

# White Collar Crime Goes to the Movies

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Stimulated by a love of movies and aware that most students gather information visually through television shows, Jon Stewart's satire, and YouTube videos, I recently added films to my white collar crime syllabus. I reasoned that movies, unlike YouTube and Facebook, are a common ground shared by everyone in the class. As it turns out, movies bring more to the subject of white collar crime than I had initially anticipated. A film provides a virtual experience, an enveloping story in which the viewer identifies with characters and is emotionally drawn into the protagonist's dilemma. Experiencing the dramatization of a white collar offense and then talking about it leads students to a deeper understanding of white collar perpetrators, their conduct, and its harm.

## I. THE CONCEPT

Perhaps the frequency and enormity of white collar offenses in the United States stimulated film makers to dramatize white collar themes. Or, perhaps film makers found the moral ambiguity of white collar offenses and the tension that exists in any good crime drama irresistible. In any case, it is not difficult to find quality movies that feature white collar conduct. There is also a rich vein of research on specific legal issues in movies<sup>1</sup> and, most intriguingly, the symbiotic relationships among film, popular culture, and law.<sup>2</sup>

I choose movies that dramatize non-violent behavior undertaken for financial gain and that are likely to stimulate consideration of immoral conduct,

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<sup>1</sup> On legal ethics portrayed in the movies, see generally, Carrie Menkel-Meadow, *Can They Do That? Legal Ethics in Popular Culture: Of Characters and Acts*, 48 UCLA L. REV. 1305 (2001); Nancy B. Rapoport, *Dressed for Excess: Images of Lawyers in the Movies – How Hollywood Affects the Professional Behavior of Lawyers*, 14 NOTRE DAME J.L. ETHICS & PUB. POL'Y 49 (2000). On business movies, see Larry E. Ribstein, *Wall Street and Vine: Hollywood's View of Business*, U. ILL. L. & ECON. RES. (Working Paper No. LE05-010, 2009); Larry E. Ribstein, *Imagining Wall Street*, 1 VA. L. & BUS. REV. 165 (2006); Larry E. Ribstein, *How Movies Created the Financial Crisis*, 2009 MICH. ST. L. REV. 1171 (2009). On courtroom procedure and lawyering, see PAUL BERGMAN & MICHAEL ASIMOV, *REEL JUSTICE: THE COURTROOM GOES TO THE MOVIES* (1996).

<sup>2</sup> My favorite article on film, popular culture, and the law is Lawrence M. Friedman, *Laws, Lawyers, and Popular Culture*, 98 YALE L.J. 1579 (1989) (suggesting that a popular legal culture exists and influences both a general popular culture and legal changes); see also John Denvir, *Introduction*, in LEGAL REELISM: MOVIES AS LEGAL TEXTS i, xvi (John Denvir ed., 1996) (“[F]ilm not only ‘reveals’ law, it often creates the social reality to which legal institutions adapt.”).

enforcement, policy, and white collar jurisprudence. (See Appendix: The Movies.) Without planning to do so, most of the films I use are taken from actual events. For example, Oliver Stone's *Wall Street* was inspired by the Boesky/Milken scandal. Robert Redford based *Quiz Show* on a 1950s cheating scandal on a television game show. Documentaries such as *Enron: The Smartest Guys in the Room* examine actual events. Nonetheless, totally fictitious accounts, like *Arbitrage* and *Michael Clayton*, can be equally effective. Carefully chosen, films contribute mightily to understanding how a white collar crime unfolds and the policy issues such crimes raise.

## II. THE SCRIPT

I use films in both my white collar crime seminar (fifteen students) and the larger (thirty to fifty-five) class. At the University of Houston, the seminar paper fulfills the mandatory writing requirement, and students are most concerned about completing a long analytical paper. There is no prerequisite beyond first-year criminal law, so I teach an abbreviated white collar crime course designed to guide students in their writing. All students are required to lead a "movie day." For this reason, the film project works better as a seminar.

Films are listed on the syllabus along with dates, topics, and cases. If we are working on insider trading, the film is likely to be *Wall Street*. Students choose a film and may team with a fellow student. They may present films that are not on the list upon approval (which I invariably give). Movies are featured in about ten classes, taking thirty to forty-five minutes from a ninety minute class. All the students are encouraged to watch the movie before class, and most participate fully in the movie discussion.

I provide a list of possible discussion points, but students are free to focus on other issues and control the scope of their presentation. Most give a brief synopsis of the story by showing key scenes or those relevant to the topic. Many reach outside the film and incorporate news clips of congressional hearings (*Quiz Show*) and interviews with the real-life protagonist (*The Informant!*, *Catch Me If You Can*). Students also consider what specific offense is at issue and whether a character could be indicted and convicted. Often discussion is lively, with students closely attending to the statutory text and case law.

A movie often spurs more sophisticated discussion. For example, when students explore the motivation of greed after viewing *Wall Street*, they sometimes conclude that money represented something else—a need for a father's approval or resentment of insults endured in the past. Thus motivation became something more complex than greed and arrogance. After watching clips of *Margin Call*, students discuss whether the propensity to engage in unlawful conduct is systemic—that is, inherent in a competitive, free-enterprise economic system in a society oriented toward the individual. Or, was criminal behavior caused solely by "bad apples", rogue employees whose character flaws led them to cheat and steal? Other films raise questions about the role of a firm: was the entity a victim or

perpetrator or something in between? Insights such as these invariably lead to discussion of what strategies are most likely to deter white collar crime.

### III. A PREVIEW—*QUIZ SHOW*

*Quiz Show* is a good vehicle for beginning a course or seminar. The first-day assignment is to watch the movie and be prepared to discuss it. I lead this first discussion, showing a few brief clips that feature incremental decisions to cheat, the prosecutor's "Eureka!" moment, and the congressional hearings that followed. The question is then posed: "Based on this film, how would you characterize a white collar crime?"

Within minutes the skeleton of the definition I would have provided through lecture or case analysis is on the board. Based only on the movie, the students define a white collar crime: it is an immoral act, involving an institutional entity such as a business firm that is committed by nonphysical means such as betrayal, concealment, or guile, in order to obtain money, property, or advantage.<sup>3</sup> Further, students note the difficulty of detection, a prosecutor's relationship with the perpetrator, an administrative hearing rather than trial, cover-up tactics including perjury by network managers, stonewalling and worse by the sponsor's executives, and perfidy of members of Congress. The movie, which I highly recommend (be sure to watch the final credits that visually suggest the public's complicity) ends on a note of ambiguity, not an atypical result in white collar conduct. Had a crime occurred? If so, what offense? If not, should cheating on quiz shows be a crime? In the film, a network executive responds to that question, "Why, it's only television!", inadvertently summing up the problem. The movie viscerally illustrates two themes that thread through a white collar course; whether a statute applies to certain conduct and whether it should be a crime. Students often refer to *Quiz Show* throughout the semester, evidence of the staying power of dramatization.

Additional use can be made of *Quiz Show* by reviewing the 1960 federal statute that prohibits rigging the outcome of television contests and carries a fine and up to a year in prison.<sup>4</sup> A hypothetical that involves manipulating contestants on a current reality television show initiates further discussion. Finally, students can draft a statute that would clearly define such a crime.

### IV. THE END

I probably would not be writing this had the movie project failed, and I hasten to say that not every "showing" is an unqualified success. Student presenters can disappoint, class discussion can lag, and the large class in which I have thus far

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<sup>3</sup> Cf. HERBERT EDELHERTZ, *THE NATURE, IMPACT, AND PROSECUTION OF WHITE-COLLAR CRIME* 3 (1970).

<sup>4</sup> 47 U.S.C. § 509.

presented the films is not as satisfying as the seminar plan. Nevertheless, the project in both venues is more than worthwhile. Judging from presentations, participation, and general enthusiasm (as well as formal evaluations), the movies add significant value to the subject by enriching an understanding of white collar criminal conduct and the issues involved in controlling it.

#### **APPENDIX. THE MOVIES**

AMERICAN HUSTLE (Atlas Entertainment 2013)  
ARBITRAGE (Lionsgate 2012)  
BARBARIANS AT THE GATE (Columbia Pictures Television 1993)  
CASINO JACK (Bagman 2010)  
CASINO JACK AND THE UNITED STATES OF MONEY (Jigsaw Productions 2010) (documentary)  
CATCH ME IF YOU CAN (DreamWorks SKG 2002)  
ENRON: THE SMARTEST GUYS IN THE ROOM (Jigsaw Productions 2005) (documentary)  
FUN WITH DICK AND JANE (Columbia Pictures, 1976)  
THE INFORMANT! (Warner Bros. Pictures 2009)  
INSIDE JOB (Representational Pictures 2010) (documentary)  
THE INSIDER (Blue Lion Entertainment 1999)  
MARGIN CALL (Before The Door Pictures 2011)  
QUIZ SHOW (Baltimore Pictures 1994)  
ROGUE TRADER (Granada Film Productions 1999)  
THE SOCIAL NETWORK (Columbia Pictures 2010)  
TOO BIG TO FAIL (HBO Films 2011) (dramatized documentary)  
WALL STREET (Twentieth Century Fox Film Corporation 1987)  
WALL STREET: MONEY NEVER SLEEPS (Edward R. Pressman Film 2010)  
THE WOLF OF WALL STREET (Red Granite Pictures 2013)