

BALANCE

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Zero Tolerance Policing

Former Chief Justice and Administrator and current Law Reform Commissioner Austin Asche AC QC was a member of a delegation from the Northern Territory which travelled to the US to examine aspects of zero tolerance policing. The delegation spoke to members of the LAPD, the NYPD, representatives of the DA's office in both cities and members of the Mayor of New York's office. Following his return, Mr Asche produced a report of his findings. Following are some extracts from that report.

"Essentially the policy is one of strict and constant reinforcement of minor offences, usually specific and targeted offences.

The rationale is based on the "broken windows" theory, i.e. that when one broken window is left unrepaired that is taken as a sign that authority is not in control and more broken windows will follow; with an inevitable progression as minor offences left unchecked will lead to major offences; and ultimately a dangerous neighbourhood from which the ordinary citizen then departs, or in which the ordinary citizen lives in fear and hopelessness.

Methods Used

Essentially the ZTP procedure involves concentrating numbers of police in specified areas and arresting or bringing in for questioning all people involved in "nuisance" offences, or actions which, while possibly legal and lawful at the start, had become a nuisance or aggravation to the citizens.

The Los Angeles police also used a method that does not seem to be used in New York and required a special Statute. The method is used to break up gangs and involves police seeking court injunctions against specified gang members. If this application is successful (and it appears that many are) these members are prohibited by court order from various actions, e.g. associating with other named persons, entering certain premises, being on the streets at certain times etc.

Coupled with ZTP and by all accounts a very important part of it, is COMSTAT, i.e. Computer Statistics. The importance here was the speed and thoroughness with which crime statistics are compiled. Comstat is "a statistical database that tracks crime by computer, categorising incidents type, place and time

of occurrence". (Get Ready for Comstat - Angie Drabnet - PSN Internet Service). Police officers in charge of districts confer once or twice a week with their chief. The conference lasts about 3 hours and is very thorough. The concept of accountability is applied and police officers must justify

their actions and statistics and risk demotion or transfer if they compare unfavourably with others. The obvious risk is that some might be tempted to "cook" figures or become overzealous in producing them, e.g. by unnecessary arrests.

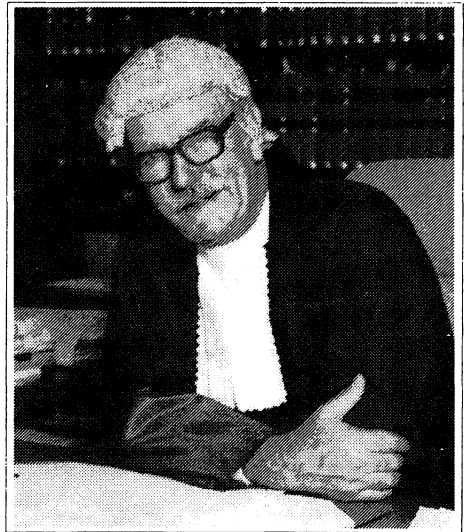
Criticisms and Dangers

"Leaving aside the argument as to what causes a decrease in crime, Norman Siegel (Executive Director of the New York Civil Liberties Union) and others are seriously concerned with what they see as an increase in police harassment and even brutality in enforcing the policy. Plainly enough any instruction to police to become more vigorous towards crime, particularly minor crime, can be construed by a few as a licence to bully, harass, or in extreme cases, assault ordinary citizens.

A conclusion, therefore must be that if a policy of ZTP or something like this is attempted, special effort must be made to see that police act with restraint. In my view this would not be difficult in a Police Force with a high reputation and high morale.

Police Behaviour

It is claimed that crime reduction can occur without unnecessary police aggression and the example given in one article



The Hon Austin Asche AC QC

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in the *Washington Post* is that of Boston where there has been a sharp reduction in both crime and complaints of police brutality.

Furthermore, ZTP is not incompatible with what is known as POP (problem-oriented policing) where the police and communities collaborate. From such a collaboration may come a ZTP more precisely focused on what is disturbing the community.

Mr Bratton, the former New York Police Commissioner who instigated ZTP has said that it is more important to concentrate on problem-oriented policing as an overall strategy and decide at a local level if aggressive zero tolerance tactics would be appropriate.

If ZTP or some part of it were to be applied in the Northern Territory, the following comments may be of relevance.

1. Obviously actions taken in cities of 6-7 million may not necessarily apply to cities and towns in the Northern Territory.
2. On the other hand the simplest form of ZTP is concentration of resources in certain areas and targeting certain offences. This can apply to small as well as large populations.
3. No additional legislation is needed in the NT to implement the policy. Police could act under the *Summary Offences Act* or various other acts which created minor offences. The one exception to this might be to recast drunkenness as an offence if it were felt police should be given further powers in this direction.
4. The Los Angeles approach of seeking court injunctions arose out of the "gangster" situation which does not seem to apply in the NT. It is not applied in New York and is a departure from the accepted way for which injunctions are sought from the courts.
5. Having regard to the relatively small size of Territory towns, one would think that the main places where the policy could be applied would be Darwin and Alice Springs; and to a lesser extent, Katherine, Tennant Creek and Nhulunbuy. This however, might prove an advantage since, given the comparatively small population, it would be very easy to "blan-

ket" certain areas with a relatively small number of police.

6. While police would be expected to act vigorously, that should not be an excuse for unnecessary harassment, abuse or assault.
7. New York and Los Angeles found it necessary to increase their police force. I do not know how this would apply in the NT. I merely make the observation.
8. I assume some form of COMSTAT is already in place. Whether that conforms to the pattern now operating in New York and Los Angeles and whether it is necessary to do so, is not within my knowledge, but I have no doubt that the Police Commissioner has such matters in hand.
9. One would hope that any policy of ZTP would be accompanied by Problem Oriented Policing. As various writers have pointed out, the two are not incompatible and according to at least one account, have been successfully combined in Boston.
10. The final comment could relate to aboriginal communities. While the sort of ZTP presently discussed could hardly apply where there are only one or two police in the district, it may have some relevance to night patrols or other bodies formed to keep order by the communities themselves. Some communities are a vivid example of the "broken window" syndrome, yet I have little doubt that most would want the situation improved, and as proof of that, one notices a desire, sometimes carried into effect, to expel disruptive members. I make a suggestion in line with the resolution of the recent Statehood Convention in Darwin that Aboriginal Customary Law should be regarded as a source of law.

Perhaps, therefore, some form of community law keepers could be given power to enforce certain customary laws and to that end, some form of ZTP be permitted. This is one area where legislation would be needed and I appreciate that there would be difficulties in formulating such a statute. But perhaps it should be tried."

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