

Fall 2009 Course Syllabus

San Jose State University
College of Applied Sciences and Arts
Justice Studies Department

JS 135 -- White Collar Crime **Fall Semester 2009**

Instructor: David Callaway Office Hours: Monday 8:15 to 10:00 p.m.¹
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You may also find this syllabus and class handouts on my website, www.SJSUwhitecollarcrime.blogspot.com

Course Description

The course catalog reads: "Growth and development of white collar crime in the United States: crimes at the workplace, computer fraud, swindles, embezzlement, bribery and graft at the corporate and governmental levels."

We will be focusing on some of the most interesting crimes that are being committed, many of them in right here in your own back yard, including corporate fraud, securities fraud (including revenue recognition fraud, stock options backdating, and insider trading), trade secret theft, consumer fraud, environmental crime, tax evasion, as well as bribery, embezzlement, and mail and wire fraud committed by individuals. Although I am not sure this qualifies as a "Course Learning Objective," my hope is that you will come to see this area as far more fascinating than so-called "street" crime: anyone can rob a bank (although I wouldn't recommend it); the real challenge is to be able to *buy* a bank and turn it into your own personal ATM machine. We will explore the nature of white collar crime inductively, by looking at examples of the countless and myriad ways people have devised over the years to cheat one another. The focus of this course will be on the crimes themselves, the criminals who commit them, and how prosecutors and investigators go after them and defense lawyers defend them.

Course Learning Objectives

By the end of the semester students should know what "white collar" crime is, how it differs from other types of crime, and should be able to discuss intelligently the characteristics that make this form of crime unique: the kinds of criminals who commit it, the means by which they do so, and how they are prosecuted and defended in court.

Required Texts/Other Readings

Textbooks:

¹I know: this is ungodly late for formal "office hours," but last semester I dutifully walked over to campus on Fridays and sat in my office during the scheduled time and waited . . . and waited . . . and waited for Godots. This term my scheduled hours will therefore be after class, but I am also be happy to meet with you by appointment.

Rosoff, S., Pontell, H., and Tillman, R., [Profit Without Honor: White Collar Crime and the Looting of America](#), Prentice Hall, 4th ed. (2006) (abbreviated in the syllabus as "PWH").

Additional Reading: There will be additional readings that I will announce at least one class period before they are due. (Many are already embedded in the course syllabus.) All additionally-assigned readings will be available on-line. Links to many of them will be found at the excellent White Collar Crime Prof Blog (abbreviated in the syllabus as "WCC Prof Blog"): http://lawprofessors.typepad.com/whitecollarcrime_blog/ Students who miss a class are responsible for obtaining the assignments from another student or from my website.

Prerequisites: Upper division standing or instructor consent

Course Requirements

Grades will be based on class participation (see below), as well as a combination of four short "pop" quizzes (total value: 20%), a formal classroom presentation (30%), and a final exam (50%). The quizzes will consist of a single question (perhaps with sub-parts) based on the previous week's class and will call for a one or two-page answer. The final exam will include both multiple choice and essay questions. **Quizzes and the final exam will be "open book."** This includes notes stored on a laptop computer, but does not include accessing the Internet. The highest grade possible will be an A+. Plus and minus grades will be given for every grade down to a D -. 90% and higher will be an A (with plus and minus grades as follows: 90-93 % = A-, 94-96 = A, 97 and up = A+). The same breakdown will apply to B (80-90%), C (70-80%), and D grades (60-70%). Less than 60% would be an F. I will curve the grades, treating the highest score in the class as 100% and working down from there.

Important Note: class participation will also factor significantly into your grade. What that means is that I reserve the right to "round" your grade up or down by not more than two levels (e.g., from a B+ to a B-) depending on whether you (1) showed up consistently, (2) stayed for the entire class period, and (3) contributed meaningfully to class discussion.

Information Regarding the Classroom Presentation

Each student will be required to make a formal presentation of approximately 10-15 minutes to the class regarding a significant white collar crime, preferably one that was *not* covered in the textbook. The presentation should include a discussion of the background of the perpetrators; the nature of the crime, including the harm it caused; whether the crime was prosecuted and, if so, how that prosecution turned out: did the case go to trial, did the defendant(s) plead guilty, or were the charges dismissed? If there was a trial, did it result in a conviction or an acquittal? If there was a conviction, what sentence was imposed, and do you believe the sentence was fair? Finally, what steps do you believe could have been taken (whether by Congress, regulators, law enforcement, the victims, or others) to prevent the crime or mitigate the harm it caused? Each presentation will be followed by a short question-and-answer period. Depending on the number of students we end up with, my goal is to use approximately two to three class sessions for these presentations.

Grading of the classroom presentation will be based on the following:

- (1) Knowledge: does your presentation demonstrate knowledge and understanding of your chosen topic?
- (2) Quality of analysis: do you have a clear thesis? Is your presentation well-organized? Does your analysis support your conclusion?
- (3) Quality of sources: does your work reflect real research (as opposed to simply finding a newspaper or magazine article and regurgitating it in front of the class)?
- (4) Originality: this is obviously the most subjective category, but I will give reward students who obviously put some real time and effort into coming up with their topics, and didn't just take the easy out of grabbing something from the textbook and dressing it up a little.

Library Liaison: Your library liaison is Nyle Monday, telephone 808-2041. Nyle.Monday@sjsu.edu.

University Policies

Dropping and Adding: You are responsible for understanding the policies and procedures about add/drops, academic renewal, etc. found at http://sa.sjsu.edu/student_conduct. You should be aware of the new deadlines and penalties for adding and dropping classes.

Academic Integrity

Students are expected to be familiar with the University's Academic Integrity Policy. Please review this at http://sa.sjsu.edu/student_conduct.

"Your own commitment to learning, as evidenced by your enrollment at San Jose State University and the University's integrity policy, require you to be honest in all your academic course work. Faculty members are required to report all infractions to the office of Student Conduct and Ethical development."

Instances of academic dishonesty will not be tolerated. Cheating on exams or plagiarism (presenting the work of another as your own, or the use of another person's ideas without giving proper credit) will result in a failing grade and sanctions by the University. For this class, all assignments are to be completed by the individual student unless otherwise specified. If you would like to include in your assignment any material you have submitted, or plan to submit for another class, please note that SJSU's Academic Integrity policy F06-1 requires approval of instructors.

Accommodations

If you need course adaptations because of a disability, if you have emergency medical information to share with me, or if you need special arrangements in case the building must be evacuated, please make an appointment as soon as possible or see me during office hours. Presidential Directive 97-03 requires that students with disabilities register with the DRC (Disability Resource Center) to establish a record of their disability." www.drc.sjsu.edu

Special accommodations for exams require ample notice to the testing office and must be submitted to the instructor well in advance of the exam date.

Grievances

If you have questions regarding grading policies or any other aspect of the course, please make an appointment with me. For information about grievance policies/procedures, you can consult the university catalog, the Justice Studies department secretary for appointments with the department chairperson, or the University ombudsman.

SJSU Writing Center

If you think that your writing skills could use improvement, you should be aware of the SJSU Writing Center and the services it offers. The center is staffed by professional instructors and upper-division or graduate-level writing specialists from each of the seven SJSU colleges. SJSU's writing specialists have met a rigorous GPA requirement and they are well trained to assist all students at all levels within all disciplines to become better writers.

Course Schedule (JS 135 Fall 2009)

(Note: subject to change with fair notice.)

Week	Date	Topics, Readings, Assignments, Deadlines
1	8/24	Syllabus and handouts; Student questionnaire; Introduction and Course Overview. Note: I would like each of you to me with a small photograph of yourself. I will attach the photograph to your questionnaire and use it to help me learn of your names as quickly as possible.
2	8/31	Major federal white collar statutes: Conspiracy (18 U.S.C. 371); Mail and Wire Fraud (18 U.S.C. 1341 and 1343). Overview of the current financial crisis. Readings: "The End," Michael Lewis. Portfolio.com (Nov. 11, 2008): http://www.portfolio.com/news-markets/national-news/portfolio/2008/11/11/The-End-of-Wall-Streets-Boom/index.html "Who's Behind the Financial Meltdown? The Top 25 Subprime Lenders and Their Wall Street Backers." The Center for Public Integrity (May 6, 2009): http://www.publicintegrity.org/investigations/economic_meltdown/ Note: there are four reports in the report which are linked from the above url: (1) The Roots of the Financial Crisis: Who is to Blame? (2) Predatory Lending: A Decade of Warnings; (3) Meltdown 101; and (4) Commentary: The Mega Banks Behind the Meltdown. Please read them all.

3	9/7	Labor Day (University holiday)
4	9/14	Consumer fraud; telemarketing fraud; false advertising (PWH, Chapter 2) Health care fraud (PWH Chapter 11)
5	9/21	Corporate and Securities fraud: revenue recognition, insider trading, and stock options backdating fraud; PWH Chapter 6 White Collar Crime Prof blog discusses restitution issue here: http://lawprofessors.typepad.com/whitecollarcrime_blog/2008/01/sentencing-reye.html See also SEC complaint against Gregory Reyes, et al. here: http://www.sec.gov/litigation/complaints/2006/comp19768.htm . And Government's Sentencing Memorandum: http://lawprofessors.typepad.com/whitecollarcrime_blog/files/us_v_reyes_government_sentencing_memo_jan_10_2008.pdf ; and, to show I'm fair, defendant's sentencing memorandum is here: http://lawprofessors.typepad.com/whitecollarcrime_blog/files/us_v_reyes_defendant_sentencing_memo_jan_10_2008.pdf
6	9/28	Securities and corporate fraud continued; PWH Chapter 7 Fiduciary fraud: Crime in the banking, insurance, and pension fund industries; PWH Chapter 8.
7	10/5	Public corruption; PWH Chapter 10; see also these articles regarding the 2006 indictment on (and ultimate dismissal of) bribery charges against former San Jose Mayor Ron Gonzales: http://www.bayareanewsgroup.com/multimedia/mn/news/archive/norcal/mn_grandjury_norcal_2005.pdf (Civil Grand Jury Report); http://www.bayareanewsgroup.com/multimedia/mn/news/archive/norcal/norcal_gonzales_indictment_062206.pdf

		(criminal indictment); http://bayareanewsgroup.com/multimedia/mn/news/gonzales_courtruling_061307.pdf (court order dismissing indictment)
8	10/1 2	Money laundering. Guest speakers: IRS Criminal Investigations Special Agent Q. Madrigal and SJPD Officer John Barg will discuss financial investigation in general and money laundering cases in particular. Required reading: <i>United States v. Santos</i> , 553 U.S. ____ (2008), available at http://supremecourtus.gov/opinions/07pdf/06-1005.pdf (or just Google "United States v. Santos;" it's the first link. This is a United States Supreme Court opinion issued on June 2, 2008.)
9	10/1 9	No Class (mandated University furlough)
1 0	10/2 6	Crimes by government/Public Corruption: PWP Chapter 9. Also: read http://www.commondreams.org/views06/1004-30.htm and http://www.antiwar.com/engelhardt/?articleid=9851 , for insights from former AUSA Elizabeth De la Vega on the Plame case; But, just to keep things bipartisan, let's take a look at how former President Bill Clinton abused his pardon power: http://www.time.com/time/nation/article/0,8599,99302,00.html Public corruption; PWH Chapter 10; see also these articles regarding the 2006 indictment on (and ultimate dismissal of) bribery charges against former San Jose Mayor Ron Gonzales: http://www.bayareanewsgroup.com/multimedia/mn/news/archive/norcal/mn_grandjury_norcal_2005.pdf (Civil Grand Jury Report); http://www.bayareanewsgroup.com/multimedia/mn/news/archive/norcal/norcal_gonzales_indictment_062206.pdf (criminal indictment); http://bayareanewsgroup.com/multimedia/mn/news/gonzales_courtruling_061307.pdf (court order dismissing indictment)
1 1	11/2	United States Sentencing Guidelines; please review Chapter 1 (all); Chapter 2 (only Section 2B1.1, including all commentary); Chapter 3-5 (all). The Sentencing Guidelines are available here: http://www.ussc.gov/2007guid/tabcon07_1.htm . (From there you can download and read the individual subsections; section 2B1.1 sometimes loads slowly, so please be patient)
1 2	11/9	No Class (Veterans Day)
1 3	11/1 6	Computer crime, trade secret theft, and export enforcement; PWH Ch. 12; guest speakers: Matthew Parrella, Chief, Computer Hacking and Intellectual Property (CHIP) Unit for the U.S. Attorney's Office, and Stephen Adams, Senior Director, Global Litigation and Confidential Asset Management Group for Applied Materials, Inc.
1 4	11/2 3	Class Presentations

1 5	11/3 0	Class Presentations
1 6	12/7	Class Presentations Preview of final exam
1 7	12/1 4	Final Exam: 5:30 p.m. to 7:30 p.m.