

Department of Law and Legal Studies
Course Outline

Course: LAWS 4302 Legal Regulation of Corporate Crime

Term: Fall Term, 2012

Prerequisites: One of LAWS 2302 or LAWS 2004 [1.0] (no longer offered), and one of LAWS 3005, LAWS 3201, LAWS 3800 or permission of the Department.

Class Time: Monday 8.30 a.m. - 11.30 p.m.

Class Room: Please check with Carleton Central for current room location.

Instructor: Professor Neil Sargent
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Office Hours: Tuesday 10.00 a.m. - 12.00 noon
Wednesday 10.00 a.m. - 12.00 noon

Students with disabilities requiring academic accommodations in this course must register with the Paul Menton Centre for Students with Disabilities (PMC) for a formal evaluation of disability-related needs. Documented disabilities could include but are not limited to mobility/ physical impairments, specific Learning Disabilities (LD), psychiatric/ psychological disabilities, sensory disabilities, Attention Deficit Hyperactivity Disorder (ADHD), and chronic medical conditions. Registered PMC students are required to contact the PMC, 613-520-6608, every term to ensure you receive your Letter of Accommodation, no later than two weeks before the first in-class test/midterm requiring accommodations. If you only require accommodations for your formally scheduled exam(s) in this course, please submit your request for accommodations to PMC by the deadlines published on the PMC website: <http://www1.carleton.ca/pmc/students/dates-and-deadlines/>. For Religious and Pregnancy accommodations, please contact Equity Services, x 5622 or their website: www.carleton.ca/equity.

Course Description:

Legal, policy and theoretical perspectives on the regulation of corporate crime. Nature and causes of corporate crime. Selected case studies on the role of the state in regulating corporate behaviour. Limits of the criminal justice system in responding to corporate crime.

The course examines the current debates over the regulation of corporate crime from both legal and policy perspectives. Different theoretical perspectives on the nature and causes of corporate crime, and the role of the state in regulating corporate behaviour will be examined, with a view towards identifying what factors influence the success or failure of the criminal justice and regulatory systems in responding to corporate crime. The role of criminal, civil and regulatory sanctions in deterring corporate crime will also be examined.

Required Texts:

1. Sally S. Simpson, **Corporate Crime, Law and Social Control**. Cambridge: Cambridge University Press, 2002

Supplementary Texts:

2. Celia Wells, *Corporations and Criminal Responsibility*. 2d.ed. Oxford: oxford University Press, 2001
3. Harry Glasbeek, **Wealth by Stealth**. Toronto: Between the Lines, 2003
4. Joel Bakan, **The Corporation. The Pathological Pursuit of Profit and Power**. Toronto: Viking Press, 2004

Course Evaluation:

Students will be required to prepare a seminar presentation and a term paper during the course. In addition, students will be required to present an essay proposal worth 10 % of the final grade, which will be due by the third week in February. The seminar presentation will be a case study of a contemporary or historical instance of corporate crime and will involve students working in groups on the case study. The seminar presentation will be worth 30% of the final grade. The term paper will be worth 45 % of the final grade. 15% of the final grade will be allocated based on class participation. There will be no final examination in the course.

Seminar Presentation:	30%
Essay Proposal:	10%
Term Paper:	45%
Class Participation:	15%
Total:	100%

Course Schedule:

- Week 1:** **Aims and objectives of the course.** Approaches to the study of corporate crime. Levels of analysis. Complexities inherent in the study of and regulation of corporate crime. Jurisdictional issues and organizational issues.
- Week 2:** **Defining White Collar and Corporate Crime.** Official accounts of deviance and the problem of counting and fighting corporate crime. Who are the offenders and who are the victims? The significance of definitions of criminality and corporate deviance (Simpson, chapter 1)
- Week 3:** **Theorizing the causes of white collar and corporate criminality** - individualist theories of white collar crime (Sutherland, Shapiro, Gottfredson and Hirschi); organizational theories of corporate crime (Kramer, Schragger and Short, Ermann and Lundman, Stone, Fisse and Braithwaite)
- Week 4:** **Conflict theory approaches to understanding corporate deviance.** The role of the state in controlling corporate and organizational deviance. Is the state part of the solution or part of the problem? (Harry Glasbeek, *Wealth By Stealth*. Toronto: Between the Lines, 2002; Joel Bakan, *The Corporation: The Pathological Pursuit of Power and Profit*. Toronto: Viking Press, 2004; Laureen Snider, *Bad Business. Corporate Crime in Canada*. Toronto: Nelson Canada, 1993).
- Week 5:** **Using the criminal law against corporate offenders.** The hybrid nature of corporate criminal liability. The legal basis of attaching liability to the corporation. Identification theory, delegation theory and corporate culture. Problems of mens rea. Criminal liability of corporate directors and officers (Simpson, chapter 3; Celia Wells, *Corporations and Criminal Responsibility*. Oxford: Oxford University Press, 2001)
- Week 6:** **Using criminal sanctions against corporate and white collar offenders.** Sentencing goals and philosophies and their applicability to white collar and corporate offenders. Deterrence versus retribution as a sentencing justification? Sentencing options: Fines, imprisonment, probation, conditional sentencing, restitution, compensatory damages? Role of restorative justice in sentencing white collar and corporate offenders? (Simpson, chapter 2; Stanton Wheeler, Kenneth Mann and Austin Sarat, *Sitting in Judgement; The Sentencing of White Collar*

Criminals. New Haven: Yale University Press, 1988; Kip Schlegel, Just Deserts for Corporate Criminals. Boston: Northeastern University Press, 1990).

- Week 7:** **The regulatory approach to controlling organizational and corporate deviance.** Structure and objectives of the regulatory process. Prevention not accountability as the primary function of regulatory controls. Strict liability offences and the limits of the regulatory sanction (Simpson, chapter 5: Frank Pearce and Lauren Snider, Corporate Crime: Contemporary Debates. University of Toronto Press, 1995)
- Week 8:** **Alternatives to regulatory sanctions:** Negotiated compliance, enforced self-regulation and voluntary compliance systems. Use of alternative dispute resolution approaches for responding to regulatory concerns (Simpson, chapter 6; Brent Fisse and Peter A. French, eds. Corrigible Corporations and Unruly Law. San Antonio: Trinity University Press, 1985)
- Week 9:** **Market-Driven incentive systems for achieving corporate compliance.** Using carrots rather than sticks to achieve regulatory compliance goals. Emissions trading systems and the Kyoto protocol. Pros and cons of letting the market reward “efficient” polluters? (Simpson chapter 7)
- Week 10:** **Controlling corporate and white collar crime through the civil justice system.** Use of compensatory damage awards as legal accountability mechanisms. The regulatory function of tort law. Pros and cons of mass torts and class action litigation in responding to corporate harms. (Simpson, chapter 4).
- Week 11:** **International perspectives on controlling corporate crime.** Corporate crime as a trans-national phenomenon. Limits of national enforcement mechanisms for controlling international corporate crime. Problems of different legal standards and enforcement approaches in different jurisdictions. Extra-territorial application of home or host country law? International standards and enforcement mechanisms for controlling trans-national corporate crime (Margaret E. Beare, ed., Critical Reflections on Transnational Organized Crime, Money Laundering and Corruption. Toronto: University of Toronto Press, 2003).
- Week 12** International perspectives on controlling corporate crime, continued