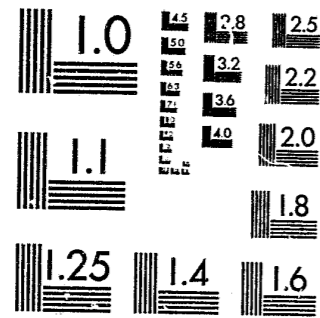


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International Summaries

A Series of Selected Translations in Law Enforcement and Criminal Justice

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The Underground Economy: Control Levels and Social Morality

Participants in a conference about economic crime discuss crime control and detection from a variety of viewpoints.

Introduction

A conference, held in Stockholm in May 1981 and sponsored by the Swedish Crime Prevention Council, assembled a group of law enforcement administrators, business representatives, tax administration officials, and researchers from the Council to discuss the issue of control in general and to exchange ideas on approaches to controls.

Effective enforcement and prevention of economic crime are priorities for Swedish law enforcement. Economic crimes result in even higher monetary losses to government, business, and society as a whole than do post office and bank robberies, the two major property crimes in the country. More important, the effects of economic crime can be far-reaching. Company collapse resulting from criminal action by its owner or employees causes unemployment. The unemployment, in turn, causes social unrest.

Despite its seriousness, economic crime is relatively safe to commit. Detection is infrequent and sanctions are mild. Controls are needed, but they must not interfere with the personal rights, safety, and integrity of Swedish citizens.

Participants' papers reflect diverse thinking on enforcement and detection. One reviews activity in the law enforcement sector as this sector formulates an approach to investigating economic crime. Two papers discuss possible detection techniques available to tax authorities for identifying instances of fraud and eva-

Dold Ekonomi: Kontrollnivå och Samhällsmoral. Dokumentation från en konferens om medel mot ekonomisk brottslighet. (NCJ 87291) The Swedish Crime Prevention Council, Overview of Legislation Against Organized and Economic Crime Series. 1981, 142 pp. (Brottsförebyggande rådet, Altasmuren 1,2 tr, 113 21 Stockholm, Sweden) Translated from the Swedish by Denise Galarraga.

sion (merging a variety of data files to spot irregular tax reporting). These techniques are being hotly debated in Sweden because of personal privacy concerns. Other papers take a look at the desirability of more government regulation from the point of view of business and examine controls from a theoretical perspective.

Resources and Methods in the Fight Against Economic Crime (by Tommy Lindström, Branch Director, National Police Board)

Sweden began putting together special economic crime law enforcement units in 1977. Twenty new officers were added to the country's forces at the start, eight assigned to Stockholm, six to Göteborg, and six to Malmö. Over the next 2 years, the program expanded to include 88 special police assigned to Stockholm, Göteborg, Malmö, and Sundsvall. In 1980, Jonköping, Linköping, Karlstad, and Umeå obtained four-man units, while in 1981, Växjö, Halmstad, Vasterås, and Luleå formed economic crime units. Although no new local additions are planned, 16 national-level police will be added to act as advisors for local departments and as troubleshooting teams in particularly troubled areas.

The special officers assigned to economic crime units perform a very different function from traditional police. Therefore, they require specialized training and backgrounds and an entirely different pay scale. They complete 6-week courses in business and economic crime. The officers also receive instruction in investigation, particularly in cooperation with lawyers, auditors, county division police commissioners, customs authorities, and officers of the national bank currency exchange control group.

The National Police Board is developing strategies to counteract the most serious economic crimes. According to a 1979 report by a special economic crime control committee, crime detection methods will vary dramatically

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from those used in investigating traditional crime. In the future, police will be trained to understand how economic crime is likely to be perpetrated, and in what situations. They will study how it commonly surfaces and how criminals make contacts with willing collaborators. Guidelines and procedures will stress a proactive stance.

Police investigators will begin with a research phase involving planned information gathering and development of an investigation "blueprint." The information-gathering phase will focus on a number of areas that unit police should be sensitive to:

- Suspicious movement of money in the country,
- Regular capital outlay to a particular foreign country,
- Irregular currency transactions and internal or external supply of goods not legally for sale,
- Sale of services or goods at prices drastically below the norm,
- Suspicious company acquisitions or mergers,
- Drastic pricing changes,
- Abnormal real-estate transactions/acquisitions,
- Movement of companies and capital to foreign countries.

Data, once collected, can be used in developing proactive, focused investigations targeted at specific persons suspected of involvement in economic crime.

Control Level and Control Methods—Sociological Perspective (by Professor Eckart Kulhorn, Swedish Crime Prevention Council).

What are controls? Sociologist Amitai Etzioni recognizes three types: (1) forceful (reinforced through punishment), (2) economic (reinforced through incentives), and (3) normative (guidelines, rather than regulations, relying on personal motivation for compliance). Tage Klingberg of the National Institute for Construction Research, in his book "Choice and Use of Standards" (1980) studied Etzioni's theory, applying it to Sweden's local housing authorities. He found that they use a dual system of controls, but that use of forceful control is predominant. He found no major difference in citizens' willingness to comply with regulations attributable to either the use of guidance or force. In fact, some clients had positive attitudes even when force was used. Negative attitudes were due more to perceived illegitimate means or illegitimate purposes of force than to force per se. Klingberg concluded that the severity or leniency of force is not so important to the success of controls as a sound reason for the control and a concrete plan for its application.

Classical sociology has paid much attention to the issue of control. Max Weber, Seymour Lipset, and Emile Durkheim have all contributed to theories of control. Jurgen Habermas sees control as an answer to a "legitimation crisis." He suggests that Sweden is a quasicapitalistic society with a buffer zone around the official

sector created by its close ties with business through subsidies, etc. In addition, the government deals with the negative by-products of business, i.e., unemployment and social welfare.

Democratic institutions and decisionmaking processes replace the traditions and values of true capitalism. Citizens, however, do not actually participate in administrative decisionmaking by higher level government employees and elected representatives. If true citizen participation took place, the conflict between socialized production and private ownership would clearly emerge.

According to Habermas, quasicapitalistic societies have two types of crises. A rationalization crisis occurs, for example, when the official sector is disorganized or ineffectual and cannot command public loyalty. A legitimation crisis is indicated by, for instance, an inability to mobilize and motivate taxpayers to finance government's activities. An example of a legitimation crisis occurred in California with the passage of Proposition 13. Taxpayers demonstrated their unwillingness to bear the financial burden of the services that government saw as part of its charge.

Habermas sees a legitimation crisis occurring in Sweden that the government is trying to resolve through ideological planning (introducing an ideology or theory to motivate the public's continued support). Justifying the necessity of greater interference in individuals' education and career planning is an example. This strategy leads to a slackening of cultural values and a politicization of private life. Likelihood of a crisis increases when a citizen's privatism (interest in social affairs without political activity) comes into conflict with family and career privatism (interest in consumption, leisure activities, and pursuit of status).

When one looks at Habermas' theory and applies it to Sweden, one can see that several of the symptoms he attributes to a legitimation crisis are evident in some degree:

- 1) Poor use of human resources so that talents and education are wasted;
- 2) Privatization of production and consumption;
- 3) Attempts by some to acquire resources that belong to the public (through tax evasion and fraud, for example).

Ideological planning does go on, and there is some evidence of a rationalization process in response to government disorganization. However, the problem has not reached a crisis level. An unchecked increase in economic crime and lack of social solidarity could indicate that conditions are fertile for such a crisis.

This legitimation crisis, according to Habermas, has several symptoms: a decline in the arts, the personal will to achieve, and the general moral character of society, and the development of countercultures.

Control Levels and Control Methods—Lawyer's Perspective (by Professor Alvar Nelson, Uppsala University)

When puzzling over control strategies for economic crime, it is necessary to consider carefully what is already punishable under the law. Economic crime is perpetrated in a systematic manner within normal business activity that is in itself lawful. The offense might be swindling or tax fraud. The public often does not perceive the activities as criminal. These characteristics make economic crime particularly difficult to detect and investigate. Because of this, the risk of detection needs to be higher than that for traditional crime. Furthermore, enforcement authorities need to be better equipped and trained, and their work needs to be viewed as a priority. Equally important, the courts must review their handling of white-collar criminals. In a recent case, an employee of a supply firm had been collaborating for several years with a business owner, a customer of the firm. They falsified documents, an offense that made the business owner some 191,000 crowns richer. The supply firm employee netted a smaller amount. The regional court handed down prison terms to both offenders. On appeal however, the high court, taking into account that the business owner's firm had sustained heavy losses since his conviction and that the supply firm employee had lost his job, changed the sentences to probation with fines. One can ask if the court is doing its part to deter economic crime. The law shows little support for the high court's decision to lighten either sentence in this case.

Economic crime is hard to prove. The criminal law needs changing. The Swedish Crime Prevention Council researches legal areas and issues surrounding specific criminal laws singled out as problematic. They recently concluded work that resulted in modification of laws on fencing, gambling, and betting to ensure that all involved parties, no matter how they have buffered themselves from the main perpetrators of the crime, can be held liable.

Some of the author's proposals for control of and sanctions against economic crime follow:

- Temporary suspension of some civil rights. This can be effective in retail businesses, such as mail order sales. The offending business can have its license to sell suspended, its credit suspended, etc.
- Creation of a mechanism to monitor internal activity. Such a mechanism can be applied to larger companies. An external person can serve on the board or an independent auditor can review the books periodically.
- Control through advertising committees. This independent committee would monitor advertising practices across the board and would maintain contacts with media and consumer representatives.

- Controls through employees. Employees can monitor companies' adherence to workplace safety and hygiene laws.
- Trade restrictions. These would apply to companies involved in bankruptcy and with foreign countries.
- Risk-spreading through fees. Companies could be required to carry certain kinds of insurance or to post bonds.
- Control of bidders at purchasing. Bidders could be required to pay a fee to obtain a permit to bid from local authorities.

The level of control should be tailored to companies' characteristics.

The social morality is endangered by economic crime. It must and can be buoyed by laws and sanctions against such criminal activity.

Data Techniques as Tax Auditors—Tax Collector's Perspective (by Karl-Erik Nord, National Tax Administration)

The tax administration's data system is one of the largest in Sweden, keeping information on nearly 6.1 million persons and more than 400,000 companies. The ability to merge data from this huge file with data from several other officially maintained systems or registers considerably improves the capability of detecting economic crime. For instance, a bank file on interest paid out over a year could be compared with the file on personal income declarations to detect irregularities in reporting.

Perhaps most interesting from the tax controller's perspective, and most sensitive from a personal integrity viewpoint, is the possibility of merging national files or registers to retrieve information on groups or populations with suspicious or unusual activities. These select populations could be studied as a basis for revising laws and auditing procedures. It is important that tax authorities be able to structure audits based on this information.

Although the merging of these files is the subject of intense debate because of confidentiality and personal integrity issues, from a tax collector's perspective the merging would be used only to ferret out offenders. If this is offensive, then perhaps it is the tax laws that should be changed.

The keywords for fighting economic crime are information sharing and wise use of that information. Planned control through auditing, better priority setting, and specializing would be facilitated by enhanced information gathering.

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Data Techniques as Tax Auditors--Data Controller's Perspective (by J. Freese, General Director, Datainspektionen)

The law expects the tax system to be uniform and fair, but, of course, this is an ideal. Reality is far from the ideal mainly because the tax and welfare systems run parallel. The government neither recognizes the economic consequences to the individual caused by this dual system or the possibility for abuse. The overlap is so complex that change to one system requires change to the other.

Regardless of this complicated situation, technology has (or is supposed to have) made monitoring compliance with the law easier. National data files contain many pieces of information on every person in Sweden. The population registry, the driver's license registry, registries of credit information maintained by the national bank, and the residency registry are all teeming with information. In fact, the average adult Swede will have his or her name captured in about 100 files. If that same Swede is married and has a family, the number could double.

The tax administration, with access to so much data, must be careful not to abuse this information. Safeguards are needed to protect the personal integrity of Swedish citizens and to protect companies' rights to keep certain information confidential. Often these personal data are biased or incomplete; the tax administration should not make decisions to harass citizens on the basis of family data. Although Sweden has been a forerunner in recognizing the privacy problem and instituting legal safeguards, new strategies to counteract economic crime could threaten citizen protection.

Overall, the legal system needs to be simplified so that citizens can be certain where they stand within the law and so that deviance from the law is not so easily hidden.

Control of Business--Business Perspective (by Joakim Ollen, Skane's Chamber of Commerce)

Although views differ within the business community, most legitimate companies welcome some controls to ensure that they are dealing with other earnest businesses and to safeguard the marketplace. Swedish business is willing and even eager to assume more regulation, with some reservations.

Setting priorities as to which economic crimes are important to pursue is significant from a business perspective. And we should be careful not to redo work by writing laws to replace existing and sufficient ones. Moreover, we must be careful not to waste energy attacking behaviors that are insignificant. It is this kind of half-baked legislation that business will reject.

What will it accept? The business community is probably most interested in laws that focus on abuses or criminal behaviors that interfere with its functioning. And in these instances, it is willing to accept controls as strict as government will make them—for example, regulations to halt abuse of bankruptcy and protect creditors.

To be most effective, the controls should be decentralized and administered by local authorities so they can be loosened or tightened according to need. Centralized, national-level controls could be diluted by requiring too many layers of bureaucracy.

Control of Companies--Union Perspective (by P. O. Edin, Swedish Confederation of Trade Unions)

A great many companies are law-abiding and, in fact, have a healthy outlook on taxation. From a business perspective, there are four critical areas to address in fighting economic crime:

- Company branches set up in foreign lands to avoid taxation and to allow sale of foreign-produced goods at prices lower than those normally commanded on the Swedish market.
- Bankruptcy abuse.
- Tax fraud.
- Other tax crimes perpetrated with employee assistance.

To counteract these crimes, we need a complete data base containing certain vital pieces of information about all companies in the country. Registration would be obligatory to practice business. At the time a company registers (on an annual basis), it could be required to prepay estimated taxes for the year. Collection of the balance, or rebate for overpayment, would occur at year-end. This prepayment would indicate a serious intention to conduct business. Annual registration would also serve to weed the data base. Another suggestion might be a kind of withholding tax for companies so that taxes would be collected on business transactions while in process. These strategies could be used as controls, detection points, and methods to make the tax collector's job easier.

Conclusion

Perspectives on economic crime and its control were presented by representatives of several factions. The conference ended with a debate and papers submitted by the Parliamentary Commissioner for the Judiciary and Civil Administration, who commented on control from an administrative viewpoint, and by the General Secretary for the Swedish Crime Prevention Council, who commented on control activity in Europe as a whole.

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