
**COURSE NO. 337-R01 WHITE COLLAR CRIME
SUMMER 2021**

Instructor Information

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Course Information

Schedule: Mondays and Wednesdays, 6 p.m. to 8:40 p.m. (excluding holidays)

Dates: May 17, 2021 to July 12, 2021

Location: Zoom

Office Hours: Please request a meeting 24 hours in advance via email

Course Description

This class will teach students both the substance and practice of federal white-collar crime, from how white-collar cases are investigated, charged, defended, tried, or otherwise resolved. It will be a blend of both theory, substance, and practice – understanding the theories that animate the body of law, the substance of the law as reflected in the United States Code, regulations, and case law, as well as the nuts and bolts of day-to-day practice.

With respect to theory and substance, we will cover the definition and theory behind white-collar crime; individual and corporate criminal liability; privileges; and the various species of fraud that comprise white-collar criminal law, among other things. As for practice, students will learn about investigative techniques, the mechanics of federal criminal litigation (such as warrants, grand jury proceedings, indictments, and plea bargaining), and more.

In terms of how this will be accomplished over a seven-week course, our goal is to keep the class as engaging and practical as possible. We will utilize a blend of class lecture, guest speakers, and in-class exercises to both teach and reinforce important practical aspects. For example, when covering conspiracy, wire fraud, and other theories of white collar fraud, students will be assigned reading and have class discussion focusing on definition and theory, hear from current and former federal prosecutors and prominent defense attorneys as to how this is approached in practice, and then have the opportunity in class to draft filings critical to advancing a criminal case, such as search warrants, subpoenas, and indictments.

Course Goals

By the end of this course, you will:

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- Understand the background, theory, and legal practice of federal white-collar crime.
- Understand the statutes and substantive law that are considered to comprise white-collar crime.
- Develop skills relevant to the practice of white-collar crime, including understanding how the government conducts investigations and obtains information, how white-collar cases are litigated, and how white-collar cases are resolved.

Course Materials

- Julie R. O’Sullivan, “Federal White Collar Crime: Cases and Materials,” 7th Ed. (2019).
- Ellen S. Podgor & Jerold H. Israel, White Collar Crime in a Nutshell, 5th Ed.
- Title 18, United States Criminal Code
- Justice Manual
- Other materials as appropriately flagged in advance by the instructors. We may assign some additional readings (or portions of such) listed in Appendix A.

Grading

Final grades will be based on the following:

- 50% Final Exam (Take Home Exam)
- 15% Class Participation.
- 35% Practice Assignments. Students will be responsible for four brief practical exercises. During the semester, students will work in groups for initial drafts. The instructors will provide feedback, and students will have an opportunity to submit revised drafts by the last day of class.

On class participation, we further note that the objective is to start a conversation. On practical exercise submissions, the objective is to put forth your best effort and, if mistakes are made, to learn from them.

Policies

Prior to each class, students are required to complete the required reading, which will include textbook reading, indictments, and caselaw. In addition, many classes will include practical exercises. Students should take extra time to prepare for classes where they are presenting.

This class has a heavy emphasis on practice. In addition to learning theory, the goal of the class is to develop practical skills that students could apply to defending or prosecuting white-collar crime.

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To that end, many practical exercises will be based off the fact pattern presented in Episode 13, Season 2 of Breaking Bad. If students are unfamiliar with Breaking Bad, students should review the basic background of the episode on Wikipedia and then watch the episode, if possible (if not, we will arrange to play the relevant portions separately). Throughout the semester, we will use the fact pattern of the show to consider Grand Jury process, Indictments, Search Warrants, Conspiracy, and Money Laundering.

Course Schedule & Assigned Reading

*Reading assignments may be pared back depending on the schedule, and the instructors will be sure to notify students accordingly.

5/17/21	Class One	Introduction to White Collar Crime Corporate Criminal Liability & Individual Liability Chapter 2, pp. 57-59, 94-102 Chapter 4, pp. 155-198 Filip Memo (https://www.justice.gov/sites/default/files/dag/legacy/2008/11/03/dag-memo-08282008.pdf) Yates Memo (https://www.justice.gov/archives/dag/file/769036/download) Rosenstein Update to Yates Memo (https://www.justice.gov/opa/speech/deputy-attorney-general-rod-j-rosenstein-delivers-remarks-american-conference-institute-0) A Primer on Attorney Client Privilege and Filter Memos
5/19/21	Class Two	Conspiracy Chapter 10, pp. 605-634 18 U.S.C. § 371 Grand Jury Proceedings Chapter 13, pp. 717-755 Practice Assignment: Grand Jury Subpoenas
5/24/21	Class Three	Mail/Wire/Bank Fraud/Honest Services Chapter 7, pp. 383-461 18 U.S.C. §§ 1341, 1343 Search Warrants Nutshell, pp. 443-455 Practice Assignment: Search Warrants

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5/26/21	Class Four	<p>Healthcare Fraud Chapter 5, pp. 291 – 310 31 USC § 3729-30 42 USC § 1320a-7b(b) DOJ Manual § 9-42.440</p> <p>Indictments Rule 7 of the Federal Rules of Criminal Procedure</p> <p>Practice Assignment: Indictments</p>
6/2/21	Class Five	<p>Fraud, Bribery & Gratuities Chapter 8, pp. 466 – 485 (including notes 1-7 on pp. 471-476)</p> <p>Brady Obligations and Challenges Readings to be Assigned</p>
6/7/21	Class Six	<p>FCPA Chapter 8, pp. 515 – 545 (including notes 1-17 on pp. 526-536, and notes 1-3 on pp. 541-542) 15 USC § 78 dd1 – dd3, 78m 18 USC §§ 201, 1951 DOJ Manual § 9-47.120 – FCPA Corporate Enforcement Policy</p> <p>Deferred Prosecution Agreements/Internal Investigations Chapter 4, pp. 211-254</p>
6/9/21	Class Seven	<p>Currency Reporting Crimes and Money Laundering Chapter 12, pp. 683 – 713 18 USC §§ 1956, 1957 DOJ Manual § 9 – 105.000</p> <p>Corporate Internal Investigations Chapter 4, pp. 230 - 239.</p> <p>Practice Assignment: Superseding Indictment</p>
6/14/21	Class Eight	<p>Obstruction of Justice/False Statements/Perjury & False Declarations Chapter 5, pp. 257 – 291 18 USC §§ 1621, 1623 18 USC §§ 1001 Chapter 6, pp. 323 – 366 18 USC §§ 1503, 1505</p> <p>Prosecutorial Discretion</p>

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		Ellen S. Podgor, “What Kind of a Mad Prosecutor,” 41 Vermont L. Rev. 523 (2017)
6/16/21	Class Nine	<p>Securities Fraud Chapter 9, pp. 547 – 578 Chapter 4, pp. 198 – 211</p> <p>Attorneys Under Scrutiny Selected Reading regarding <i>United States v. Gregory B. Craig</i>, 1:19-cr-00125 (D.D.C.) & Executive Summary (pp. 1-31) of the Scheulke Report to Judge Sullivan in <i>United States v. Stevens</i></p>
6/21/21	Class Ten	<p>Computer Crimes Nutshell – pp. 261-270</p> <p>Representation Issues Chapter 18, pp. 927-974 <i>United States v. Stein</i>, 541 F.3d 130 (2d Cir. 2008)</p>
6/23/21	Class Eleven	<p>Parallel Proceedings/Congressional Investigations Chapter 20, pp. 1035-1051, 1059-1064</p> <p>Defending a Public Client Readings to assigned</p>
6/28/21	Class Twelve	<p>Tax Crimes Nutshell, pp. 201-217</p> <p>Self-Incrimination Nutshell, pp. 375-442</p>
6/30/21	Class Thirteen	<p>Sentencing USSC Guidelines Manual 2016, pp. 1 – 17 (https://www.ussc.gov/sites/default/files/pdf/guidelines-manual/2016/GLMFull.pdf) Chapter 9, pp. 579 – 603</p>
7/6/21	Class Fourteen	Review Class

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Appendix A - Possible Supplemental Reading

Instructors will provide links to the documents identified below. Additional or different readings may be assigned.

- 2020 Fraud Section Year in Review
- A Resource Guide to the U.S. Foreign Corrupt Practices Act, Second Ed. (<https://www.justice.gov/criminal-fraud/file/1292051/download>)
- Kozinski Preface to the 2008 Georgetown Annual Review of Criminal Procedure
- *United States v. Stevens* -- Selected Readings
- *Skilling v. United States*, 561 U.S. 358 (2010)

Sample Documents for Practice

- Target Letter
- Proffer Letter
- Grand Jury Subpoena
- Premises Search Warrant
- Electronic Search Warrant
- *United States v. Franks* (Search warrant suppression)
- Manafort Motion to Suppress Warrant
- Newman Motion to Suppress Warrant
- Government Reply to Newman Motion
- American Media (Corporate resolution example)
- *United States v. Cohen* (Indictment example)
- *Aqeel* Indictment (Conspiracy indictment example)
- Fujinaga Indictment (Mail Fraud/Money Laundering Indictment)
- *United States v. Casadei* Indictment (Conspiracy, Tax Evasion, Extraterritoriality)
- Herbalife DPA