

# Introduction: White Collar Crime, Federal Criminal Law, and Business Crimes Pedagogy

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In the summer of 2013, law professors who teach courses in white collar crime, federal criminal law, and business crimes came together at the Southeastern Association of Law Schools [SEALS] conference to exchange ideas on different ways of teaching these classes. Professors with varying degrees of classroom experience presented their approaches, offering those participating in the discussion thoughtful ideas and innovative suggestions that could be taken home to their respective schools. Putting these thoughts to paper, eleven professors produced Essays for this symposium on white collar crime, federal criminal law, and business crimes pedagogy. These short Essays emphasize the variety of different ways that similar materials can be used to teach different skills.

The Essays are divided into four sets, noting, however, that these four categories are merely offered to provide an organization and structure to this topic, as many of the papers could easily fit into a different sphere. The first set of Essays are categorized under the rubric “perspective approaches,” as the papers focus on approaching the subject by looking at the investigative stage, focusing on prosecutorial discretion, or taking a prosecution or defense perspective in teaching the course. The second category is termed “skills” and looks at the skills taught in these classes, such as research, writing, and problem-solving skills. The third category is termed “engaging the students,” and the papers here describe how movies and different forms of technology can enhance the learning environment. Finally, the last category looks at the “challenges” in teaching these courses, emphasizing the breadth and difficulty of the material and providing a fresh perspective from someone who recently entered the academy.

## I. PERSPECTIVE APPROACHES

Professor Roger Fairfax, Jr.’s Essay titled, *Teaching the Methods of White-Collar Criminal Practice: Investigations*,<sup>1</sup> looks at a key component of the white collar area—investigations. His course focuses on areas such as grand jury investigations, corporate internal investigations, and a variety of government and private investigations. He noted the importance of this area to law students who would likely be working in this area when entering the practice.

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<sup>1</sup> Roger Fairfax, Jr., *Teaching the Methods of White-Collar Criminal Practice: Investigations*, 11 OHIO ST. J. CRIM. L. 755 (2014).

The discretionary role of prosecutors is the highlight for Professor Kelly Strader in his Essay, *Examining the Exercise of Prosecutorial Discretion in White Collar Crime*.<sup>2</sup> Using a case file to teach the class, he comprehensively examines the role that prosecutorial discretion plays in the criminal-justice process.

Professor Katrice Bridges Copeland looks at the role of defending these cases in her Essay, *Teaching the Art of Defending a White Collar Criminal Case*.<sup>3</sup> She uses the prosecution of a former general counsel to bring to life the criminal process and the role of counsel in handling such a case. It is clear that an ethics theme is dominant throughout this course.

## II. SKILLS

Professor William W. Berry III uses the federal criminal law course to not only teach the substantive material encompassed within this subject, but also to enhance his students' writing skills. In his Essay, *Writing (And Re-Writing) Federal Criminal Law—In the Classroom*,<sup>4</sup> he tells how he succeeds in improving the writing skills of his students by challenging students in editing their colleagues' work.

Equally important to the practice of law is the ability to research. Professor Shima Baradaran uses her business-crimes class to focus on research methods. In her Essay, *Teaching Research Methods to Understand Business Crimes*,<sup>5</sup> she explores an array of research methodologies while teaching students to think critically about these methodologies and the substantive material being covered.

Professor Susan Klein tells how she uses problem solving exercises to teach federal criminal law. In her Essay, *Integrating Problem Solving Exercises into Federal Criminal Law*,<sup>6</sup> she describes nine of the exercises that she has developed for her class.

## III. ENGAGING STUDENTS

Engaging students is not always easy, especially when teaching difficult material. Professor Sandra Jordan, in her Essay, *Putting Students First: Engaging*

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<sup>2</sup> Kelly Strader, *Examining the Exercise of Prosecutorial Discretion in White Collar Crime*, 11 OHIO ST. J. CRIM. L. 759 (2014).

<sup>3</sup> Katrice Bridges Copeland, *Teaching the Art of Defending a White Collar Criminal Case*, 11 OHIO ST. J. CRIM. L. 763 (2014).

<sup>4</sup> William W. Berry III, *Writing (And Re-Writing) Federal Criminal Law—In the Classroom*, 11 OHIO ST. J. CRIM. L. 767 (2014).

<sup>5</sup> Shima Baradaran, *Teaching Research Methods to Understand Business Crimes*, 11 OHIO ST. J. CRIM. L. 771 (2014).

<sup>6</sup> Susan Klein, *Integrating Problem Solving Exercises into Federal Criminal Law*, 11 OHIO ST. J. CRIM. L. 775 (2014).

*Students in Teaching White Collar Crime*,<sup>7</sup> describes “flipping the classroom” in teaching white collar crime. She also offers advice in using technology such as Powerpoints, Prezi, and GoAnimate.

Professor Geraldine Szott Moohr provides an Essay titled, *White Collar Crime Goes to the Movies*.<sup>8</sup> She describes how films can be used to animate this subject. Her Appendix provides a wonderful list of movies that can work in teaching white collar crime.

#### IV. CHALLENGES

Professor Miriam Baer’s article *Teaching White Collar Crime*,<sup>9</sup> notes the complexity and breadth of the white collar crime area. She considers the themes she uses in her seminar to overcome the unique difficulties presented in teaching this important and difficult material.

Likewise, Professor Brian R. Gallini, in his Essay, *Teaching Federal Criminal Law: Survey Says . . . “It’s Hard,”*<sup>10</sup> looks at the challenges faced in teaching federal criminal law. He looks at what to cover, how to keep the class interesting, and how he provides his students with helpful supplemental materials.

Professor Jeffrey Cohen in his Essay, *Teaching White Collar Crime: A Fresh Perspective*,<sup>11</sup> suggests moving the course from one structured by substance and procedure to one that follows the path of the case. He explains how using a case trajectory approach assists in considering the complexities of the white collar area.

#### V. CONCLUSION

In examining all of these Essays, several observations can be made. First is that anyone who participated in this discussion did not walk away empty handed, as many of the ideas offered were certain to find their way into the classes of others. In this regard, it is hoped that sharing these ideas in written form will assist newcomers to the white collar, business crimes, and federal criminal law areas, as well as enrich the classes of those who are seasoned instructors.

Second, it was apparent that the participants in this discussion were extremely dedicated teachers, who made enormous efforts to incorporate “skills and values”

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<sup>7</sup> Sandra Jordan, *Putting Students First: Engaging Students in Teaching White Collar Crime*, 11 OHIO ST. J. CRIM. L. 781 (2014).

<sup>8</sup> Geraldine Szott Moohr, *White Collar Crime Goes to the Movies*, 11 OHIO ST. J. CRIM. L. 785 (2014).

<sup>9</sup> Miriam Baer, *Teaching White Collar Crime*, 11 OHIO ST. J. CRIM. L. 789 (2014).

<sup>10</sup> Brian R. Gallini, *Teaching Federal Criminal Law: Survey Says . . . “It’s Hard,”*, 11 OHIO ST. J. CRIM. L. 795 (2014).

<sup>11</sup> Jeffrey Cohen, *Teaching White Collar Crime: A Fresh Perspective*, 11 OHIO ST. J. CRIM. L. 799 (2014).

into these upper-level classes.<sup>12</sup> Albeit different methodologies were used, the mix of practice and theory was apparent.

The final point relates to a question I asked as moderator of this discussion. I asked participants how many had taken a white collar crime, business crimes, or federal criminal law course when in law school. Few hands were raised in a room with numerous discussants and an audience beyond the eleven participants in this symposium. I followed this question with a second question, which was whether participants thought that these courses would still be here in future years.

It is clear that in recent years, many schools have added white collar crimes and business-crimes classes. Large law firms that were once shy to admit to practice groups in this area, calling them “special matters” in some instances, now readily and proudly advertise those who handle such cases.<sup>13</sup> Equally apparent is the enormous growth in this area, especially in areas such as internal investigations. Although the term “white collar crime” dates back to a sociological conference in 1939, the prosecution of these crimes and the recognition of this area have reached new levels in more recent years.<sup>14</sup>

Some law schools are also looking at ways to cut the curriculum, with some moving to fewer semesters in school or more experiential learning. The white collar, business crimes, and federal criminal law areas offer a complex legal area where many different skills can be learned. Whether the skill being taught is writing, researching, problem solving, use of technology, ethics, practical skills of investigation, decision-making, or prosecution or defense, this is an area with enormous flexibility and adaptability. As noted in these Essays, one can take the same course and teach a host of different skills, while also covering important legal doctrine. This is an area that needs to remain in the law school curriculum.

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<sup>12</sup> Both the *MacCrate Report* and *Carnegie Report* were clearly alive and well in the teaching of these subjects. See AMERICAN BAR ASSOCIATION LEGAL EDUCATION AND ADMISSIONS TO THE BAR, LEGAL EDUCATION AND PROFESSIONAL DEVELOPMENT: AN EDUCATIONAL CONTINUUM, REPORT OF THE TASK FORCE ON LAW SCHOOLS AND THE PROFESSION: NARROWING THE GAP (1992) (MacCrate Report); WILLIAM M. SULLIVAN ET AL., EDUCATING LAWYERS: PREPARATION FOR THE PROFESSION OF LAW 187 (2007) (Carnegie Report).

<sup>13</sup> See Ellen S. Podgor, *What to Call the White Collar Attorneys*, WHITE COLLAR CRIME PROF BLOG (Nov. 11, 2007), [http://lawprofessors.typepad.com/whitcollarcrime\\_blog/2007/11/what-to-call-th.html](http://lawprofessors.typepad.com/whitcollarcrime_blog/2007/11/what-to-call-th.html).

<sup>14</sup> See Ellen S. Podgor, *100 Years of White Collar Crime in “Twitter”*, 30 REV. LITIG. 535 (2011) (discussing the coining of the term by Edwin Sutherland in 1939).