

ECONOMICS OF LAW ENFORCEMENT (263-001)

GEORGE MASON UNIVERSITY SCHOOL OF LAW

FALL TERM

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PRELIMINARY SYLLABUS

RECOMMENDED TEXTBOOKS

(1) BACKGROUND/ READING FOR THE FIRST WEEK

- Thomas Miceli, The Economic Approach to Law (Stanford, 2003). ISBN 0804746559. Chapter 9.
- Robert Cooter-Thomas Ulen, Law and Economics, 4th ed. (Addison-Wesley, 2003). ISBN 0201770253. Chapters 11 and 12.

(2) REQUIRED READING FOR THE COURSE

- Steven Shavell, Foundations of Economic Analysis of Law (Harvard, 2004). ISBN 0674011554. Chapters 20 to 25.
- Mike Maguire-Rod Morgan-Robert Reiner, The Oxford Handbook of Criminology, 3rd ed. (Oxford, 2003). ISBN 0199249377. Chapters 2, 5, 9, 11 and 31.

REQUIRED ARTICLE READING FOR THE COURSE

- Nuno Garoupa, *An Economic Analysis of Criminal Law*, (2004) forthcoming in *Economic Analysis of Law: A European Perspective*, Edward Elgar, edited by Aristides Hatzis. Downloadable at http://www.esnie.org/pdf/textes_2004/Garoupa_criminalaw01.pdf
- Mitch Polinsky and Steven Shavell, *The Economic Theory of Public Enforcement of Law*, (2000) *Journal of Economic Literature* 38: 45-76.

REQUIREMENTS

This course counts as a 2 credit writing seminar. The course requires the completion of a term paper and may present students with occasional in-class or take-home problems. In writing their papers, students are expected to make explicit use of economic analysis.

CLASS SCHEDULE

Wednesday and Thursday: 10:00-11:50.

OUTLINE OF THE COURSE

PART 1 – THE ECONOMICS OF DETERRENCE AND LAW ENFORCEMENT

SESSION 1 – Introduction. Overview of Economics of Law Enforcement. Background: Beccaria and Bentham.

SESSION 2 – Basic Model. Deterrence with Fines. Risk-Aversion.

Reading: Shavell 20; Garoupa 1&2&6.

SESSION 3 – Extensions of the Basic Model. Deterrence with Non-Monetary Sanctions (Imprisonment, Parole, Death Penalty, Shaming Penalties, Stigma). Marginal Deterrence. Attempts. Repeat Offenders.

Reading: Shavell 21&22; Garoupa 3&4.

SESSION 4 – Extensions of the Basic Model. Plea-Bargaining. Corruption. Avoidance Activities. Legal Aid. Victims (Precaution, Compensation, Hate Crimes).

Reading: Shavell 22; Garoupa 4.

SESSION 5 – Extensions of the Basic Model. Monitoring and Investigation. Errors. Other Goals of Law Enforcement: Incapacitation, Rehabilitation, Preference Shaping.

Reading: Shavell 22&23; Garoupa 4&5.

SESSION 6 – Critical View from Other Disciplines. Psychology and Behavioral Law and Economics. Sociology. Criminology.

Reading: OHC 2&5; Nuno Garoupa, *Behavioral Economic Analysis of Crime: A Critical Review*, (2003) *European Journal of Law and Economics* 15 (1): 5-15.

SESSION 7 – Empirical Analysis. Measuring Deterrence and Incapacitation. The Case of the Death Penalty.

Reading: Steve Levitt, *Understanding Why Crime Fell in the 1990s: Four Factors that Explain the Decline and Six that Do Not*, (2004) *Journal of Economic Perspectives* 18 (1): 163-190; Isaac Ehrlich and Zhiqiang Liu, *Sensitivity Analyses of the Deterrence Hypothesis: Let's Keep the Econ in Econometrics*, (1999) *Journal of Law and Economics* 42(1): 455-87. Also OHC 11&31 for a critical sense.

SESSION 8 – Empirical Analysis. Effects of Concealed Weapons Laws. The Impact of Legalized Abortion on Crime. The Impact of Race on Policing and Arrests.

Reading: John Donohue and Steven Levitt, *The Impact of Race on Policing and Arrests*, (2001) *Journal of Law and Economics* 44(2): 367-94; John Donohue and Steven Levitt,

The Impact of Legalized Abortion on Crime, (2001) Quarterly Journal of Economics 116(2): 379-420; John Donohue and Steven Levitt, *Nondiscretionary Concealed Weapons Laws: A Case Study of Statistics, Standards of Proof, and Public Policy* [Review Article], (1999) American Law and Economics Review 1(1-2): 436-70; John Lott, *The Concealed-Handgun Debate*, (1998) Journal of Legal Studies 27(1): 221-43.

PART 2 – THE GENERAL STRUCTURE OF LAW ENFORCEMENT

SESSION 9 – The Choice of Private versus Public Law Enforcement. Theory. Historical Evidence (Iceland, England, France, Roman Law).

Reading: David D. Friedman, *Making Sense of English Law Enforcement in the Eighteenth Century*, (1995) The University of Chicago Law School Roundtable (Spring/Summer); David D. Friedman, *Private Creation and Enforcement of Law: A Historical Case*, (1979) Journal of Legal Studies 8: 399-415.

SESSION 10 – Joint Use Methods of Legal Intervention, Torts and Crime. Determinants of the Structure of Law Enforcement. Criminal Law.

Reading: Shavell 24&25; David D. Friedman, *Beyond the Tort/Crime Distinction*, (1996) Boston University Law Review 76: 103; Steven Shavell, *The Optimal Structure of Law Enforcement*, (1993) Journal of Law and Economics 36: 255-287; Richard Posner, *An Economic Theory of the Criminal Law*, (1985) Columbia Law Review 85: 1193-1231;

PART 3 – COMPARATIVE ASPECTS OF LAW ENFORCEMENT

SESSION 11 – US, UK and Europe: Different Aspects of Law Enforcement. Administration and Unification of Law Enforcement.

PART 4 – ADVANCED TOPICS ON LAW ENFORCEMENT

SESSION 12 – Corporate Criminal Liability and Regulation of Financial Markets. Organized Crime. The Political Economy of Crime.

Reading: OHC 9; Nuno Garoupa, *Economics of Business Crime: Theory and Public Policy Implications*, (2004) Security Journal forthcoming; Nuno Garoupa, *Corporate Criminal Law and Organization Incentives: A Managerial Perspective*, (2000) Managerial and Decision Economics 21 (6): 243-252.

SESSION 13 – Some Aspects of Criminal Procedure. Removal of Illegal Gains. Use of Criminal Sanctions in Addition to Regulatory Penalties.

Reading: Roger Bowles, Michael Faure and Nuno Garoupa, *Forfeiture of Illegal Gain: An Economic Perspective*, (2005) Oxford Journal of Legal Studies, 25 (2), forthcoming; Frank Easterbrook, *Criminal Procedure as a Market System*, (1983) Journal of Legal Studies 12: 289-332.

SESSION 14 – Conclusion and Overview.