty, calling it "cruel inhuman and degrading punishment". Amnesty international considers it to be "the ultimate denial of Human Rights".

ASSET FORFEITURE

Asset forfeiture is a term used to describe the confiscation of assets by the state which are either (a) the proceeds of crime or (b) the instrumentalities of crime, and more recently, terrorism. Instrumentalities of crime are property that was used to facilitate crime, for example cars used to transport illegal narcotics. The terminology used in different jurisdictions varies. Some jurisdictions use the term "confiscation" instead of forfeiture. In recent years, there has been a growing trend for countries to introduce civil forfeiture.

Proponents of asset forfeiture suggest that it is a necessary tool to prevent drug trafficking but such claims cannot be supported by facts. Former United States President, George Bush said, "Asset forfeiture laws allow the government to take the ill – gotten gains of drug kingpins and use them to put more cops on the streets". The hard facts are there to show that, in western countries, all efforts (including forfeiture and increased police budgets) to eradicate illegal drugs have failed.

The trend towards civil forfeiture has in part been prompted by the nature of organized crime. Organized crime heads use their resources to keep themselves distant from the crimes that they control and to mask the criminal origins of their assets. For this reason, it has become extremely difficult to carry out successful criminal investigations leading to the prosecution and conviction of such individuals.

4.0 CONCLUSION

From this unit, students have been well briefed about the types of punishment as stipulated by law and the details of some of this punishment.

5.0 SUMMARY

Detailed discussion of the different types of punishment meted to each crimes has been made and the condition for exemption or forgiveness depending on the age or status of the offender as at the time of adjudication

6.0 TUTOR-MARKED ASSIGNMENT

As a student of criminology, list and explain some of the punishment meted out to offenders under the law of your country.

7.0 REFERENCES/FURTHER READING

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UNIT 3 THEORETICAL BACKGROUND TO PUNISHMENT

CONTENTS

- 1.0 Introduction
- 2.0 Objectives
- 3.0 Main Content
 - 3.1 Theories of Punishment
 - 3.2 Philosophical Theories of Punishment
- 4.0 Conclusion
- 5.0 Summary
- 6.0 Tutor-Marked Assignment
- 7.0 References/Further Reading

1.0 INTRODUCTION

The history of punishments reveals not only universal methods of treating deviant behaviour, but provides information about urban social networks, population movement and elite mentalities. Punishments given for offenses and crimes are one of the most productive ways of analyzing social structure and morality.

2.0 OBJECTIVES

At the end of this unit, you should be able to:

- discuss in details the theories of punishment
- explain the philosophical theories of punishment.

3.0 MAIN CONTENT

3.1 Theories of Punishment

Governments have several theories to support the use of punishment to maintain order in society.

Theories of punishment can be divided into two general philosophies: utilitarian and retributive.

The utilitarian theory of punishment seeks to punish offenders to discourage or “deter” future wrongdoing. The retributive theory seeks to punish offenders because they deserve to be punished. Under the utilitarian philosophy, laws should be used to maximize the happiness of society. Because crime and punishment are inconsistent with happiness, they should be kept to a minimum. Utilitarian understand that a crime-

free society does not exist, but they Endeavour to inflict only as much punishment as is required to prevent future crimes.

The utilitarian theory is “consequentialism” in nature. It recognize that punishment has consequences for both the offender and society and holds that the total good produced by the punishment should exceed the total evil. In otherwords, punishment should not be unlimited. One illustration of consequentialism in punishment is the release of a prison inmate suffering from a debilitating illness. If the prisoner’s death is imminent, society is not served by his continued confinement because he is no longer capable of committing crimes.

Under the utilitarian philosophy, laws that specify punishment for criminal conduct should be designed to deter future criminal conduct. Deterrence operates on a specific and a general level. General deterrence means that the punishment should prevent other people from committing criminal acts. The punishment serves as an example to the rest of society and it puts others on notice that criminals behaviour will be punished. Specific deterrence means that the punishment should prevent the same person from committing crimes. Specific deterrence works in two ways. First, an offender may be put in jail or prison to physically prevent her from committing other crimes for a specified period. Second. This incapacitation is designed to be so unpleasant that it will discourage the offender from repeating her criminal behaviour.

Rehabilitation is another utilitarian rationale for punishment. The goal of rehabilitation is to prevent future crime by giving offenders the ability to succeed within the confines of the law. Rehabilitative measures for criminal offenders usually include treatment for afflictions such as mental illness, chemical dependency and chronic violent behaviour. Rehabilitation also includes the use of educational programs that give offenders the knowledge and skills needed to complete in the job market.

The counter part to the utilitarian theory of punishment is the retributive theory. Under this theory, offenders are punished. For criminal behaviour because they deserved punishment. Criminal behaviour upsets the peaceful balance of society and punishment helps to restore the balance. The retributive theory focuses on the crimes itself as the reason for imposing punishment. Where the utilitarian theory looks forward by basing punishment on social benefits, the retributive theory looks backward at the transgression as the basis for punishment.

According to the retributivist, human beings have free will and are capable of making rational decisions. An offender who is insane or otherwise incompetent should not be punished. However, a person who

makes a conscious choice to upset the balance of society should be punished. There are different moral bases for retribution.

To many retributivist, punishment is justified as a form of vengeance. Wrongdoer should be forced to suffer because they have forced others to suffer. This ancient principle was expressed in the Old Testament of the Judeo-Christian Bible: "When a man causes a disfigurement in his neighbor. It shall be done to him fracture to fracture, eye for eye, tooth for tooth..." To other theorist, retribution against a wrongdoer is justified to protect the legitimate rights of both society and the offender. Society has shown its respect for the free will of the wrongdoer through punishment. Punishment shows respect for the wrongdoer because it allows an offender to pay the debt to society and then return to society, theoretically free of guilt and stigma.

A third major rationale for punishment is denunciation. Under the denunciation theory, punishment should be an expression of societal condemnation. The denunciation theory is a hybrid of utilitarianism and retribution. It is utilitarian because the prospect of being publicly denounced serves as a deterrent. Denunciation is likewise retributive because it promotes the idea that offenders deserve to be punished. A sentence may however, combine utilitarian ideals with retribution for example, a defendant sentenced to prison for several years is sent there to quench the public thirst for vengeance. At the same time, educational programs inside the prison reflect the utilitarian goal of rehabilitation.

3.2 Philosophical Theories of Punishment

J. Benthan argued the issue of deterrence by saying that general prevention ought to be the chief end of punishment as its real justification. If we could consider an offence which has been committed as an isolated fact, the like of which would never recur, punishment would be useless. It would only be adding one evil to another. But when we consider that an unpunished crime leaves the path of crime open, not only to the same delinquent but also to all those who may have the same motives and opportunities for entering upon it, we perceive that punishment inflicted on the individual becomes a source of security for all. That punishment which considered in itself appeared base and repugnant to all generous sentiments is elevated to the first rank of benefits when it is regarded not as an act of wrath or vengeance against a guilty or unfortunate individual who has given way to mischievous inclinations, but as an indispensable sacrifice to the common safety.

Bentham's theory was based on hedonistic conception of man and that man as such would be deterred from crime of punishment was applied swiftly, certainly and severely. But being aware that punishment is an

evil, he says “if the evil of punishment will be unprofitable; he will have purchased exemption from one evil at the expense of another.

A retributive theory argues that the primary justification is the fact that an offence has been committed which deserves the punishment of the offenders. As Kant argues in a famous passage, “judicial punishment can never be used merely as means to promote some other good for the criminal himself or civic society, but instead it must in all cases be imposed on him only on the ground that he has committed a crime; for a human being can never be manipulated merely as a means to the purpose of someone else. He must first of all be found to be deserving of punishment before any consideration is given of the utility of this punishment for himself or his fellow citizens”.

Kant argues that retribution is not just a necessary condition for punishment but also a sufficient one. Punishment is an end in itself. Retribution could also be said to be the “natural” justification in the sense that man think it quite natural and just that a bad person ought to be punished and a good person rewarded.

However “natural” retribution might seem, it can also be seen as Bentham saw it, that is as adding one evil to another, base and repugnant, or as an act of wrath or vengeance

4.0 CONCLUSION

From this unit, we’ve been able to discuss the general and philosophical theories to punishment and the different rationale to punishment.

5.0 SUMMARY

Much emphasis was placed on the utilitarian and retributive school of thoughts to punishment while the utilitarian believe that laws should be used to maximize the happiness of society, the retributionist believe a crime-free society does not exist and believes that punishment is required to prevent future crimes.

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MODULE 5 OFFENDERS AND SENTENCING STRUCTURE

Unit 1	Pre-sentencing
Unit 2	Purpose of Sentencing
Unit 3	Types of Sentencing Structure

UNIT 1 PRE-SENTENCING

CONTENTS

1.0	Introduction
2.0	Objectives
3.0	Main Content
3.1	History, Purpose of Preparation Presentence Investigation Report
3.2	Review of Records, Interview of Defendant, Gathering of Information from other Persons
3.3	Writing and Revision, Rules
4.0	Conclusion
5.0	Summary
6.0	Tutor-Marked Assignment
7.0	References/Further Reading

1.0 INTRODUCTION

In this unit, you will be introduced to the background and purpose of pre-sentencing and how offenders records are reviewed and interviewed in order to determine the circumstances which will warrant increasing or reducing the sentence.

2.0 OBJECTIVES

At the end of this unit, you should be able to:

- explain the background and purpose of presentence investigation report
- discuss how offenders are interviewed and information concerning them are collated
- know how this information are used in the final judgment of the offender.

3.0 MAIN CONTENT

3.1 Presentence Investigation Report

A presentence investigation report (PSIR) is a legal term referring to the investigation into the history of person convicted of a crime before sentencing to determine if there are extenuating circumstances which should ameliorate the sentence or a history of criminal behaviour to increase the harshness of the sentence.

History

The reports trace their origins to the efforts of prison reformer John Augustus who in the 1840s began a campaign to allow discretion in sentencing to help those who were deemed undeserving of harsh sentences and could be reformed. The practice became firmly entrenched in the 1920s under a theory that crime was a pathology that could be diagnosed and treated like a disease.

Purpose

The report is immediately to help the court determine an appropriate sentence and also serves other purposes. Since the advent of the sentencing guidelines, the importance of the presentence report has increased because the document is now designed to frame factual and legal issues for sentencing. Thereafter, if a defendant is incarcerated, the Bureau of Prisons or State Department of corrections will use information in the report to designate the institution where the offender will serve the sentence and determine the offenders eligibility or need for specific correctional programs.

Also, depending on the jurisdiction, the presentence report can be used to calculate the released date. The probation officer assigned responsibility for the offender's case during probation and supervised release will use the report to make an initial assessment of case needs and risks. Additionally, the report may be used as a source of information for future research.

Preparation

Whether interviewing or reviewing documents, the probation officer must weigh the evidence based on the best available information. The final report must contain only accurate information. The goal is to produce a report that the court may rely upon at sentencing. Though it is inevitable that there will be data that the probation officer is unable to verify, that information should be clearly identified. The probation

officer must distinguish between facts and the inferences, opinions, or conclusions based upon those facts.

When a defendant is referred for a presentence investigation, the officer must immediately begin to gather the facts. Though the procedure varies some what from jurisdiction to jurisdiction, the officer usually conducts several aspects of the investigation concurrently to ensure that the presentence report is submitted to the court on time. Since officers routinely conduct multiple presentence investigation simultaneously, meeting the deadlines can be difficult.

3.2 Review of Records

During any investigation, a probation officer may review numerous documents including: court dockets, plea agreements, investigative reports from numerous agencies, previous probation or parole records, medical records, counseling and substance abuse treatment records, employment records, financial records and others. The probation officer must scrutinize each document received and determine the likely accuracy of the record.

The probation officer's investigation of the offense usually begins with an examination of the complaint, information or indictment charging the defendant and the docket describing the judicial history of the case. These documents may be found in the district court clerk's file. The officer will use them to develop a brief chronological history of the prosecution of the case and identify the specific charges that resulted in the conviction. The review of the clerk's file may also reveal the identities of co-defendants or related cases, the status of which must be investigated and reported in the presentence report. At the same time, the probation officer may also request information about the offender's history, circumstances and release status from the pretrial services officer or from a separate pretrial services agency.

Before interviewing the defendant about the offense, the probation officer must review official descriptions of the offense conduct and the applicable guidelines. As a result, it is often necessary to postpone a discussion of the offense until a second interview. The offender is also asked to submit a written statement about the offense conduct.

Interview of Defendant

Probation officers investigate by interviewing and reviewing documents. Unless the defendant declines, the defendant is questioned in every case. Additionally, the officer should interview the defense counsel, the prosecutor, law enforcement agents who investigated the conduct that

led to the defendant's conviction, victims, the defendant's family, present or previous employers school officials, doctors, counselors and others. The diverse interview settings that probation officers encounter require them to be proficient in a variety of questioning techniques.

Ideally, the offender is available for the interview easily in the investigation. The defendant interview is the pivotal point around which the presentence investigation turns. Often, the format is a structured interview during which a standard worksheet is completed. The worksheet follows the format of the presentence report and provides space for recording data about the offense and the offender's characteristics and history. Each item on the form is reviewed with the defendant. Even though some of the data solicited from the offender during this interview may not appear in the final report, it is impossible at this stage to determine what information will be included. No question is asked without a purpose. The defendant's answers will determine follow up questions, items for further investigation or corroboration and ultimately whether the data should be included in the report.

The presentence investigation is often the first inquiry into the offender's past, and the initial interview provides the framework for the reports description of the offender's history and circumstances. The probation officer inquiries about the defendant's family and developmental history, marital relationship, education, employment history, physical and mental health, alcohol or controlled substance abuse and finances. The emphasis throughout the questioning is on identifying information that is relevant for understanding the defendant's offense conduct and present situation. During the interview, the probation officer will ask the offender to sign authorization to release confidential information. At the conclusion of the initial interview, the offender may be asked to provide numerous documents to the probation officer substantiating the offender's complete life history. Additionally, the offender may be asked to submit an autobiography fleshing out the skeletal information already gathered about the social history.

Gathering of Information from Other Persons

Another step that must occur easily in the investigation is contact prosecutor assigned to the case. The prosecutor will be asked to provide information about the conduct that resulted in the defendant's conviction, victim's losses, the defendant history, and any other data relevant to the sentencing decision. During the investigation, the defendant counsel will also be asked to discuss the same topics.

After the interview of the offender, contact with the prosecutor and the criminal history, inquiry, the probation officer must identify any information gaps, must identify potential sources for the missing information, and must plan on how to eliminate the gaps. It may be necessary for the investigating officer to request another probation officer in another jurisdiction to conduct a collateral investigation about a specific aspect of the case. Supplemental interviews may be scheduled with case agents, victims, family members, employers, counselors and others.

3.3 Writing and Revision

Gradually, the emphasis shifts from gathering information to analyzing data. The probation officer must take the tentative findings of fact regarding the offense conduct and criminal history and must make tentative applications of the sentencing guidelines. The applicable sentencing option that the probation officer must recite in the presentence report. Additionally, the probation officer must study the case to identify potential grounds for departure from the guidelines and then must analyze any potential departure to determine if it is valid. During the investigation, the probation officer may consult a probation officer specialist who is a subject matter expert about guidelines, financial investigation, mental health, substance abuse or some other aspect of the case. The probation officer may also consult a supervisor or, in a team environment, other members of the officer's team.

Finally, the probation officer must write a draft of the report for disclosure to the defendant and the attorneys. When objections to report are received, the probation officer must manage the resolution of disputes. The officer must be impartial and open to opposing perspective and must consider all relevant and reliable information before making an independent judgement about the tentative findings of fact and guideline applications that will be recommended to the court. The probation officer must be prepared to report unresolved disputes to the court in a detached, dispassionate manners focusing on the factual or legal disagreement among the parties.

After revising the report in response to objections, the probation officer develops a sentencing recommendation based on the facts and sentencing options identified in the report. The written justification for the recommendation is the probation officer's evaluation and analysis of the offense, the offender and the sentencing options. The justification provides the officer's rationale for the specific sentencing recommendations. It should address the statutory factors to be considered in imposing a sentence and should assist the court in the preparation of the judge's statement of reasons for imposing a sentence.

The officer then discloses the final report and sentencing recommendation to court. Also, the officer discloses the report (excluding the recommendation) to the defendant, and both attorneys, but the job is not finished. The probation officer must be prepared to discuss the case with the sentencing judge in chambers or in court, to answer questions about the report that arise during the sentencing hearing, and, ultimately, to testify under oath in open court as to the basis for the factual findings and guideline applications recommended in the report.

Rules

Local rules, adopted by the judges of each jurisdiction, supplement the federal rules and set a specific schedule for the disclosure of the initial draft of the presentence report to the defendant and both counsel, for the filing of objections to the report by counsel and for the submission of the final report to the court, the defendant and counsel. The report must be disclosed to the court, the defendant, defendant's counsel and the attorney for the government at least before the sentencing.

The probation officer must manage the investigation process within the time established by those rules. In addition to gathering information, the officer must plan to verify that information, interpret and evaluate the data, determine the appropriate sentencing guidelines and statutes to the specific facts of the case and present the results of the investigation in an organized and objective report. The probation officer must set deadlines for the submission of information by the defendant and others and monitor compliance with the deadlines.

4.0 CONCLUSION

This unit has been able to expose you to the background of pre-sentencing, the history and purpose of pre-sentence investigation report.

5.0 SUMMARY

In this unit, you have learnt the following:

- Definition of pre-sentence investigation report
- History and purpose of pre-sentencing
- Review of records and interview of defendants
- Writing of reports concerning the offender.

6.0 TUTOR-MARKED ASSIGNMENT

Discuss the importance of pre-sentence investigation report to the judicial processing carrying out judgement on an offender.

7.0 REFERENCES/FURTHER READING

Bounce L. and John J. Horgan (1998). *Criminal Investigation* (3rd ed.). California: Glencoe/McGraw-Hill.

UNIT 2 PURPOSE OF SENTENCING

CONTENTS

- 1.0 Introduction
- 2.0 Objectives
- 3.0 Main Content
 - 3.1 What is Sentencing?
 - 3.2 Purpose of Sentencing
- 4.0 Conclusion
- 5.0 Summary
- 6.0 Tutor-Marked Assignment
- 7.0 References/Further Reading

1.0 INTRODUCTION

A multiplicity of goals lies behind the imposition of a criminal sentence. No single philosophy of justice governs sentencing decisions. Each jurisdiction employs its own sentencing philosophies, and each individual decision maker views the purpose of sentencing differently. A 20-year old college student arrested for selling cocaine might be seen as essentially harmless by one judge and granted probation, another judge might see the young drug dealers as a threat to the moral fabric of society and deserving of a prison term.

2.0 OBJECTIVES

At the end of this unit, you should be able to:

- explain the meaning of sentencing
- list and explain the purpose of sentencing.

3.0 MAIN CONTENT

3.1 What is Sentencing?

After a defendant has been found guilty of a criminal offence or has plead guilty, he or she is brought before the court for imposition of a criminal penalty called Sentencing. Historically, a full range of punishment has been meted out to criminal offenders: corporal punishment, such as whipping or mutilation, fines, banishment, incarceration, and death.

3.2 Purpose of Sentencing

1. **Deterrence:** By punishing the known offender for their misdeeds, society hopes to convince would-be offenders that the pains of punishment outweigh the potential benefits of criminal behaviour. The validity of deterrence rests on the promise that punishing one offender will convince other potential criminals to abstain from crime. According to deterrence theory, people are not punished for what they have not done but for the effect their punishment will have on the future behaviours of others.
2. **Incapacitation:** By incapacitating convicted offender in a secure facility such as a prison or jail, the state seeks to reduce or eliminate his or opportunity to commit future crimes. In some instances, incapacitation involves supervising an offender while the person remains in the community. It is hoped that close monitoring will restrict opportunities to commit future crime without the necessity of secure lockup. Incapacitation involves anticipating behaviour patterns. Offenders are confined not for what they have done but for what it is feared they might do in the future.
3. **Rehabilitation:** correctional rehabilitation is aimed at reducing future criminality by treating and eliminating the underlying causes of crime.

Crime offenders are believed to have one or more emotional or behavioural deficits that cause them to violate the law. Criminal behaviour would cease if this problem could be successfully treated. Rehabilitation efforts focus on emotional stress, vocational training, education or substance abuse.

Rehabilitation also involves predicting future behaviour: unless the offenders receive treatment, they will commit future crimes. Treatment reduces the likelihood of their re-offending.

4. **Desert/Retribution:** Because criminals benefit from their misdeeds, they deserve to be punished for their criminal acts. Furthermore, if the state did not punish people for their misconduct (retribution), victims would be encouraged to seek personal vengeance for their loss (revenge), creating a chaotic society. In a just society, criminal are punished in a manner proportionate to the severity of their crimes. According to this view, it is only fair that criminals who have committed the most

serious crime i.e. murder receive the most severe penalty which is death,

4.0 CONCLUSION

It's quite clear from this unit that sentencing varies according to the laws of each country and that an offender is only liable to the law of the land where he or she commits the offence.

5.0 SUMMARY

In this unit, we have looked at the meaning of sentencing and the purpose of sentencing which is not meant only as a deterrence but also to rehabilitate the offender back to the society as a responsible citizen.

6.0 TUTOR-MARKED ASSIGNMENT

Briefly discuss the purpose of sentencing.

7.0 REFERENCES/FURTHER READING

Nancy A. Heitzeg (1906). *Deviance: USA*: West Publishing Company.

Larry J. Siegal (2006). *Criminology*. USA: Thompson Higher Education.

UNIT 2 TYPES OF SENTENCING STRUCTURE

CONTENTS

- 1.0 Introduction
- 2.0 Objectives
- 3.0 Main Content
 - 3.1 General Kinds of Sentencing
 - 3.2 Modalities for Imposing the Sentence
- 4.0 Conclusion
- 5.0 Summary
- 6.0 Tutor-Marked Assignment
- 7.0 References/Further Reading

1.0 INTRODUCTION

When a convicted offender is sentenced to prison, the status of the jurisdiction in which the crime was committed determines the penalties that may be imposed by the court. Over the years, a variety of sentencing structure have been used, including determinate sentences, indeterminate sentences and mandatory sentences.

2.0 OBJECTIVES

At the end of this unit, you should be able to:

- explain the general kinds of sentencing
- discuss the modalities for imposing sentences
- explain the sentencing structures.

3.0 MAIN CONTENT

3.1 General Kinds of Sentencing

Generally, five kinds of sentences of dispositions are available to the court.

1. Fines
2. Probation
3. Alternate or intermediate sanctions
4. Incarceration
5. Capital punishment

A fine is usually exacted for a minor crime and may also be combined with other sentencing alternatives such as probation or confinement. Probation allows the offender to live in the community subject to

compliance with legally imposed conditions. Alternative sanctions involve probation plus some other sanction, such as house arrest, electronic monitoring, or forfeiture of property.

Confinement or incarceration is imposed when it has been decided that the general public need to be protected from further criminal activity by the defendant. Capital punishment or the death penalty is reserved for people who commit first degree murder under aggravated circumstances, such as with extreme cruelty, violence or torture.

3.2 Modalities for Imposing the Sentences

Sentencing is one of the most crucial functions of judges. Sentencing authority may also be exercised by the jury, an administrative body, a judge or it may be mandated by statute.

In most felony cases, except where the law dictates mandatory prison term, sentencing is usually based on a variety of information available to the judge. Some jurisdictions allows victims to make impact statements that are considered at sentencing hearings, although these often have little influence on sentencing outcomes. Most judges consider a pre-sentence investigation report by the probation department. This report, which is a social and personal history as well as an evaluation of the defendant, is used by the judge in making a sentencing decision. Some judges heavily weigh the persistence investigation report; others may dismiss it completely or rely on only certain portions.

When an accused is convicted of two more charges, he or she must be sentenced on each charge. A concurrent sentence means that both sentences are served at the same time, and the term of imprisonment is completed after the longest term has been served. For example, a defendant is sentenced to 3 years imprisonment on a charge of assault and 10 years for burglary, the sentences to be served concurrently. After the offender serves 10 years in prison, the sentences would be completed. Conversely, a consecutive sentence means that upon completion of one sentence, the other term of incarceration begins.

3.3 Sentencing Structures

- (a) **The Indeterminate Sentence:** under most sentencing models, convicted offenders who are not eligible for community supervision are given a short minimum sentence that must be served and a lengthy maximum sentence that is the outer boundary of the time that can possibly be served. For example, the legislature might set a sentence of a minimum of 1 year and a maximum of 20 years of burglary.

Under this scheme, the actual length of time served is controlled by the corrections agency. The inmate can be paroled after serving the minimum sentence whenever the institution and parole person believe that he or she is ready to live in the community.

The minimum (maximum) might also be reduced by inmates earning “time off for good behaviours” or for participating in counseling and vocational training programs. In many instances, sentencing reduction programs allow inmates to serve only a fraction of their minimum sentences. Inmates today serve about one-third of their original sentences.

Most jurisdictions that use indeterminate sentences specify minimum and maximum terms but allow judges discretion to fix the actual sentence within those limits. For example, if burglary is punishable by a sentence of 2 to 20 years, the judge can give one offender 5 to 10 and another 2 to 5 years. The sentence must be no less than the minimum and no more than the maximum range of years set by the legislature.

The underlying purpose of indeterminate sentencing is to individualize each sentence in the interest of rehabilitating the offender. This type of sentencing allows for flexibility not only in the type of sentence but in the length of time served.

- (b) **The Determinate Sentence:** Determinate sentences were actually the first kind used in countries like the United States. As originally constructed, the judge could be impose a sentence, based on personal and professional judgment, which fell within limits set up statute. For example a criminal code could set the sentence for burglary at up to 20years in prison. After evaluation the case, the judge could impose a sentence of experienced criminal, and the full 20 for a third who may have been a repeater and carried a weapon to the crime scene. Unlike the indeterminate models in which release duties are controlled by correctional authorities, in a determinate sentence the duration of the offenders prison stay is determined by the judiciary when the sentences is imposed.
- (c) **Structured Sentencing:** To ensure that the new determine sentences would be applied in a fair manner, those jurisdictions that embraced determinate sentencing have also sought to develop guidelines to control and structure the sentencing process and make it more rational.

Sentencing guidelines are usually based on the seriousness of a crime and the background of an offender. The more serious the crime and the

more extensive the offender's criminal background, the longer the prison term recommended by the guidelines. For example, guidelines might require that all people convicted of robbery who had no prior offense record and who did not use excessive force of violence be given an average of a 5 year sentence, those who use force and had a prior record will have 3 year added on their sentence.

Guidelines eliminate discretionary parole but also allow inmates to reduce their sentenced by acquiring time off for good behaviour. By eliminating judicial discretion, they are designed to reduce racial and gender disparity.

4.0 CONCLUSION

In this unit, we've been able to discuss the general kinds of sentencing and the sentencing structures of offenders in a typical court of law.

5.0 SUMMARY

Fines, probation, alternative sanctions, incarceration and capital punishment are just a few of the kinds of sentencing given to offenders in a court of law but the modalities of the sentences is meant primarily to rehabilitate the offender and not just to inflict harm or pain on him or her.

6.0 TUTOR-MARKED ASSIGNMENT

Discuss the modalities for imposing sentences on offenders.

7.0 REFERENCES/FURTHER READING

Schmallerger, Frank (2004). *Criminal Justice*. USA: Pearson Prentice Hall.

Nancy A. Heitzag (1906). *Deviance*. USA: West Publishing Company.

Larry J. Siegel (2006). *Criminology*. USA: Thompson Higher Education.

MODULE 6 POLICE AND THE ADMINISTRATION OF CRIMINAL JUSTICE

Unit 1	Definition and Historical Background of Police
Unit 2	Functions and Obstacles of Policing in Nigeria
Unit 3	Role of Police in Administration of Criminal Justice

UNIT 1 DEFINITION AND HISTORICAL BACKGROUND OF POLICE

CONTENTS

1.0	Introduction
2.0	Objectives
3.0	Main Content
	3.1 Definition of Police
	3.2 Historical Background of Police in Nigeria
4.0	Conclusion
5.0	Summary
6.0	Tutor-Marked Assignment
7.0	References/Further Reading

1.0 INTRODUCTION

The primary role of the police is policing i.e securing compliance with existing laws and conformity with precepts of social order. But the police are not the only agency involved in policing. Other security agencies are equally involved in policing and law enforcement as regard to their statutory goals and objectives.

2.0 OBJECTIVES

At the end of this unit, you should be able to:

- explain the meaning of police
- discuss the historical background of police in Nigeria.

3.0 MAIN CONTENT

3.1 Definition of Police

The word police comes from the latin word “politia” which means “civil administration”. The word politia goes back to the Greek word “polis” or “city”. The English eventually took over this word and used it to

mean civil administration. The use of Police to the administration of public order emerge in France in the early 18th century. The first body of public order officers to be named police in England was the marine police, a force established in 1798 to protect merchandise in the port of London. The police represents the civil arm of government as opposed to the military arm.

3.2 Historical Background of Police in Nigeria

The Nigeria police is a product of colonial administration. It was consular guard formed in 1861 in Lagos that gave birth to Nigeria police. The consular guard later transformed into the Hausa constabulary in 1879. In 1888, the North of the Niger, the Royal Niger Company set up a constabulary in Lokoja, it was followed by Niger coast constabulary formed in 1894 in Calabar. After Lagos police was established in 1896. After the formation of the North and South both the Royal Niger Company constabulary and Niger coast constabulary merged with the North and Southern Nigeria police respectively. In 1930, Northern and Southern police were merged to form Nigeria Police force with Lagos as the headquarters while the Nigeria police Act was enacted in 1943 by the British Colonial government.

Before the Northern and Southern protectorate were merged in 1930, there traditional police such as dogari from the Northern emirate, Ilari, Emese and Agunren in the Yoruba kingdom. The colonial administration allowed the creation of Native Authority (NA) police in the North and West as a product of the developing influence of the indirect rule. In the east, the British extended its existing fostered police forces over the territory because the Igbo has decentralized traditional community system.

In 1906, the colony and protectorate of Lagos was merged with the protectorate of Southern Nigeria. While in 1914 the colony and protectorate of Southern Nigeria and the protectorate of Northern Nigeria were merged to form the colony and protectorate of Nigeria.

It was in 1930, the Southern and Northern Police force which have remained separated merged. On 1st April 1930 came the emergence of the Nigeria Police force with headquarters in Lagos. The first Inspector – General of the formed Nigeria Police was Duncan. He has headed various British police establishments outside Nigeria before his appointment.

After 1930 the organizational structure and the nomenclature of the police rank changed in response to the circumstances of colonial administration. Following the Macpherson constitution 1951 and

Littleton constitution 1954 by which Nigeria developed into a federation, the Nigeria police was reformed to conform with the political order. A contingent of the police under a commissioner of police was established for each of the regions.

The 1960 constitution established the Nigeria police force as a federal force charged with responsibility of maintenance of law and order through out Nigeria. However, the constitution did not prevent the regions from establishing their own local police forces. Hence the North retained the Native Authority police and the West, the local Government Authority police.

The dual system of policing involving multiplicity of local forces and a national police force continued until 1966.

In 1966, major – General J.T.U Aguyi – Ironsi emerged as the Head of the military Government. He established a working party to examine among other issues, the unification of the police force. The recommendation of the working party was accepted which led to current Nigeria police force.

ORGANIZATION OF NIGERIA POLICE FORCE

The Inspector General of police is the head of Nigeria police force. He is assisted by the Deputy – Inspectors General of police at the Headquarters. The force is organized into 37 commands. Each of the thirty – six states and the Federal Capital Territory is served by a command of the force the task of the police force is carried out through six departments.

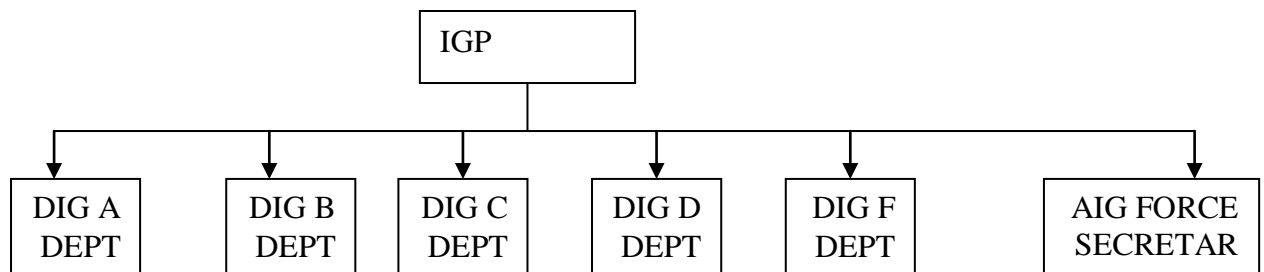
- a. Administration and finance
- b. Operation
- c. Works and logistics
- d. General Investigation and Intelligence
- e. Training
- f. Research and planning

The Nigeria twelve zonal commands are as follows.

- a. Zone one: Kano (Hqts) Jigawa, Katsina
- b. Zone two: Lagos (Hqts) Ogun
- c. Zone three: Yola (Hqts) Adamawa, Taraba and Gombe
- d. Zone four: Makurdi (Hqts) Benue, Plateau, Nassarawa
- e. Zone five: Benin (Hqts) Edo, Delta and Bayelsa
- f. Zone six: Calabar (Hqts) Rivers, Ebony, Cross River, Akwa Ibom
- g. Zone seven: Abuja (Hqts) Niger and Kaduna

- h. Zone eight: Lokoja (Hqts) Kogi, Kwara, Ekiti
- i. Zone nine: Abia, Anambra, Enugu
- j. Zone ten: Kebbi, Sokoto, Zamfara
- k. Zone eleven: Ondo, Osun and Oyo
- l. Zone twelve: Bauchi, Borno, Yobe

Inspector – General of Police is assisted by six deputy Inspectors – General in charge of A, B, C, D, E, F department at the force Headquarters.



In each state, police command is headed by a commissioner of police (CP). He is assisted by a Deputy Commissioner of police in the running the affairs of the command. Directly under the CP is an area commander in all the Divisional Police Officers (DPOs), who also have the station officers and police post under them. There are six departments in the state Headquarter.

- A Dept (Administration and Finance)
- B Dept (Operations)
- C Dept (Logistics and Supplies)
- D Dept (Investigation and Intelligence)
- E Dept (Training and General Policy on Manpower Development)
- F Dept (Research and Planning)

The commandants of the police staff college Jos and Police Academy Wudil, Kano are also Assistant Inspector General of police while the Police Colleges are commanded by commissioners of police and the police training schools where recruits are trained under the direction of superintendents of police.

4.0 CONCLUSION

In this unit, we've been able to examine the meaning of police and the historical background to policing in Nigeria.

5.0 SUMMARY

At the end of this unit, you have learn the origin of the word “Police” and how the police force in Nigeria has evolved from a paramilitary Hausa Constabulary to a well established and organized police force in Nigeria today.

6.0 TUTOR-MARKED ASSIGNMENT

1. Define the world “Police”.
2. Discuss the historical background of Nigeria Police Force.

7.0 REFERENCES/FURTHER READING

Dampsey J. S. and Frost L. S (2005). *An Introduction to Policing*. USA: Thompson Wadsworth.

Dambazua, A. B (1999). *Criminology and Criminal Justice*. Kaduna: NDA Press.

UNIT 2 FUNCTIONS AND OBSTACLES OF POLICING IN NIGERIA

CONTENTS

- 1.0 Introduction
- 2.0 Objectives
- 3.0 Main Content
 - 3.1 Functions of Police
 - 3.2 Administration of Nigeria Police
 - 3.3 Obstacles of Policing in Nigeria
- 4.0 Conclusion
- 5.0 Summary
- 6.0 Tutor-Marked Assignment
- 7.0 References/Further Reading

1.0 INTRODUCTION

Policing, maintaining order and dealing with law breakers had always been a private matter. Citizens were responsible for protecting themselves and maintaining an orderly society. Uniformed and organized police department as we see them today were very rare. Thus, modern style police department appears in the 19th century in England and subsequently extended to Nigeria.

2.0 OBJECTIVES

At the end of this unit, you should be able to:

- list and explain the functions of Police
- explain the administration of Police in Nigeria.

3.0 MAIN CONTENT

3.1 Functions of Police

- (1) **Police as an agent of Public order:-** It is the responsibility of the police to maintain law and order in society. This may be attained by the use of force where all necessary civil attempts have proven to be abortive. Such instances would include taking an individual who resists arrest or in dispersing an unlawful crowd or assembly. A person is deemed to be a suspect or defaulter upon reasonable suspicion by an officer of the law, or when he offends by the breach of a law of the land. Police duties under the maintenance of public order involve both civil and

criminal functions. Crimes may be mere attempts or the actual committal of a wrongful act. A person is presumed to be innocent, and abides as such until the contrary is deemed to remain a suspect until proof of guilt establishes him as a convict by an established court of the land.

- (2) **Dispersion of Rioters or other violent Assembly:-** In dispersing rioters or other violent assembly, the police may use “all such force as is reasonably necessary”. Whoever may commit acts liable to cause a breach of the peace or disturb public tranquility may be brought before a Magistrate by the Police with the information on a charge, on oath. The Magistrate may summons a person to show why he should not be ordered to enter into a recognizance, with or without sureties, for keeping the peace, for such periods as the magistrate may deem fit such a person, however, must be within the state and either himself or the apprehended disturbance must be within the jurisdiction of the Magistrate’s assigned district.
- (3) **Injury to Public Property:-** Upon injury, or a design to cause injury to public property, a police officer may, of his own authority interpose to prevent any injury attempted against public property, movable or immovable. This also applies to attempts to remove or cause injury to any public landmark, or busy or other mark for navigation. An officer of the law may arrest without order from a magistrate and without warrant.
- (4) **Police as an agent of crime prevention:-** The primary function of the Police is to protect life and property. To ensure proper measures towards safety and crime prevention, duties are divided into smaller areas.

Section 4 of the Police Act Summarized the functions of the Nigerian Police Force as:-

- (a) Prevention and detection of crime
- (b) Apprehension of offenders
- (c) Preservation of law and order
- (d) Protection of life and property
- (e) Enforcement of all laws and regulations with which they are charged
- (f) Military duties within or without Nigeria as may be required of them.

In order to discharge their numerous functions, police in Nigeria are accorded wide powers by law. For example, Nigeria Police have powers:

- (a) To take measures to prevent crime
- (b) To investigate crime
To prosecute suspects
- (c) To search properties and persons in order to prevent crimes, detect or investigate crimes, apprehend offenders, and collect evidence for prosecution
- (d) To grant bail to suspects pending investigation or arraignment in court
- (e) To serve summons
- (f) To regulate processions and assemblies

3.2 Administration of Nigeria Police

The 1999 constitution created two organs for the administration of the country's police system. These are the police council and the police service commission. The police council consists of:

- (a) The President who shall be the chairman
- (b) The Governor of each of the federation
- (c) The Chairman of the police service commission; and
- (d) The Inspector - General of Police

The constitution defined the functions of the police council to include:

- (a) The organization and administration of the Nigeria Police Force and all other matters relating thereto (not being matters relating to the use and operational control of the force or the appointment, disciplinary control and dismissal of members of the force);
- (b) The general supervision of the Nigeria Police Force; and
- (c) Advising the President on the appointment of the Inspector General of Police

The Police service commission Establishment Act, No 15 of 2001, section 6, charged the commission with the responsibility of:

1. Appointment and promoting all officials of the NPF (other than the Inspector - General of Police).
2. Dismissing and exercising disciplinary control over the same person;
3. Formulating policies and guidelines for the appointment, promotion, discipline and dismissal of officers of the NPF.
4. Identifying factors inhibiting and undermining discipline in the NPF.

5. Formulating and implementing policies aimed at efficiency and discipline within the NPF.
6. Performing such other functions as, in the opinion of the commission, are required to ensure optimal efficiency in the NPF; and
7. Carrying out such other functions as the President may, from time to time, direct.

3.3 Obstacles of Policing in Nigeria

Usoh (2009) stated the following as obstacles being confronted by the police in Nigeria.

1. Material Inadequacies: Material inputs in terms of funding, crime prevention, control, detection, investigation, traffic control and accident – prevention, communication and data – gathering research needs are not only inadequate but are unrealistic as well.
2. Human Problems: The human problems are of adverse effect on police general performance.
 - a. Usoh (2009) listed the following as the factors responsible for these problems. They are:
 - b. The colonial origin and heritage of the force which continue to influence the selection, training and orientation of a majority of policemen.
 - c. Improper, inefficient and sometimes corrupt and nepotistic methods of recruitment.
 - d. Lopsided emphasis (in training curricula) towards drill para – military work and mechanistic teaching of law and police work.
 - e. Exposure of recruits to only professional police officers and only in exclusive police institutions.
 - f. Lack of courtesy, non-challant attitude to citizen's complaint, dishonesty, corruption, abuse or misuse of the authority to arrest, detain or the use of force by a substantial number of Policemen on the streets and in the stations etc.
 - g. Discouraging salary, poor conditions of service, rank-mobility, promotion criteria and procedure for the rank and file recent efforts to improve the situation notwithstanding.
3. A materialistic, greedy, corrupt and undisciplined socio-economic environment.
4. Ibidapo, (1995) reports that police brutality is common in the course of crime control, management of protests and demonstration, investigation and at check points. He notes that police brutality occurs in the form of extra – judicial killings, summary execution of suspects and revenge killings.
5. Cleen (1999) argues that it should not be presumed that corruption is higher in the police than in the other sectors of

society. However, it is open at the check points and stations – routine and degrading. Within the force, police corruption, especially cooperation with criminals and negligence of duty at checkpoints pose security threats to the citizen and the nation.

6. Political interference and feeling of accountability by the force to the government of the day rather than to the rule of law and the people.
7. Odekunle (2004) argues that the burdensome character of our inherited legal system which was never been meaningful or socio – scientifically reviewed to make justice real rather than technical and speedy rather than delayed has been an obstacle in the wheel of progress.

Planning, Research and Statistics Department of the National Orientation Agency in 1994 compiled reports on the sources/causes of poor image of the police, which include:

1. Exaggeration of evidence in court, by the police
2. Use of unnecessary violence
3. Poor management of public demonstrations and processions
4. Incivility to members of the public
5. Unnecessary delay in attending to complaint
6. Poor handling of firearms
7. Ruthless activities of the mobile police
8. Poor discipline and unhealthy fraternization between Junior and Senior police officers
9. Collection of bribery from commercial vehicle drivers, suspects, and the public
10. Use of physical violence during investigation
11. Collaboration with criminals
12. Conversion of property seized from suspects, to personal use
13. Negligence of duty
14. Extortion of money before granting bail to suspects
15. Pathological hatred to students.

Suggestions for the improvement of Nigerian Police. Odekunle (2004) proffers the following solutions.

1. The selection of an Inspector General of Police (IGP) should be guided by professional competence rather than 'politics' 'sycophancy' or 'docility'.
2. To increase the length of training of recruits to a minimum period of 18 months
3. To make training conditions humane (e.g there is no need for any form of physical brutalities) to minimize inculcation of unwholesome inhuman dispositions into police personnel.

4. To develop concurrent and predictive validation tests for use in selection of suitable policemen both at recruitment and immediately after probationary period (i.e. social-psychological aptitude tests in addition to the normal educational, physical and medical requirements).
5. The training curricular should considerably emphasize (in addition to police work) knowledge about our society, the importance of the policemen's community – service role, the meaning and use of initiative and discretion, the position of citizens as consumers of police work, the supremacy of the rule of law and type of ethics to be internalized by a policeman and the cruciality of the observation of human rights.
6. Trainees should be exposed to lecturers and teachers from outside the police (e.g. guest – lecturers from Universities, Trade Unions, other occupational associations and student Unions)
7. There is need to intensify internal re-organization of the police to revitalize and enforce, on a systematic and continuous basis rules concerning police courtesy, response to (and handling of) citizens reports or complaints, use of only necessary force, observance of the legal and other rights of citizens including offenders.
8. There is need to establish citizens monitoring organization (from the Federal to the Local Government levels) with disciplinary powers to police the Nigeria Police and ensure that it is upholding the rule of law because it is said that when the law officer is breaking the law there is no law.
9. There is need to develop a structure, system and a corps of civilian research personal for proper and adequate recording, collation, analysis and publication of crime-data on a regular annual basis.
10. The salary, condition of service, rank – mobility, promotion – criteria and procedure should be made more appropriate to the risk of the occupation and reviewed for considerable improvement.

4.0 CONCLUSION

The function of Police in almost every part of the world is to prevent crime and ensure a peaceful society especially for its citizenry. All other functions are just an addition to this depending on the statutory powers delegated to them by the laws of the country.

5.0 SUMMARY

The primary role of the police is to protect life and property of its citizenry and this can be done by serving as an agent of public order,

crime prevention and dispersion of rioters or other violent or unlawful assembly.

6.0 TUTOR-MARKED ASSIGNMENT

Briefly outline and explain the functions of Nigeria Police Force

7.0 REFERENCES/FURTHER READING

Ogbu, O. N. (1999). *Human Rights in Nigeria: Law and Practice: An Introduction*. Enugu: CIDJAP Publications.

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UNIT 3 ROLE OF POLICE IN THE ADMINISTRATION OF CRIMINAL JUSTICE

CONTENTS

- 1.0 Introduction
- 2.0 Objectives
- 3.0 Main Content
 - 3.1 Investigation, Arrest and Bail
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 - 3.4 Sentencing
- 4.0 Conclusion
- 5.0 Summary
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1.0 INTRODUCTION

The machinery designed for criminal justice administration consist of the paraphernalia and the rules laid down for bringing persons who have contravened the provisions of the criminal code and penal code and other statutes of justice according to the laws of the country. The aphorism that procedure is the heart of law remains consistently true. The machinery for the administration of criminal justice comprise the police, the ministries of justice, the courts and prisons. The police and ministries of justice investigates and prosecute complaints against person. To the court is assigned the adjudication of accusation.

2.0 OBJECTIVES

At the end of this unit, you should be able to:

- explain the various steps taken by the police in the administration of Justice.

3.0 MAIN CONTENT

3.1 Investigation, Arrest and Bail

The criminal justice process normally begins when the police set out to investigate crime, either because they have received a report that a crime was committed or because, as a result of indirect evidence, they believed that a criminal act has taken place. If they discover a crime has occurred, their next action is to determine who the perpetrator was and

apprehend the individual. This, of course, is the arrest decision. After arrest, the individual is taken into custody and booked. The next step is in-custody investigation, which, among other things, involves interrogation and may require the suspect to appear in a lineup, that is, appear on a stage with persons of roughly similar appearance for viewing by victims or witness to the crime.

After in-custody investigation, the suspect is taken to a court for what is called the “initial appearance before a magistrate”. A major purpose of this appearance is for the judge to decide “at first glance” whether it appears that the alleged crime was committed and that the accused committed it. Many cases are resolved at this point as a result of guilty pleas, dismissals, or withdrawals of charges. If the judge is satisfied regarding the probability of the crime and the accused person’s role in it, the question of release pending trial is faced. The judge can set a certain amount of bail or free the person on his or her word of honour to appear for later proceedings. If the suspect posts bond or is released on his or her own recognizance, he or she is then free to return home until summoned for later proceedings.

At each of these early decision points from arrest onward, the suspect has a right to a defense lawyer, provided at state expense if he or she cannot afford to pay for counsel.

3.2 The Charging Decision

While the suspect is free on bail or waiting in jail, the police reports are passed on to the prosecutor for a decisions on whether to charge the suspect with criminal activity and a determination of the specific crime or crimes involved; this determination also involves how many charges to bring, since not infrequently an individual has been arrested for more than one offense. Sometimes a prosecutor decides not to charge any crime, perhaps because the evidence does not seem sufficient to result in conviction, or because the evidence obtained by the police was wrongfully seized and would likely be held inadmissible at trial.

But more commonly the prosecutor decides to proceed with the prosecution and, depending upon the provisions in the jurisdiction, may bring a formal charge against the suspect (now a defendant) in one of two ways. Where the grand jury system is used, the prosecutor (without the defendant or the defendant’s lawyer present) appears before a grand jury, presenting some (but not all) of the evidence and asking the grand jury to issue an indictment, which is formal charging document describing in legal language the crime or crimes of which the defendant stands accused. In those jurisdictions where the grand jury system is not used, the prosecutor goes before a judge at a preliminary hearing (here

the defendant and his lawyer may attend). Again the district attorney introduces some evidence and requests the judge to issue an information, which is also a formal charging document almost identical to the grand jury indictment.

3.3 Pleading and Trial

The next step is pleading: once formally charged with a crime, the defendant with a lawyer, is brought before a court for arraignment, which is the point where the charges are read and the defendant is asked to plead to them. If the plea is not guilty, a time is set for the trial and once again bail is considered or the defendant is returned to jail to await trial. If the plea is guilty and the court accepts it, the defendant is usually sent to jail to await sentencing, which occurs after a presentence investigation is conducted by probation officers attached to the court. Sometimes special pleas, such as “not guilty because insane” are allowed and the defendant is sent for a mental examination before being returned to the court for trial or sentencing or, if found insane, for commitment to a mental hospital.

3.4 Sentencing

If the defendant is acquitted, he or she is freed if convicted, the defendant (now an offender) is returned to court after the judge has received the presentencing report which contains a great deal of social and psychological information. At sentencing, the judge listens to what the offender or the offender’s counsel wishes to say, ordinarily request a sentence recommendation from the district attorney, and reads the presentence report. The judge then imposes sentence on the convicted person. While sentencing choices vary from one place to another, and from one crime to another, in general the judge may fine the offender a set amount of money, order the offender to perform a specified number of community service hours or impose incarceration in a prison for a term defined by both a minimum and a maximum number of years.

The minimum prison sentence is the length of time the offender (now an inmate) must serve before becoming eligible for parole (release from prison under supervision of a parole officer until the maximum term expires). However, having served the minimum sentence by no means guarantees the inmate will be automatically released on parole; he or she is simply eligible for such release and, in fact, few inmates (except first offenders sentenced for minor crimes) are usually released at their first appearance before a parole board.

4.0 CONCLUSION

In this unit, we've been able to discuss extensively the procedure in criminal Justice not only as it relates to Nigeria but to an average legal system in any country in the world.

5.0 SUMMARY

Apart from the machinery for the administration of criminal justice which comprise the police, the ministries of justice, the court and prisons, stipulated procedure for an accused to be sentenced also include Investigation, Arrest and Bail, the charging decision, pleading and trial and finally sentencing.

6.0 TUTOR-MARKED ASSIGNMENT

Explain the procedure involved before an offender can be sentenced in a court of law.

7.0 REFERENCES/FURTHER READING

- Tappan, P. W. (1964). "Who is the Criminal" in Wolfgang et al. *The Sociology of Crime and Delinquency*. New York: John Wiley and Sons, Inc.
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