

Course Outline

COURSE:	LAWS 4302 A - Regulation of Corporate Crime
TERM:	Fall & Fall/Winter 2011-12
PREREQUISITES:	One of Laws 2302 or Laws 2004 [1.0] (no longer offered), and one of Laws3005, LAWS 3201, LAWS 3800
CLASS:	Day & Time: Friday – 1135-1425 Room: Please check with Carleton Central for current room location
INSTRUCTOR:	Professor Neil Sargent
CONTACT:	Office: D594 Loeb Office Hrs: Tuesday & Wednesday – 10:00 am-12 noon Telephone: 613-520-2600 x 8853 Email: Neil_sargent@carleton.ca

"Students with disabilities requiring academic accommodations in this course must contact a coordinator at the Paul Menton Centre for Students with Disabilities to complete the necessary Letters of Accommodation. After registering with the PMC, make an appointment to meet and discuss your needs with me in order to make the necessary arrangements as early in the term as possible, but no later than two weeks before the first assignment is due or the first test requiring accommodations. For further information, please see: <http://www2.carleton.ca/pmc/students/accommodations> . If you require accommodation for your formally scheduled exam(s) in this course, please submit your request for accommodation to PMC by 11 November 2011 for December exams and 7 March 2012 for April exams. 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 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. Sally S. Simpson, **Corporate Crime, Law and Social Control**. Cambridge: Cambridge University Press, 2002

Recommended Readings:

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: All components must be completed to pass this course

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 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%

ACCOMMODATIONS POLICY

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http://www.carleton.ca/pmc/students/accom_policy.html. If you require accommodation for formally scheduled exams in this course (there are none), please submit your request for accommodation to PMC by November 15, 2010 for fall exams. For Religious and pregnancy accommodations, please contact Equity Services, X 5622, or their website: www.carleton.ca/equity.

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 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, Schrager 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 Laureen 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