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LAW REVIEW

NATIONAL ASSOCIATION OF
CRIMINAL DEFENSE LAWYERS

&

THE HERITAGE FOUNDATION
present

OVERCRIMINALIZATION:
THE POLITICS OF CRIME

Friday, October 29, 2004
8:15 a.m. – 3:00 p.m.

Washington College of Law
Mooers-Morella Ceremonial Courtroom – Suite 603
4801 Massachusetts Avenue, NW
Washington, DC 20016
www.wcl.american.edu/secle

SUMMARY OF THE ISSUE

Recent securities and accounting scandals, as well as prosecutions of environmental and health care offenses, have led to significant legislative and enforcement changes and have revived the debate over the role of the criminal sanction in enforcing economic regulations. While proponents of broader criminal enforcement proclaim that the criminal sanction is necessary to deter misconduct and restore confidence in our markets and society, opponents of "overcriminalization" fear that the application of criminal punishments for regulated activities creates disincentives and/or overstates blame for morally neutral conduct.

This view of overcriminalization is reflected in many contemporary developments:

- Though, traditionally, for a crime to have been committed there must be some act done in furtherance of the criminal purpose, contemporary criminal law has begun to impose criminal liability for the acts of another based upon failures of supervision that are far different from the common law's historical understanding.

- Historically the law required that before an individual is deemed a criminal he must have acted with an intent to do wrong. In contrast, contemporary criminal law has moved further away from necessitating a mens rea.

- The line between malum prohibitum conduct and civil sanctions has become increasingly blurred, with criminal sanctions being imposed on conduct that previously would have been remedied civilly.

- While the federal government traditionally focused on prosecuting crimes committed within the United States' borders, recently there has been an increased legislative and prosecutorial focus on extraterritorial crimes.

The symposium will comprehensively examine these developments.

SCHEDULE OF EVENTS

REGISTRATION &   8:15 am
CONTINENTAL BREAKFAST

WELCOME ADDRESS   9:00 am

PANEL ONE   9:15 am
    POLICIES AND PERSPECTIVES ON CRIMINALIZATION

BREAK   10:45 am

PANEL TWO   11:00 am
    RAMIFICATIONS OF THE EXPANSION OF CRIMINAL LAW

LUNCH   12:15 pm

PANEL THREE   1:00 pm
    A PRACTITIONER'S GUIDE TO OVERCRIMINALIZATION

GENERAL INFORMATION

If you would like information on how to obtain the American University Law Review book based upon this symposium, please contact:

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PARTICIPANTS

WELCOME ADDRESS

Stephen Wermiel
Associate Professor of Law, American University Washington College of Law

POLICIES AND PERSPECTIVES ON CRIMINALIZATION

Moderator:
Paul Rosenzweig
Senior Legal Research Fellow, The Heritage Foundation

Panelists:
Sara Sun Beale – *Charles L. B. Lowndes Professor of Law, Duke Law School*
John S. Baker, Jr. – *Dale E. Bennett Professor, Paul M. Herbert Law Center, Louisiana State University*
Erik Luna – *Associate Professor of Law, S.J. Quinney College of Law, University of Utah*

RAMIFICATIONS OF THE EXPANSION OF CRIMINAL LAW

Moderator:
Ellen S. Podgor
Professor of Law, Georgia State University College of Law

Panelists:
John Hasnas – *Associate Professor of Law, George Mason University School of Law*
Peter Henning – *Professor of Law, Wayne State University Law School*
Geraldine Szott Moohr – *Professor of Law, University of Houston Law Center*

A PRACTITIONER'S GUIDE TO OVERCRIMINALIZATION

Moderator:
Cynthia Jones
Assistant Professor of Law, American University Washington College of Law

Panelists:
William B. Moffitt – *Member, Cozen O'Connor*
Paul D. Kamenar – *Senior Executive Counsel, Washington Legal Foundation*
Sheldon Krantz – *Partner, Piper Rudnick LLP*
Margaret Love – *Law Office of Margaret Love*