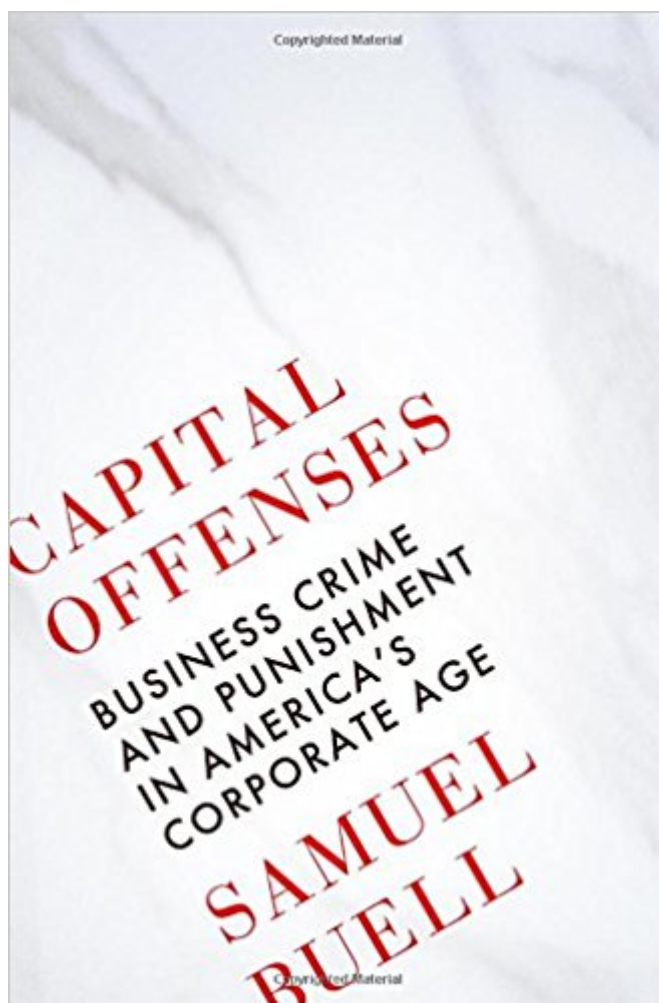


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Capital Offenses: Business Crime And Punishment In America's Corporate Age



Synopsis

From the lead prosecutor on the Enron investigation, an eye-opening examination of the explosion of American white-collar crime. If “corporations are people too,” why isn’t anyone in jail? A serious defect in a GM car causes accidents; Enron scams investors out of their money; banks bet on the housing market crash and win. In the race to maximize profits, corporations can behave in ways that are morally outrageous but technically legal. In *Capital Offenses*, Samuel Buell draws on the unique pairing of his expertise as a Duke University law professor and his personal experience leading the investigation into Enron—the biggest white-collar crime case in U.S. history—to present an in-depth examination of business crime today. At the heart of it sits the limited liability corporation, simultaneously the bedrock of American prosperity and the reason that white-collar crime is difficult to prosecute—a brilliant legal innovation that, in its modern form, can seem impossible to regulate or even manage. By shielding employees from legal responsibility, the corporation encourages the risk-taking that drives economic growth. But its special legal status and its ever-expanding scale place daunting barriers in the way of federal and local investigators. Detailing the complex legal frameworks that govern both corporations and the people who carry out their missions, Buell shows that deciphering business crime is rarely black or white. In lucid, thought-provoking prose, he illuminates the depths of the legal issues at stake—delving into fraudulent practices like Ponzi schemes, bad accounting, insider trading, and the art of “loopholing”—showing how every major case and each problem of law further exposes the ambivalence and instability at the core of America’s relationship with its corporations. An expert in criminal law, Buell masterfully examines the limits of too permissive or overzealous prosecution of business crimes. *Capital Offenses* invites us to take a fresh look at our legal framework and learn how it can be used to effectively discipline corporations for wrongdoing, without dismantling the corporation.

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Customer Reviews

“[Capital Offenses] deserves attention from anyone concerned with the topic [of white collar crime]. . . . The author brings two excellent credentials to his task: a breezy writing style and deep prosecutorial experience. . . . Buell does an admirably brisk job of analyzing

what’s gone wrong with a litany of corporate prosecutions. - Paul Barrett, Bloomberg

“Capital Offenses is a groundbreaking book, one that provides a fascinating analysis of the seemingly endless phenomenon of white-collar crime. Sam Buell, a law professor at Duke University and a former federal prosecutor who handled some of the most prominent corporate criminal cases in American history, is uniquely positioned to detail the circumstances and complexities surrounding corporate crime. In an era where legal violations in the boardrooms have destroyed and even ended lives, Buell’s is an essential book that explains what every American needs to know about these offenses. It is an important achievement that will reshape the ways we think about white-collar crime. - Kurt Eichenwald, George Polk

Award-winning investigative reporter and author of Conspiracy of Fools and The

Informant “This is an extraordinary book that will make you rethink whatever you thought you knew about corporate crime and punishment. Professor Buell draws on his experience pursuing white-collar criminals to expose in plain language a system that fails to deliver for perpetrators and victims alike. - David Cay Johnston, Pulitzer Prize-winning investigative reporter

and author of The Making of Donald Trump “[Buell] has crafted a thoughtful and thought-provoking examination of crime on Wall Street vs. crime on Main Street. - Publishers’ Weekly

“A book that will challenge conventional wisdom among readers who intuitively believe that corporations often game the system. - Kirkus Reviews

Samuel Buell is Bernard M. Fishman Professor of Law at Duke University and an expert in criminal law. He served as lead prosecutor for the Department of Justice’s Enron Task Force and lives in Durham, North Carolina.

Well written, educational, amusing, thought provoking.

This is a fascinating book that has the capability to amaze and depress at the same time; it looks at the behaviour of corporate America and some of the punishments that it may attract. Prepare, perhaps for heightened blood pressure (the publisher and author accept no responsibility) after reading this book! The author has done a great job of corralling a book that looks at a complex, often contentious subject, and makes it accessible and readable to both generalist and specialist reader alike. Many American companies do things in their corporate name that may get an individual a fairly serious amount of jail time and eye-watering fines. Yet for a company, well, lessons may be learned, fines may be paid (reducing profit which surely reduces taxes) and executives continue in-post in the vast majority of cases. It takes a lot to get an executive or leader inside. If motor cars can be designed with foreseeable faults that kill people, yet no-one gets to sit on a jail bunk, is there not a system failure? Accidents happen, of course, although if shortcuts are taken with foreseeable problems that imply culpability, why should this be just waved away with a fine and a bit of bad PR? It seems, says the author, that this is perfectly acceptable for corporations to behave in ways that are morally outrageous but technically legal. It is not just accidents and issues related to product liability, but creative accountancy, insider trading and other financial scams can also be routed through and protected by the limited liability corporation. The author has a unique perspective, being a law professor at a prestigious U.S. university and also being a former key investigator into Enron, who has the honour of being the biggest white-collar crime case (so far) in U.S. history. The limited liability corporation seems to provide a magic shield for companies to effectively do what they want in many circumstances; perhaps it is time to institute reform but there is no real appetite to get in the way of this structure that can impede investigations and the judicial process when the chips are down. The book was engaging and informative, even to someone who has a vague understanding about a lot of corporate shenanigans that have happened in recent times. For someone coming in blind to this it must be like a real thump to the stomach. How can things like this be really allowed to go on? Money talks – to effect change there has to be a desire to see change and follow the money. It is a worthy read! If only those with the power to make change would read this, understand this and work to change the issues raised: real change, not political promise and interference.

I won an ARC from Goodreads Giveaways. A very thorough presentation of how the law deals with corporations as criminals: when something goes horribly wrong, where does the responsibility lie? As consumers we assume that products of big industries (e.g., auto, food, pharmaceutical, etc) are

tested, regulated and approved before they are sold to the public. So what happens when a product ends up harming or killing someone. When an individual who is driving drunk kills another individual, that person might face a vehicular homicide charge, manslaughter or murder charge. But when a perfectly sober motorist driving a GM car with a product safety issue causes the death of another person, who within the many levels of duty and responsibility of a big corporation like GM gets charged with negligent homicide? Read this book and find out who. Or you might be a small investor whose retirement portfolio was completely wiped out by the financial crisis of 2008, an economic disaster aggravated by the irresponsible subprime mortgage-backed securities products of investment banks, and you're wondering why no one was ever sent to jail for the debacle. Read this book and find out why. How do you punish a criminal corporation? Severe fines? Yes. But who are you actually hurting or punishing when you slap a company with a stiff fine. Surely it will recoup the costs of punishment from somewhere. The company can raise the price of its products; thereby hurting innocent customers or consumers; or it can downsize to offset costs, hurting innocent employees; and prosecuting a corporation for a crime ensures its stock price will drop, hurting innocent investors. If fines sound unfair (if the consequences, at least, sound unfair) and unsatisfying as a form of punishment, read this book and find out more about the criminal liability of corporations.

This book, along with "Why they do it" by Eugene Soltes, provides great insight into the relationship between society, corporations and those who run them. I highly recommend both (but I still believe Fuld, the CEO of Lehman, should have been charged with fraud as suggested by the bankruptcy examiner and don't understand why he was not charged).

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