

Course Outline

COURSE:	LAWS 4302 A - LEGAL REGULATION OF CORPORATE CRIME
PREREQUISITES:	LAWS 2004 and one of 3005, 3201, 3800, or permission of the Department
TERM:	Fall 2007
CLASS:	Day & Time: Friday, 11.30 a.m. - 2.30 p.m.
	Room: 206 Tory Building
INSTRUCTOR:	Professor Neil Sargent
CONTACT:	Office: Loeb D594
	Office Hrs: Tuesday, 10.30 a.m. - Noon
	Friday, 10.00 a.m - 11.30 a.m.
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Students with disabilities needing academic accommodations in this course are required to contact a coordinator at the Paul Menton Centre to complete the necessary *letters of accommodation*. The student must then make an appointment to discuss their needs with the instructor at least two weeks prior to the first class or ITV test. This is to ensure sufficient time is available to make the necessary accommodation arrangement. Please note the deadline for submitting completed forms to the PMC for formally scheduled exam accommodations is November 9, 2007 for December examinations and March 14, 2008 for April examinations. With regard to accommodations for religious obligations and pregnancy, please see <http://www.carleton.ca/law/accommodations.htm>.

Course Description:

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 determining the reasons for the failure of the criminal justice and regulatory systems to respond to corporate crime. The role of criminal, civil and regulatory sanctions in deterring corporate crime will also be examined.

Required Readings:

1. N.Sargent, ed., *Course pack for 51.432* Legal Regulation of Corporate Crime*. Department of Law, Carleton University.

Recommended Readings:

1. Fisse and Braithwaite, Corporations, Crime and Accountability. Cambridge University Press, 1993.
2. Celia Wells, *Corporations and Criminal Responsibility*. 2d.ed. Oxford: oxford University Press, 2001

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 worth 35% of the final grade. The term paper will be worth 40% 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:	35%
Essay Proposal:	10%
Term Paper:	40%
Class Participation:	15%
Total:	100%

Course Syllabus:

Week 1: Aims and objectives of the course. What is the significance of corporate crime and why do we study it? Different approaches to the study of corporate crime

Week 2: Defining White Collar and Corporate Crime. Official accounts of deviance and the problem of counting corporate crime. Who are the offenders and who are the victims? The significance of definitions of criminality and corporate deviance

Readings: Geis "White Collar Crime: What is it?" Course pack part I, reading 3
Shapiro Part I, reading 5
Sargent coursepack, readings 1 and 2

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, Schrager and Short, Ermann and Lundman, Stone, Fisse and Braithwaite)

Readings: Coleman (Part I, reading 6); Shapiro (reading 5)
Schrager and Short (reading 4)
Vaughan (reading 8)

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?

Readings: Goff and Reasons (Part I, reading 7)
Casey (Part II, reading 2)
Toombs, (Part II, reading 5)

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

Readings:

Parisi (Coursepack, part III, reading 1)
Fisse (part III, reading 2)
Radin (Part III, reading 3)
Law Commission of Canada (Part III, reading 5)
Wells (Part III, reading 6)

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?

Readings: Dunford and Ridley (Part III, reading 4)

Mann, Wheeler and Sarat (Part IV, reading 1)
Braithwaite (reintegrative shaming article) (Part IV, reading 2)
Fisse (Part IV, reading 5)
Law Commission of Canada (sentencing) (Part IV, reading 6)
Swaigen and Bunt (Part IV, reading 5)

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

Readings: Thomas (Part II, reading 1)

Braithwaite (Part II, reading 4)
Snider (Part II, reading 2)
Toombs (Part II, reading 5)
Webb (Part II, reading 3)

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

Readings: Braithwaite (Part II, reading 4)

Fisse (part IV, reading 5)
Snider (Part II, reading 2)
Webb (Part II, reading 3)
Emond (Part V, reading 3)

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?

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.

Readings: Cassels (Part V, reading 1)

Rabin (Part V, reading 2)

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.