



Who Is a Criminal?

The Difference Between Breaking the Law and Doing Wrong

What Makes Someone a Criminal?

When we hear the word *criminal*, we generally think of someone who has committed a robbery, assaulted another person, or engaged in some other activity that society considers dangerous or unacceptable. But the legal definition of a criminal is more complicated than it might first appear.

Black's Law Dictionary has traditionally defined a criminal as someone who has committed a criminal offense. A crime, in turn, involves conduct that violates a criminal law. Laws are rules established and enforced by governing authorities, which means that the people and institutions empowered to make those rules have considerable influence over what constitutes criminal behavior.

This raises an interesting question: **Is someone a criminal because that person has done something morally wrong, or simply because the government has declared a particular activity illegal?** The answer is not always the same.

Crime and the Social Contract

From the time we first learn the meaning of the word "no" from our parents, we begin to understand that certain behaviors are acceptable and others are not. Sociologists call this process *socialization*. Through our families, schools, religious institutions, and communities, we learn the rules that make it possible for people to live together peacefully.

Among other things, we learn to respect the personal and property rights of others, to refrain

from violence, and to behave in ways that do not endanger the health, safety, or welfare of those around us. These expectations form part of what philosophers and political scientists call the *social contract*, the understanding that individuals accept certain restrictions on their behavior in exchange for the benefits and protections of an organized society.

Criminal law gives many of these expectations the force of government authority. Society prohibits theft, assault, fraud, and other activities because they threaten individuals or the community. Those who violate these prohibitions may face prosecution and punishment.

There is, however, an important legal distinction between committing a crime and being convicted of one. A person accused of criminal conduct is presumed innocent unless proven guilty under the applicable legal standard. In the American justice system, the prosecution generally must establish guilt beyond a reasonable doubt before a criminal conviction can be obtained.

When Breaking the Law Becomes an Act of Conscience

Not every law commands universal respect, and history provides numerous examples of laws that later generations have condemned as unjust. Consider the racial segregation laws that prevailed throughout much of the American South. These statutes required the separation of Black and white citizens in schools, transportation, restaurants, and other public facilities. People who deliberately violated those laws could be arrested and prosecuted even though their actions were intended to secure fundamental civil rights.

Dr. Martin Luther King Jr. became one of the most prominent examples of this distinction between legality and morality. Arrested during a civil rights campaign in Birmingham, Alabama, in 1963, King wrote his famous *Letter from Birmingham Jail*, defending nonviolent resistance to unjust laws.

King argued that individuals have a moral responsibility to challenge laws that deny human dignity and equality. His actions were illegal under certain laws and ordinances of the time, but history now recognizes his leadership as an essential contribution to American democracy.

This form of deliberate lawbreaking is known as *civil disobedience*. Its practitioners knowingly violate particular laws, generally through nonviolent means, to expose injustice and encourage legal or social reform.

Criminals, Revolutionaries, and Patriots

The distinction becomes even more complicated when people resort to violence in pursuit of political objectives. Consider the American Revolution. The colonial militiamen who confronted British troops at Lexington and Concord in 1775 are remembered in American history as patriots defending their liberties. From the standpoint of British authorities, however, they were armed rebels resisting the lawful government.

Had the Revolution failed, George Washington and other colonial leaders might have faced

prosecution for treason rather than being celebrated as founders of a new nation.

Similar questions arise in conflicts throughout the world. Armed resistance movements may be regarded as freedom fighters by their supporters and criminals or terrorists by their opponents. Yet political motives do not automatically excuse violence, particularly attacks against civilians. International humanitarian law establishes restrictions on conduct during armed conflict regardless of the cause being advanced.

The important distinction is that **the legality of an action, the morality of that action, and the historical reputation of the person responsible are three different questions.**

When Society Changes, the Law Changes

Our understanding of criminal behavior also evolves as society's values and attitudes change. Before the Civil War, several Southern states prohibited teaching enslaved people to read or write. Those who provided such instruction could face criminal penalties, even though education is now widely recognized as a fundamental public good.

In 1925, Tennessee enacted a law prohibiting public school teachers from teaching certain theories of human evolution. That same year, John T. Scopes was prosecuted in the famous *Scopes Monkey Trial*. His conviction was later overturned on a technicality, and the underlying restrictions eventually became constitutionally indefensible.

The changing legal treatment of abortion provides another example. In 1973, the Supreme Court's decision in *Roe v. Wade* established constitutional protections for abortion access that displaced many state prohibitions. In 2022, the Court reversed that precedent in *Dobbs v. Jackson Women's Health Organization*, returning substantial authority over abortion regulation to elected lawmakers. Consequently, conduct that was legally protected under one constitutional interpretation may now be prohibited under certain state laws.

These examples illustrate an important characteristic of criminal law: it is not fixed permanently in time. Legislatures enact and repeal statutes, courts interpret constitutional protections, and changing public attitudes influence what society chooses to prohibit or permit. An activity that once resulted in criminal prosecution may later become perfectly legal. Conversely, conduct that was previously lawful may become a criminal offense.

Who Decides What Constitutes a Crime?

In the United States, criminal laws are primarily enacted by elected legislative bodies at the federal and state levels. Local governments also establish ordinances, some of which carry criminal penalties. Courts interpret those laws, while police officers, prosecutors, judges, and juries perform different responsibilities within the justice system.

The Constitution places important limits on government authority. Legislatures cannot simply declare any behavior criminal without regard to constitutional protections. Among other safeguards, the government must respect due process, equal protection, and restrictions against

retroactive criminal punishment.

Nevertheless, the people who participate in making, interpreting, and enforcing laws exercise substantial influence over the lives of ordinary citizens. Their decisions determine which behaviors are prohibited, how offenses are classified, and what penalties may be imposed.

This is why criminal justice is more than a matter of identifying and punishing wrongdoers. It also requires constant examination of whether laws are fair, whether they are enforced consistently, and whether the rights of accused individuals are adequately protected.

The Difference Between Legal and Just

Most of us accept the general principle that people who violate the rights of others or threaten public safety should be held accountable. Without enforceable rules, an orderly society would be difficult to maintain. But history also teaches us that laws are not necessarily just simply because they have been enacted by a government. The people who challenged segregation, restrictions on education, and other discriminatory practices were sometimes treated as criminals before their causes gained widespread acceptance.

The familiar observation that the winners of wars often write the history books has a parallel in criminal law: those who exercise political authority have considerable power to define prohibited behavior. That power must be balanced by constitutional protections, an independent judiciary, and the willingness of citizens to question laws they believe are unjust.

The lesson is that breaking the law and doing wrong are not always synonymous. A criminal conviction establishes legal responsibility for an offense, but the broader moral judgment may be far more complicated. Yesterday's lawbreaker may become tomorrow's hero, and yesterday's accepted practice may become tomorrow's crime.

Understanding that distinction is an important first step toward understanding criminal law and the American justice system.