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This response is to an article by Braithwaite, Fisse and Geis on "Covert Facilitation and Crime: Restoring Balance to the Entrapment Debate" (JSI, 1987 vol. 43, #3). The paper argues for greater use of proactive law enforcement against higher status offenders when certain conditions can be met.

Restoring Realism and Logic to the Covert Facilitation Debate

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> **The temptation to form premature theories upon insufficient data is the bane of our profession.**
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> *– Sherlock Holmes (film, 1914)*

With erudition and grace Braithwaite, Fisse, and Geis's paper offers a provocative argument. In taking a forceful position on an important social issue, the authors help sharpen the debate, illuminate gaps in our empirical knowledge, and force us to clarify our values and assumptions. The discussions of covert means and the punishment of dangerousness, noblesse oblige, and civil sanctions are fresh and informative. I am also grateful to the authors for their past research, which has done as much to enrich our awareness and understanding of white-collar violations.

However, I find this particular paper inadequate in its logic and questionable in its reading of the evidence. It shows an unwarranted optimism regarding bureaucratically mandated social and legal interventions, and insufficient attention to issues of implementation and long-range consequences. The paper (1) *fails to document the extent or dimensions of class inequality in law enforcement;* (2) *creates a straw person in its treatment of critics;* (3) *offers a solution without adequately analyzing the causes of the problem;* (4) *fails to justify the arguments that covert facilitation is the only way to deal with certain low-visibility offenses (and that it must be used);* (5) *advocates a procedural restriction (probable cause) that would likely worsen the very class inequity the authors seek to correct;* and (6) *fails to take its indignation over class inequity to the logical*

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conclusion of favoring indiscriminate integrity testing, leaving us with a sheep in wolfs clothing.[1]

Failure to Document Class Inequality in Law Enforcement

The belief that the crimes of the powerful are less likely to be punished is part of the received wisdom of criminology. The criminal justice system is perceived to be inequitable in its treatment of both *offenders* and *offenses.* When the same offense is in question, higher status people are believed to receive more favorable treatment than lower status people. Considering *types of offense,* rather than offender, it is believed white-collar crimes are less likely to be discovered and punished than are other types of crime.

The authors' case would be better served by documenting the inequity and defining its multiple dimensions than by assuming that its existence is self- evident. Recent empirical research has questioned whether inequity in sanctioning offenders is as pervasive as traditionally believed, and it has shown that a simple bivariate, linear model is hardly adequate for capturing the complexity of the relation between class and criminal justice responses (e.g., Blumstein, Cohen, Martin, & Tonry, 1983; Hagan & Parker, 1985; Sampson, 1986; Wheeler, Weisburd, & Bode, 1982).

With respect to inequity in the discovery and sanctioning of different types of offenses, there has been less systematic research. Common sense certainly supports the authors' observation that low-visibility offenses will receive less attention in a system where police response is based primarily on citizen complaints. However, its class implications should be empirically demonstrated – not assumed – and sanctioning for civil as well as for criminal violations should be considered. Since we are dealing with low-visibility phenomena, it is much more difficult to determine the ratio of an event's occurrence to its public discovery, to its official sanctioning, relative to determining this for higher visibility offenses (e.g., auto theft) that victimization surveys usually inquire about. Nonetheless, it is not clear that, if we had a full accounting of *all* low-visibility offenses, they would show the strong positive correlation with social class that the authors imply (some, such as welfare fraud, would likely show the reverse, and others, such as child abuse, no correlation at all).

Documentation of inequities involving either offenders or offenses would help us determine how important it is to have public policy that specifically addresses the issue of class disparity. Although a case for such a policy might be made, the authors have not made it empirically.

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[1]There are numerous other points that I found troubling. I note only one here: The suggestion that some politicians might welcome secret integrity tests because they would be offered a clean bill of health is doubtful (ranking somewhere between President Reagan's notion of fighting the war on drugs by having his cabinet members publicly deliver urine samples, and with former President Nixon's plan to screen all 5-year-olds for predelinquent tendencies). Effective deniability may still create a presumption of guilt. The story is told of a Southern politician who accused his opponent of sleeping with pigs. "You know that's not true," said an aide. "I know it," said the politician. “But I want to see the sonofabitch deny it.”

To be sure, much more could, and should, be done in the enforcement of laws regarding white-collar violations. Yet calls for enhanced action should start by acknowledging the positive trend of recent decades. Prior to the 1960s, white- collar crime was treated much less seriously than today. One positive legacy of that decade's emphasis on equality and environmental issues, and later of Watergate, has been increased attention to white-collar offenses. The FBI has made white-collar crime one of its major priorities. Agencies such as the Customs Service and the Internal Revenue Service have become much more enforcement oriented in recent years. New agencies – such as the Environmental Protection Agency, the Occupational Safety and Health Administration, and the Justice Department's Office of Professional Responsibility – have appeared. New institutions such as the special prosecutor and special task forces (e.g., Vaughan, 1984) are also relevant. Perhaps this is a drop in the bucket. But at least there is now a bucket and there is something in it. This is very different from the situation in the 1940s described by Sutherland (1949).

One might also question the goal of class equity. In an ideal world, I am not sure that our goal should be class equity, at least with respect to the allocation of enforcement resources. A better goal might be the allocation of resources according to the degree of social damage that a violation causes (assuming that its objective assessment is possible). If this means of allocating resources were achieved, it might be very inequitable in social class terms, in the sense that white-collar offenses would receive disproportionate attention.

Creation of a Straw Person

In characterizing critics of covert facilitation, the authors have created a straw person. In a decade of research on the topic I have almost never encountered the abolitionist position of which they are justly critical. Who precisely is it that rejects "covert facilitation out of hand as an enforcement and investigation strategy" (p. 35)? Who are the public advocates for ignoring the crimes of the rich and the powerful?

Unlike for other issues such as capital punishment or abortion, the debate here is *not* between prohibition and acceptance, but about the conditions under which the tactic is acceptable.

Persons may differ on *when* they find the tactic acceptable (e.g., only for serious crimes or only when overt means cannot be used), on *the way* it is to be used (how tempting an offer should be, how persistent the agent should be if initially rejected), and on the appropriateness of any given investigation.[2] For example, in the Abscam case almost all of the opposition was directed at the way it was carried out – not at the idea of using undercover means in a restrained fashion, with informers who can be controlled, and in response to patterns of real-world corruption.

Other than the suggestion that corporations be fair game for random testing and that government make greater use of the tactic with civil sanctions, Braithwaite et al. are not arguing anything new. The restrictive conditions they list are generally part of the reform

[2] Marx (in press) suggests a systematic framework for trying to deal with such questions. Chapter 4 defines three basic types of undercover investigation and nine dimensions by which they may vary. Chapter 5 offers a series of questions to determine the ethical acceptability of the tactic in general and in specific cases, and Chapter 6 offers nine empirical assumptions that should ideally be satisfied before the tactic is used. The study is based on data collected from 15 local police and 6 federal investigative agencies.

literature *(FBI Undercover Operations,* 1984; *Final Report,* 1983).

The authors impute a class bias to critics of covert facilitation. They argue that when the tactic was directed at the crimes of the powerless there was little concern. They also argue that "two dramatic cases" – Abscam and John De Lorean – "transformed community attitudes toward undercover deception" (p. 6). In broad outline, I think this is a misreading of both the present and the past. There is strong support for these practices from the Congress and the courts *(Final Report,* 1983). Juries found all of the Abscam defendants guilty and convictions were upheld on appeal. The issues, however, go far beyond strict legality.

Looking at the history of U.S. law enforcement, the key question is: How, over the last century (and particularly the last decade), has the United States gone from being among the Western nations most opposed to domestic secret police practices to being their leading practitioner (and even exporter) for criminal cases (see Marx**,** in press, chaps. 2 and 3)

Braithwaite et al. show considerable imagination in suggesting the kinds of investigations that might be carried out. Because of concern over liability and the negative consequences should an investigation backfire, some of their suggestions would, of course, never be tried. Yet what is important about their list is not that it be taken literally, but that it sparks new ideas that can be modulated to meet the requirements of the law, department policy, scarce resources, and common sense. The section of their paper on illustrative cases (pp. 19-25) should be required reading for anyone in federal or state law enforcement. Yet what is interesting is that many of the hypothetical investigations they suggest have already been tried, as well as a great many others they do not mention. Among some of the more interesting white-collar investigations of the last decade (Marx, in press) are the following:

1. In "Operation Ampscam," more than half of the employees of the 26-person New York City Bureau of Electrical Control, the agency that inspects electrical installations, were arrested after a 14-month under- cover investigation. Two bogus electrical companies were set up. Payoffs were made at some of the abandoned buildings that the agents pretended were going to be rehabilitated. The buildings were complete with dangling wires, water deposits, and lack of grounding. In another part of the operation, agents posed as inspectors and arrested contractors who paid bribes.

2. A former employee of the Federal Reserve System working for a brokerage firm was arrested for illegally tapping into the Federal Reserve computer. He was seeking inside information about the money supply. The computer system identified the attempt and authorities were eventually able to trace his calls. Officials permitted him to tap into a dummy computer program created specifically for catching "his hands in the cookie jar."

3. A Boston nightclub was alleged to require blacks to have a "VIP" card and several forms of identification to enter, whereas whites were admit- ted without these items. In an undercover test, matched groups of black and white officers separately sought entry to the club. Most of the blacks were turned away and a clear pattern of discrimination was documented. This evidence was central to the nightclub's losing its license

(Wexler & Marx, 1986).

4. A California mail-order medical laboratory advertised that it would test blood for food allergies. The New York State attorney general sent in $350 and submitted a sample of cow's blood. Not only did the lab fail to detect that the sample was nonhuman, but it reported that the donor was allergic to milk, cottage cheese, and yogurt.

5. In FBI Operation CorCom (Corrupt Commissioners) more than 200 county commissioners in Oklahoma were found guilty of taking kickbacks. Informers, acting in an undercover capacity, simply went to the commissioners and did business with them as they had in the past.

6. Two 15-year-old Boy Scouts who belonged to the Law Enforcement Explorers Post of Huntsville, Texas, took part in a covert beer-purchasing operation. If asked, the boys were instructed to say they forgot their identification. Eight clerks were arrested for illegally selling beer to the boys. Police denied the activity was part of the troop's educational program.

7. The New York State Department of Motor Vehicles has conducted extensive audits and undercover investigations of service stations that test car emissions. A number of stations have had their licenses revoked or suspended for certifying cars that exceeded pollution standards or for fixing cars that did not need repairs.

8. In the first case to use federal civil rights laws to protect the mentally handicapped, a state trooper in Philadelphia worked in an undercover capacity as an aide in a state hospital. As a result of his efforts, nine persons were arrested on charges that involved abusing the mentally retarded residents.

9. The butcher for famous television cook Julia Child was found to have "a golden thumb." The butcher was fined and promised to change his ways [weighs], after state inspectors discovered a discrepancy between the actual weight of the meat he sold and what he charged customers.

10. Undercover corrections officers routinely go into New York City's jails to investigate drug offenses, excessive force, and theft of weapons by guards and civilians.

11. Undercover agents of the Federal Bureau of Alcohol, Tobacco and Firearms, posing as wine dealers, purchased 11 cases of fake Chateau Mouton Rothschild and later seized a number of cases of the fraudulently labeled wine.

12. In Los Angeles, a retail dealer in car radios secretly recorded conversations with Sanyo representatives. The dealer was told he would lose the Sanyo line because of his low pricing. This evidence resulted in a civil antitrust suit. As part of a settlement, Sanyo paid a $100,000 fine and agreed to stop fixing car stereo prices.

13. In a Massachusetts investigation, the attorney general's office covertly sold a number of vehicles to used car dealers. The vehicles were tracked, and when they were offered for sale the odometers on a large number of them had been turned back.

14. Just before Passover, when the demand for kosher meat is high, two men were arrested on charges involving the sale and labeling of non- kosher meat, which was then purchased and resold by the defendants, who added metal and paper tags identifying it as being from a kosher slaughterhouse.

15. Using an alias, the U.S. Postal Inspection Service has placed enticing advertisements offering an easy way to earn money or to lose weight. Persons who responded received politely worded letters advising them that they ought to be more careful about offers that sound "too good to be true." Respondents also received stamps for the postage expended and a booklet on mail fraud schemes.

16. In operation "Snakescam," undercover agents ran a wholesale "wildlife exchange" and actively sought to purchase protected species. Over an 18-month period, they filled their cages with 10,000 illegally traded animals, enduring snakebites and animal births in the process.

17. Investigators from a U.S. senate committee visited "Medicaid mills" suspected of insurance fraud and providing unnecessary treatment. The investigators complained that they had simple colds. They were subjected to electrocardiograms, and to tuberculosis, allergy, hearing, and glaucoma tests.

18. The New York State Education Department had more than 40 of its employees, each with a master's degree and more than five years of teaching experience in special education, covertly seek jobs as special education teachers in New York City. They sought to test a contention by New York City's Board of Education that it could not find qualified teachers for a program for handicapped children that a court had ordered. None were hired.

19. In Operation "Dipscam," the FBI gathered evidence of wire and mail fraud against mail-order colleges that provide degrees for little or no work. By answering ads in a variety of popular newspapers and magazines, one agent earned 17 advanced degrees.

The list could be greatly extended. In the last decade, social-control agents have been more active and inventive in using covert means for white-collar violations than at any

previous time in American history. The trend shows every sign of increasing.

Persons may well disagree as to whether we face a greater danger today from overly zealous *or* from unduly inhibited covert police. Either extreme would be cause for concern. In my reading, though, the trend is away from inhibition and certainly not toward it, as the authors imply.

Offering a Solution Without Adequately Analyzing the Causes of the Problem

Without a fuller analysis of the reasons for the situation the authors deplore, the paper has a utopian, otherworldly ring. It is likely to meet a nodding ritualistic acquiescence on the part of readers concerned with class inequality. Yet it will not much help those who wish to actually change the situation. In order to change it, we need to know what accounts for the relatively weak U.S. response to white-collar offenses and what can be done to change the deeper factors responsible for this outcome.

In a loose way, democratic law enforcement does reflect popular perceptions of harm (e.g., the system of citizen mobilization, laws, and budgets generated by elected representatives, and executive control over police agencies by elected officials). If the gap between public and law enforcement perceptions and actual harm is as great as many criminologists think, then before aggressive covert facilitation is adopted, these attitudes need to be changed.

I think the degree of white-collar enforcement is more a reflection of societal will and priorities than of that favorite term of sociologists, *structure.* The relevant structural aspects of white-collar crime believed to inhibit enforcement responses include low visibility, consensual endeavors, and unaware or non-complaining victims. Yet where there is a high degree of popular concern, mechanisms are created that compensate for "structural tendencies" that would otherwise lead to underenforcement.

If, in fact, there is significant underenforcement of white-collar laws, an explanation must be sought in American political and economic culture, and in power relations, rather than primarily in the structural characteristics of the offense per se (e.g., absence of a complainant or diffuse and nonvisible victimization). To take some extreme examples, victims of murder do not complain and counterfeiting is a very diffuse crime, but given the seriousness with which these are viewed, nondeceptive mechanisms are found that permit relatively effective enforcement responses.

In thinking about how to remedy the situation, Braithwaite et al. run the danger of emphasizing a formal correlational logic that, while correct, is not very helpful. Yes, the increased use of covert facilitation for white-collar cases (or of any of the other changes they discuss on page 14) would likely increase class equity. But that is hardly news. We also need an explanation of what factors operate against a more forceful response to white-collar offenses. Explaining the lack by reference to a failure to use proactive mobilization is like explaining a football team's losses as a result of its weak running and passing attack, and its failure to effectively block or tackle. What we most need to know is *why* the things that need to be done for effective performance are *not done,* not that they must be done.

For Braithwaite et al., an important factor in explaining the lesser attention to white-collar

violations is lack of information. The private, consensual, and technical nature of many white-collar violations, and the lack of an easily identifiable victim, certainly make discovery difficult. Yet it is possible to over- emphasize this difficulty. If there is an enormous amount authorities do not know about, there is a great deal they *do* know about.

I do not think lack of knowledge about who are the likely violators is as large a problem as the authors suggest. As Paul Simon (1986) sings, there are often "hints and allegations" and "incidents and accidents." Federal agents often report feeling overwhelmed by the volume of information they receive regarding violations and violators. In general, they have far more information than they can act on. Underenforcement is partly a function of a lack of resources. But it is also a function of our legal system that, relative to many other systems, makes it difficult for police to obtain evidence that will hold up in court. The "problem," if there is one, is caused by restraints in the legal system. One "solution" to this, if one is willing to pay the price, is not more covert investigations – particularly if there is a warrant requirement – but the lessening of restrictions on the gathering of evidence. Levinson (l 983), for example, suggests weakening the Fifth Amendment.

Failure to Justify the Argument that Covert Facilitation is the Only Means for Dealing with Low-Visibility Offenses

It is one thing to worry, as the authors do, that recent criticism of covert means might lead to less effective enforcement of white-collar laws (in other contexts, this is the sentiment behind concern over tying the hands of the police). But it is an enormous leap to hinge the effective enforcement of white-collar laws on expanded covert facilitation.[3] It is simply wrong to write that there are "offenses that are virtually unsusceptible to control by any mechanisms other than covert facilitation" (p. 12). The authors are in danger here of creating an iron law that the rust of reality will undermine. In most cases covert facilitation is not a necessary condition for white-collar enforcement, nor will its use "ensure that the law is applied effectively against crimes in high places" (p. 5).

Covert facilitation has been only one factor in the increased attention given to white-collar crime in recent decades. For example, in the case of political corruption and related offenses just prior to Abscam, 13 members or former members of the 95th Congress had been indicted or convicted of crimes. This represents a significant increase from the decade before. It may suggest some- thing about the truth of Mark Twain's (Clemens, 1922) observation that "there is no distinctly native American criminal class except Congress." But it tells us nothing about the indispensable nature of covert facilitation. The 13 cases involved changed attitudes on the part of prosecutors and new resources. Evidence was gathered by conventional means such as tips, informers, and the analysis of paper trails. Covert facilitation played no role in most of the cases. With more aggressive and widespread use of undercover means, much more could be done. But that is hardly the

[3]There are, of course, situations where covert facilitation would be the preferred method on grounds of convenience, expense, quality of evidence, prevention, and perhaps even a lesser degree of intrusion.

all-or-nothing argument of our authors.

It is necessary to examine a variety of means for greater white-collar enforcement: new laws, the creation of special enforcement units and greatly in- creased resources for existing units, greater criminal and civil penalties, in- creased mandatory reporting requirements, increased protections and rewards for whistle-blowers and informers, and increased public and law enforcement education. Perhaps greater use of grand juries and compelled testimony, protected witnesses, and wiretapping might be considered. It is also important to think about prevention and self-policing via managerial reforms, professional socialization, strong ethical codes, and certification boards for the professions. Law enforcement, in general, and the unleashing of undercover means, in particular, are only part of the picture. Here, as everywhere else, we must be wary of single-issue solutions to complex problems with multiple causes. Effective white-collar enforcement needs a variety of enhanced means, not just this one. The authors are certainly aware of this, but in their advocacy of a particular tactic it is lost.

The authors have not adequately developed the argument for why such means should be prescribed. To prescribe police behavior generally runs contrary to American tradition. Our concern with protecting liberty has emphasized *pro-* scribing, rather than prescribing police actions. We want police to be responsive to democratic and situational pressures, and to respond flexibly. The effort to create reform by bureaucratically mandating what form of action police must take and when they must take it can introduce rigidity and undesired consequences. This runs contrary to much contemporary law enforcement thought, which favors increasing police discretion under broad guidelines, not eliminating discretion (Davis, 1975; Goldstein, 1977). I think it would be far more productive to change goals so that white-collar investigations receive the priority they deserve than to mandate particular enforcement means.

Advocating Probable Cause Might Increase Class Inequality

If it is correct that low-visibility offenses are more characteristic of higher status persons, then requiring a probable cause standard would likely mean even *less* use of covert facilitation against them. This is the classic dilemma of covert means when they are subjected to a prior evidentiary standard.

Introducing a highly restrictive standard such as probable cause means that the investigation must follow the contours of what authorities obtain probable cause for. For the reasons that the authors note early in their paper, it is more difficult to obtain this for white-collar offenses. There is no reason to think that the probable cause available to authorities will conform to the degree of social harm from an offense, nor that it will contain less biases than those found with the traditional system of mobilizing the law in a reactive fashion.

It is precisely because there is *no* probable cause that many undercover investigations are carried out. They are often done to see if probable cause can be obtained, in order to then use other techniques such as searches and wiretaps. To introduce a probable cause standard would significantly reduce the number of such investigations. The authors are correct that "proactiveness" [offers] "hope for subjecting powerful offenders to the same investigative

scrutiny as powerless offenders" (p. 6), but only if it can be carried out in a relatively unfettered fashion.

Another restriction might also be self-defeating. Elsewhere the authors thoughtfully note how guidelines can be rendered ineffective; however, they do not apply this caution to their own recommendations. Thus, to grant approval "for a period sufficient for only one integrity test, rather than repeated tests" (p.10) offers a built-in means for any would-be culprit familiar with the restriction to defeat it: simply, always refuse the first offer. The need to make formal law enforcement policy public in a democratic society creates such ironies. It also justifies flexible guidelines rather than the rigid mandate advocated here.

The Failure to Take Indignation over Class Inequality to its Logical Conclusion

If covert facilitation is as irreplaceable as Braithwaite et al. claim – and if we are really serious about redressing inequality and are unsure who the offenders are – then the last thing we want is to have prior limiting criteria such as probable cause (or even the lesser standard of reasonable suspicion). Instead, we should give authorities an open hunting license. This would lead to serendipitous findings and (if it were widespread enough) its very randomness might lead to deterrence.

Lawrence Sherman (1983) has forthrightly argued that there should be random testing. In contrast, our authors are much more timid and this leads to the collapse of their argument. They start with a bang and end with a whimper. While swaddling themselves in fashionable discourse regarding the problems of white-collar crime and class inequality, they are unwilling to call for the kind of action that such concern logically leads to, given their assumptions.[4] In the final analysis, by introducing a warrant requirement they offer little more than a sheep dressed in wolf's clothing.

As a citizen, I am glad they do not advocate indiscriminate testing. My criticism refers strictly to the consistency that one might expect, given the degree of indignation they express over the problem and their failure to fully acknowledge the advantages of half of a loaf.

Accordingly, I share the authors' concern with white-collar crime, not only on grounds of class equity, but on grounds of a moral calculus that would allocate sanctioning more according to the degree of harm. Yet I would give greater emphasis to the other measures discussed above than to covert facilitation.

In giving disproportionate emphasis to covert facilitation we run the danger of solving one problem at the cost of creating a variety of others. In a national emergency, as President Lincoln argued, it may be necessary to amputate a foot to save a body, but we are not in such a situation. And when we are, it will be necessary to have great trust in the surgeon. Our surgeons have recently brought us Watergate and the Iran-Contra affair.

Were the government to direct a widespread campaign of deception and temptation against

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[4] While I admire the logic, I oppose the policy. This is not because of anything as lofty as a "right not to be tempted," but because of the secondary costs that would probably attend it. Such costs can be great-e.g., the creation of a climate of suspiciousness, damage to internal morale, the invasion of privacy, lessened experimentation and risk taking, the danger of politically inspired rather than random targeting, the creation of offenses that are purely an artifact of the investigation, the diversion of resources from known to possible offenses, and the creation of a precedent that will likely expand to questionable areas. Trust is a most valuable social commodity that ought not to be publicly trifled with, without extreme cause and the absence of other means.

white-collar villains, great things could undoubtedly be accomplished – one recalls Shakespeare's (1600/ 1952) counsel in the *Merchant of Venice,* "to do a great right, do a little wrong." But when intrusive and secret tactics are at hand, more is at stake than the immediate goal. Apart from the principle, there is no guarantee that the ratio would not quickly be reversed-to great wrong yielding little right. Justice Brandeis has written eloquently of the need for the greatest vigilance precisely when the goal is benign.[5] It is important to think about long-range consequences and about the kind of a society we might become were deception to become legitimate on a much wider scale. Secrecy and suspicion feed on themselves. Intrusive techniques, once set in place, are more *likely* to expand than to decline. Is the risk worth it, particularly if there are other means?

The recent expansion of undercover tactics does not stand alone; it must be seen as part of gradual changes that are making social control more intrusive, manipulative, hidden, intensive, and extensive. Covert facilitation must be considered alongside enhanced dossier, electronic, biological, and chemical means of surveillance and control. This broader context is considered by Marx (in press, chap. 10). It is said that if you drop a frog into boiling water, it will immediately jump out. But what happens if you put it into cold water and slowly tum up the heat?

Public policy often involves compromises and second, third, and even fourth bests. In a democratic society, the aggressive use of covert and other intrusive tactics offers us a moral paradox. The choice between anarchy and repression is not a happy one, wherever the balance is struck.

Given the availability of other means for an enhanced attack on white-collar crime, our present choice is less stark. Thus it is all the more easy to side with Benjamin Franklin who wrote;

> *They that can give up essential liberty to obtain*
> *a little temporary safety*
> *deserve neither liberty nor safety.*

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[5] "Experience should teach us to be most on our guard when the government's purposes are beneficent. Men born to freedom are naturally alert to repel invasion of their liberty by evil-minded rulers. The greatest dangers to liberty lurk in insidious encroachment by men of zeal, well-meaning, but without understanding" *(Olmsted v. U.S.,* 1927).

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