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ZERO TOLERANCE POLICING

by

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This Information Bulletin discusses:

- *the meaning of zero tolerance;*
 - *policies and practices associated with zero tolerance, as implemented in the United States and Britain;*
 - *the success or otherwise of these practices; and*
 - *the implications of zero tolerance for Australia*
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WHAT IS ZERO TOLERANCE?

Zero tolerance is not easily defined. While there is general agreement that it represents an approach to policing, there is no consensus about the exact nature of the term. In recent times it has been used to refer to a variety of concepts or practices listed as follows:

1. *Being 'tough on crime'*. This is used in a general sense to communicate that 'something is being done' but usually without further explanation of what this means in practice. Implicit in the rhetoric of being 'tough on crime' is a sense that all laws will be enforced, that offenders will be apprehended and will not 'get away with crime' and that, if convicted, an offender will face a harsh penalty.
2. *Strict, non-discretionary, law enforcement*. An example of this would be the current approach to drink driving in South Australia. Police are actively involved in the detection of drink drivers through extensive random breath testing operations. In addition, a person detected with an illegal blood alcohol level will almost certainly be charged with that offence. It is extremely unlikely that a drink driver will be 'let off' with a warning or a caution. Furthermore, convicted drink drivers receive relatively harsh penalties involving fines and licence disqualification, and possibly a jail term.

The Adelaide Advertiser used zero tolerance in this way when it reported that "under zero tolerance police arrest or report offenders as they witness an offence, however minor. No warnings are issued" (Denholm, 1998:12). The South Australian Commissioner of Police, Mal Hyde, writes that zero tolerance is "synonymous with an aggressive law enforcement approach to policing, where no exceptions are made for the type of offences being committed or the circumstances in which they occur" (Hyde, 1998: 3).

3. *Police action against minor offences and disorder*. Under this definition of zero tolerance, police will not ignore minor crime and disorder but will specifically pay attention to so called 'sub-criminal' and/or 'quality of life' offences such as public drinking, public urinating, graffiti, vandalism, begging and vagrancy. Often underpinning this approach is a belief in the 'broken windows' theory of crime. This theory, first published by American academics George Kelling and James Q Wilson in 1982, uses the metaphor of a broken window to describe the impact of unchecked disorderly behaviour and minor crime upon communities. Kelling and Wilson claim that if a broken window in a building is not repaired, then the sense that nobody cares or is in control will result in the breaking of other windows (Dixon, 1999). In the same way, Kelling and Wilson argue that if minor incivilities are ignored, an atmosphere of lawlessness and social decay develops. This, in turn, provides an environment for more serious crime to flourish because criminals believe that they will not be apprehended. Norman Dennis, British sociologist and zero tolerance advocate, links it to the 'broken windows' concept when he writes that it "nips things in the bud" (Dennis, 1997: 3). There appears to be two sub-categories of zero tolerance policing that involve an emphasis on minor crime and disorder, as follows:

3a) *Police action against minor offences – non discretionary*. Under this definition, as described above in relation to drink driving, police are expected to arrest or report minor offenders – no warnings or informal cautions are given.

3b) *Police action against minor offences – discretionary*. Under this definition of zero tolerance, while police are expected to take some type of action, they have the discretion to choose what level of intervention is appropriate to the circumstances – from simply

talking to the offenders, through warnings and informal cautions, up to the more serious report or arrest.

4. *The New York experience.* Zero tolerance policing is often equated with the recent changes to police practices in New York. These changes are described in more detail below.
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ZERO TOLERANCE IN PRACTICE

New York

William Bratton became the Police Commissioner of New York City in 1994. At this time Bratton described New York as “.. a city that had stopped caring for itself” (Bratton, 1997: 34). Bratton immediately instigated a “strategic re-engineering” of the demoralised New York City Police Department involving the following elements:

- *crime control strategies:* over a two year period eight crime control strategies were created to focus on drugs, guns, youth crime, auto theft, corruption, traffic, domestic violence and ‘quality of life’ crimes;
- *decentralised policing:* precinct commanders are responsible (and accountable) for the total policing effort in their districts, including special (ie drug) operations and the deployment of beat officers and detectives.
- *use of timely, accurate intelligence data:* emphasis on the use of computers to identify places and people at risk, rather than simply react to individual incidents as they occur. In addition, Police Department executives meet regularly with Precinct Commanders at a Comprehensive Computer Statistics (Compstat) meeting. Precinct Commanders are expected to review the results of their efforts in the previous month and outline their plan for the following month. The meetings emphasise the use of intelligence data, in particular crime mapping;
- *trust:* street officers were given the authority to make drug arrests and detectives were given access to a number of computer systems. Previously this authority/access was seen to present a risk of corruption.
- *emphasis on ‘quality of life’ crimes:* precinct commanders were instructed to place dual emphasis on quality of life crimes as well as on serious crime. In practice this meant enforcing city ordinances in an effort to reduce graffiti, littering and public drinking. In addition, persons suspected of involvement in more serious criminal activities were also targeted through misdemeanour arrests. For example, young persons suspected of criminal or gang involvement were arrested for relatively minor crimes such as driving without a licence, driving through a stop light or loitering around a street corner (Mathews and Newman, 1996). In addition to searching anyone arrested for these minor public order offences, stop and frisk was used widely against anyone suspected of carrying a weapon or drugs (Bowling, 1996).

The New York experience provides an example of zero tolerance policing from a number of perspectives. It includes the elements of being ‘tough on crime’, and of non-discretionary policing of minor offences. However, it is evident that these are only the most publicised features of wide ranging reforms, including intelligence-led policing and a restructuring of the New York City Police Department.

Most analysts of the so-called ‘New York miracle’ agree that there has been a significant reduction in crime in New York. In three years homicide declined by 51%, violent crime reduced by 38% and the overall crime rate was reduced by 37% (Bratton, 1997). In the two years before April 1996, motor crime decreased by 40%, robberies by 32% and burglaries by

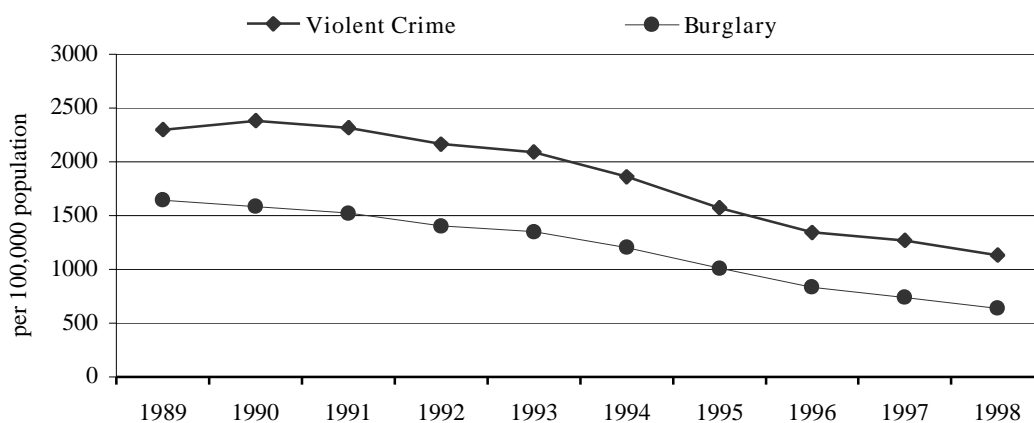
24% (Gibbons, 1996). There is general agreement that the changes to policing practice in New York City have contributed to this reduction. For example, the persistent stop, frisk and arrest activities have been linked to a reduction in the number of young people carrying guns into the city. This in turn has led to a decline in the number of homicides, since guns are less accessible during gang/drug confrontations in the street (Bowling, 1997). It is interesting to note, however, that Bratton rejects the term zero tolerance. He argues that the phrase “smacks of over-zealousness”, that it gives an unrealistic sense of what can be achieved, and that it does not encompass the complexity of police work (Bratton, 1997: 42).

Irrespective of whether the New York strategy should be labelled as zero tolerance, several commentators disagree with Bratton’s claim that the New York Police Department was solely responsible for the decline in the crime rate (‘Crime is down in New York City: blame the police’ -Bratton, 1997). Brereton (1999) suggests that recent reductions in the New York crime rate are part of a downward trend which commenced in 1990, some three years before Bratton became Police Commissioner. Figure 1 shows New York violent crime and burglary rates for the years 1989 to 1998. Between 1989 and 1993 violent crime declined by 12% from 2,383.6 offences per 100,000 population to 2,089.8 and burglary decreased by 18% (from 1,646.3 offences to 1,350.3 offences per 100,000 population). While acknowledging that the downward trend did accelerate in 1993, Brereton notes that “on the basis of the trend of the preceding years it seems reasonable to assume that there would have been a further fall in reported crime after 1993, even if the NYPD had not undergone any re-engineering” (1999: 5).

In addition, there were significant declines in crime rates in the mid-1990s in 17 of the 25 largest cities in America (Dixon, 1999). Between 1990 and 1996 the crime rate also decreased in 160 of 197 American cities with a population of 100,000 or more. The crime rate declined by at least 20% in 65 cities and by 30% or more in 31 cities. Nine cities experienced decreases of between 40% and 49% (Number Crunchers Precision Journalism 1999).

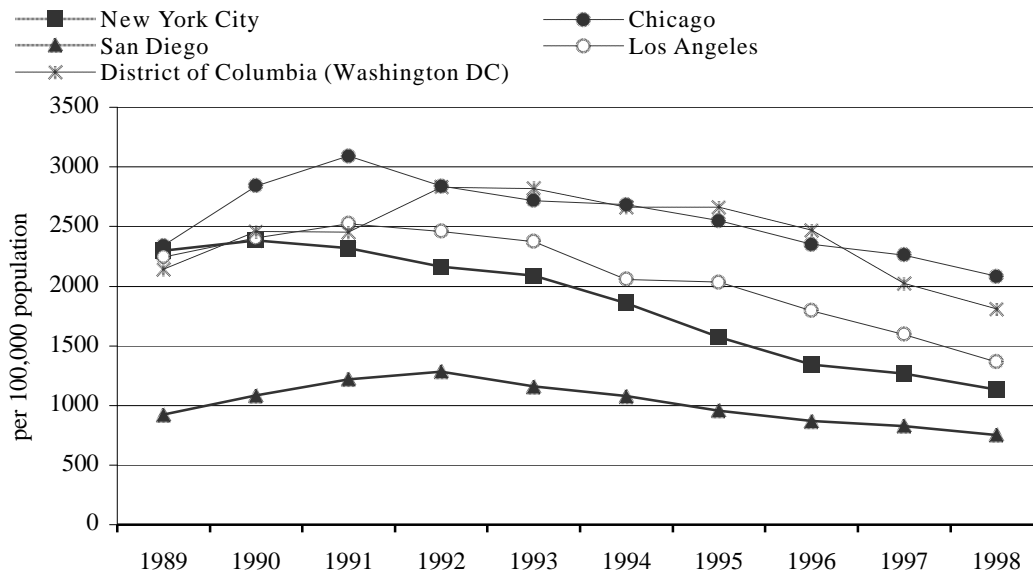
It should also be noted that reductions occurred in cities using very different policing strategies from those operating in New York. Brereton (1999) compared crime rates in New York City with those of four other large American cities known to operate under different policing models: namely Chicago, San Diego, Washington DC and Los Angeles. Since 1993, Chicago has been implementing a community policing strategy which emphasises improving police-community relations by working closely with community representatives. The community policing model is also characterised by a low level of coercive policing strategies such as arrest, stop and search, and by a focus on responses to community concerns at a local level, rather than across the whole police organisation.

Figure 1
Reported Crime Rate: Violent Crime and Burglary New York City 1989-1998



Source: Brereton (1999).

Figure 2
Reported Rate of Violent Crime: Five US Cities 1989-1998



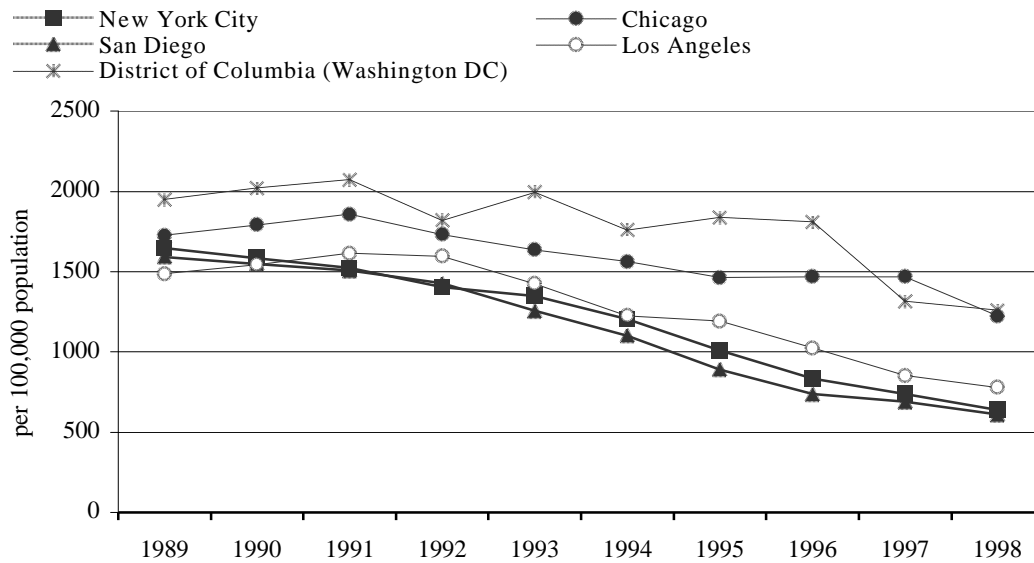
Source: Brereton (1999).

San Diego, on the other hand, is well known for applying problem oriented policing which also emphasises working with the community and other non-police agencies. However, it contrasts with community policing in that it emphasises a problem solving approach using information to develop strategies and evaluate responses at the organisational level. Washington DC recently commenced a patrol based strategy which includes a problem oriented approach and Los Angeles, while not regarded as an example of any one type of policing strategy, has one of the largest Police Departments in the United States. Both community policing and problem oriented policing differ from the New York model which is characterised by a high level of coercive policing and a low level of community (or other agency) involvement (Brereton, 1999).

As shown in Figure 2, beginning in the early 1990s all five cities experienced a decline in the reported rate of violent crime. In particular, the trends for New York, Los Angeles and Chicago are very similar. San Diego shows the smallest decline in the violent crime rate, although it is noted that the rate was much lower than the other four cities for the whole period in question. In contrast to the other cities, Washington DC did not experience a substantial decline until later in the period (ie from 1997 on). Figure 3 shows the reported rate of burglary for the same five cities. As indicated, all cities experienced a decrease between 1989 and 1998, commencing approximately in 1992. The trends for New York, San Diego and Los Angeles are very similar despite their different policing strategies. Washington DC shows a more variable rate with a large decrease in 1997, while the rate of burglary in Chicago remained stable between 1995 and 1997 before recording a large decrease in 1998.

In summary, while new policing strategies in New York City may have contributed to the decreasing crime rate, corresponding decreases in cities without New York style zero tolerance strongly indicate that other factors were also involved.

Figure 3
Reported Rate of Burglary: Five US Cities 1989-1998



Source: Brereton (1999).

Other factors contributing to lower crime rates

It has been suggested that economic revival and demographic shifts, such as a decreasing proportion of young people in the population, were key factors in recent US crime rate reductions. Analysts have also pointed out a connection between the falling murder rate and the decline of the crack cocaine epidemic. Crack is closely linked to violence, due to its physiological effects and the extreme competition generated by its low price. However, the crack epidemic peaked in the late 1980s, as indicated by the decline in cocaine use among younger arrestees from 70% in 1988 to 31% in 1991 and to 22% in 1996 (Travis, 1998).

Hartlepool, England

Examples of zero tolerance policing have also been documented in Britain. At the same time that Bratton was 're-engineering' the New York City Police Department, DCI Ray Mallon became Chief of Crime Strategies in Hartlepool. Hartlepool is a town of 90,000 residents, situated on the north-east coast of England in Cleveland County. Between 1980 and 1992 overall crime figures for Cleveland

County more than doubled, while the number of reported burglaries tripled (from 4,300 to 13,200). In the four months prior to Mallon's appointment Hartlepool's monthly crime figure had risen by 38% to 1,600 and burglary had increased by 31% (Dennis and Mallon, 1997).

Mallon's approach was very similar to that of Bratton in New York. His stated objectives were to reduce crime and 'recover control' of the streets (Dennis and Mallon, 1997:66). To achieve these objectives Mallon stressed the need to take action against anti-social behaviour and nuisance crime. While the exact details of this approach were not described, it appears that zero tolerance in Hartlepool was discretionary and did not necessarily mean arrest for these minor offences. For example, in 1995/96 there were 59 cases involving boys and young men 'hanging about' in shopping centres, intimidating residents and passers-by. In just under half of these cases (28) the youth was arrested. For the remaining cases a letter was sent to parents informing them of the boy's actions.

In addition to targeting minor offences, Mallon tackled burglary through the cultivation of informants and the use of stop and search powers on known offenders engaged in suspicious behaviour. At the same time that these tactics were implemented, Mallon placed more emphasis on the use of intelligence-led policing. He also set about improving the morale of the Hartlepool police service by asserting the notion that police could make a difference, by encouraging teamwork and the sharing of knowledge.

Implicit in Mallon's approach was support for the 'broken windows' theory of crime. His emphasis on minor crime and disorder was seen as a way to prevent young people from a criminal career, as well as a method for detecting more serious offenders. He also actively supported the use of jail terms for offenders and was outspoken against magistrates who did not use this penalty option (Dennis and Mallon, 1997).

Dennis and Mallon (1997) claim that, as a direct result of these practices, the total number of reported crimes in Hartlepool decreased by 27% between 1994 and 1996 (from 15,600 to 11,300). In the same period vehicle theft declined by 56% and domestic burglaries decreased by 31%.

Strathclyde, Scotland

The Spotlight Initiative in Strathclyde, Scotland shares some characteristics with the strategies implemented in New York and Hartlepool, although Chief Constable John Orr claims it is misleading to label the initiative as zero tolerance policing. The Strathclyde Police is the largest force in Scotland with approximately 7,200 police officers serving half the population of Scotland (about 2.2 million). By early 1991 crime in the Strathclyde area was at its highest level since 1976, with offences involving firearms, such as armed robbery, becoming more prevalent (Orr, 1997).

Prior to John Orr's appointment in 1996, his predecessor, Leslie Sharp, had instigated a number of short term 'operations' targeting criminals carrying knives, housebreaking, drug dealers and use of firearms. These operations were generally linked to a 20% fall in crime by 1996. However, despite this reduction, Orr claims that fear of crime within the community was rising because residents were still experiencing the impact of minor crime. While the police were concentrating their efforts on more serious crime that actually affects only a small number of people, minor crimes such as street drinking, graffiti and vandalism accounted for more than half of the calls to police.

The Spotlight Initiative was a deliberate strategy to tackle minor crime, including under-age drinking, public drinking, street robbery, vandalism and truancy. Using the approach of a maximum street presence, emphasis on intelligence-led policing, and cooperation with local government agencies, the initiative aimed at increasing detections by focussing the attention of the police on one issue at a time. The initial results showed a 33% decrease in the number of persons found in possession of a knife. At the same time there were also decreases in more serious offences, with violent crimes down by 13%. (Orr, 1997).

While the Spotlight Initiative can be seen as zero tolerance in that it clearly targeted minor crime and disorder, it is not known whether the police were expected to use discretion or to simply arrest/report all offenders.

Impact of zero tolerance in Britain

As in New York, both Hartlepool and Strathclyde appear to have achieved reductions in crime at the same time as new police tactics were introduced. In contrast to New York, however, there has been little independent analysis of zero tolerance policing in Hartlepool and Strathclyde and its links to crime reduction. It is evident that both towns experienced

reforms much broader than zero tolerance, including intelligence-led policing and improvements in police morale. As a result it is difficult to quantify the actual impact of zero tolerance. It should also be noted that Strathclyde had already experienced a 20% decline in the number of crimes prior to the Spotlight Initiative.

CONCERNS ABOUT ZERO TOLERANCE

Zero tolerance policing has been criticised in more general terms. Thames Valley Chief Constable Charles Pollard argues that the New York approach is based on aggression and ruthlessness in dealing with low level criminality (for example, raiding an apartment block and arresting all those who cannot account for being there). Bratton himself acknowledges that New York experienced an increase in complaints against the police (Bratton, 1997). Pollard also suggests that the over-emphasis on quantitative statistical results will inevitably lead to manipulation of the crime figures. He contends that zero tolerance policing places more emphasis on short term law enforcement (ie arrest, conviction and imprisonment – leading to a dramatic increase in the prison population) and less on long term strategies (ie working within communities and with other government agencies such as education, health and planning) (Pollard, 1997). In similar terms Commissioner Hyde argues that the zero tolerance approach is a simplistic “quick fix” which does not address the underlying causes of crime (Hyde, 1998: 3).

ZERO TOLERANCE IN AUSTRALIA

The Prime Minister, Mr Howard, was recently reported as advocating an investigation into the applicability of zero tolerance policing in Australia, particularly in relation to drugs. Mr Howard referred to the reduction in the New York crime rate and attributed this to zero tolerance policies (Harvey, 1999).

To date, there has been no trial of any form of policing in Australia explicitly labelled as zero tolerance. However, as discussed previously, the South Australian police already selectively apply zero tolerance to certain offences, including drink driving. Other examples of ‘tough policing’ of particular offences have also been documented in Australia. For example, there has been a series of crackdowns on the heroin market in Cabramatta, in Sydney’s outer west, with mixed results. As reported by Maher et al (1998), several undercover operations as well as a highly visible uniformed police presence in Cabramatta from July 1997, increased the risk of detection as perceived by drug users and dealers. While it appears that there has been some improvement in the ‘quality of life’ in the central business district, there have been considerable negative consequences in relation to public health. The fear of being ‘busted’ meant users were “less likely to carry injecting equipment on their person,... more likely to share syringes and to use discarded equipment and less likely to dispose of used equipment safely” (Maher et al 1998: 108). There were also negative consequences in relation to drug market displacement both within Cabramatta (from the streets to local shopping arcades) and outside – to other suburbs such as Campbelltown. As police targeted known injection locations in the central business district there were reports of dispersal of drug users over a wider geographical area. There was also evidence of increased complexity and sophistication in the drug market including the increased use of intermediaries, mobile phones and ‘drive by’ transactions. In addition, Maher et al (1998) suggest that heavy police intervention may

have forced some dealers to leave the drug market and turn to other types of crime (eg property crime that may involve violence) to generate income.

Relevance to Australian crime patterns

Academics are generally in agreement that the New York experience could not be applied in Australia with the same results, because the patterns of crime and criminality are very different in Australia compared with New York. In Australia, homicide is frequently a crime committed by people who know each other. In contrast, homicide in New York primarily involves young people in drug market disputes on the streets. David Dixon (1999) argues that because of the private nature of violence in Australia, zero tolerance policing New York style is unlikely to have any impact upon our rate of violent crime.

Don Weatherburn, Director of the New South Wales Bureau of Crime Statistics, agrees with this assessment, but suggests that a trial of zero tolerance policing targeted at property crimes should be explored. He stresses, however, that any trial should be tightly monitored to avoid 'uncontrolled' policing (Weatherburn, ABC Law Report 25/8/98). The South Australian Commissioner of Police suggests that zero tolerance is only one of a number of policing tactics that might be applied, as part of an intelligence-led, problem solving approach (Hyde, 1998).

Resource implications

Concern has also been expressed about the implications of New York style zero tolerance policing for Australian police resources, court workloads and correctional facilities. Between 1994 and 1998, the total number of arrests in New York City increased by 12%, while the number of misdemeanour arrests increased by 27% (Division of Criminal Justice Services, 1999). The impact of zero tolerance policing on police numbers in New York is the subject of some debate. According to Bratton (1997), the NYPD employed an additional 7,000 police officers *before* his appointment as Commissioner in 1993. This suggests that the new policies resulted in a redeployment of resources rather than an increase. However, given that the number of police is traditionally much lower in South Australia than in New York (234 per 100,000 population in South Australia in 1997, compared with 520 in New York), it is highly likely that some increase in the number of police officers would be required if South Australia were to implement policies involving strict enforcement of minor offences.

The second resource implication is the need for greater court resources to deal with increased arrests. Current workloads in New York City courts are very high, with each of the 107 judges in 1997 expected to adjudicate an average of 5,600 cases a year (Criminal Court of the City of New York). This compares with approximately 1,440 cases per magistrate in South Australia in 1997/98 (South Australian Courts Administration Authority). However, it is not known whether the New York figure has increased in recent years in response to new policing strategies or how it compares with other American cities.

A third potential cost of zero tolerance is a growth in the prison population and the subsequent need for additional prison facilities. It is argued by some analysts (eg Dixon, 1999) that zero tolerance policing of minor offences increases the prison population. Although a conviction for a minor offence may initially result in a fine or community order, it may indirectly lead to imprisonment through fine default and order breaches. In addition, enforcement of minor offences may also lead to detection of offenders wanted for more serious crimes. Between 1993 and 1997 the number of prisoners in New York increased by 25% (New York Department of Correction). However, Brereton (1999) argues that this increase is more likely the result of tougher sentencing policies and is actually lower than the 41.5% growth in the total United States prison population between 1992 and 1997.

Social implications

New York style zero tolerance policing has serious implications for Indigenous Australians. Cunneen (1999) suggests that a strong law enforcement approach to minor crime, and public order offences in particular, will result in the increased criminalisation of Indigenous people. Aboriginal and Torres Strait Islander people are already over-represented in police custody figures for public drunkenness and other public order offences. Commentators note that the zero tolerance emphasis on street offences inevitably targets the poor and homeless, and the racial and ethnic minorities who are concentrated in these groups. Further criminalisation of these groups will only increase their social and economic marginalisation.

Furthermore, intensive street level policing may lead to a breakdown of police-community relations. According to Dixon (1999) the concept of 'cleaning up the streets' to improve the quality of life for 'law abiding' residents overlooks the fact that offenders (eg street-level user-dealers) are also members of the community. The families of these offenders may support moves to decrease crime, but they resent heavy-handed police tactics that can lead to mistreatment of their sons, daughters, brothers and sisters. Dixon also points out that the 1980/81 riots in Brixton were in response to intensive stop and search operations carried out by the Metropolitan Police.

SUMMARY

Zero tolerance policing can be defined in a number of ways. The most publicised approach involves strict, non-discretionary enforcement of laws regardless of the circumstances or the minor nature of the offence. However, advocates of zero tolerance stress that while it does involve 'positive action' by the police, it does not necessarily equate to automatic arrest for trivial offences. Advocates of zero tolerance claim that it reduces both minor and major crime, that it reduces the fear of crime in the community and increases confidence in the police. On the other hand, critics dispute the link between zero tolerance and crime reduction, suggesting that other reforms in policing, as well as social and demographic factors contributed to recent declines in crime rates. Critics also express concern over the aggressive, non-discretionary nature of policing often associated with zero tolerance and its implications for police resources, court workloads, prison facilities and police-community relations.

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