

Down To Zero

By Jon Tippett, President, CLANT

Travelling to New York to ask that city's administrators if "zero tolerance policy works" would be like travelling to Vietnam in 1969 and asking General Westmoreland if America was winning the war. The response and the reality are likely to be quite different.

In 1969 it was the "fortified hamlet" program that was successfully keeping the beasts away. Now zero tolerance, born in one of the world's largest urban nightmares and designed to rid the streets of crack dealers and gangs of pre-teen killers, is about to be launched onto the Mean Streets of Alice Springs, Darwin, Katherine, Aylangula and Borroloola.

It will target the "itinerants" (read Aboriginals), we are told, whose encroachment upon the decent law abiding Territorian, "the forgotten man", is akin to that of the marauding visigoths and vandals of history. In the face of this impending attack upon the soft underbelly of the Northern Territory, emissaries have travelled abroad to seek counsel from the wise men of another kingdom. Television images are bounced back to our community that show the face of our Attorney-General accepting the gospel according to the New York Police Department with all the studied concentration of road kill.

In one piece of footage Mr Stone points to figures neatly arranged on a white board as proof that zero tolerance works. Who is he kidding? This is a man who produces figures to support the unjust and morally repugnant system of mandatory sentencing in August 1997 only months after the new law had been introduced that have never been released for public scrutiny. This year he again produced figures that, without any freedom of information legislation, cannot be properly scrutinised. I have it on sound authority from a senior government statistician that social trends following the introduction of such legislation cannot be reliably discerned by the application of statistics under a five year

period. However, even a cursory glance at the figures that were recently produced by the government discloses a fluctuation in crime rates that cannot in any meaningful way be attributed to mandatory sentencing. Closed governments have a habit of relying upon information only they are privy to in order to prop up bad and destructive law and order policies that have been developed through the application of extremist political ideology.

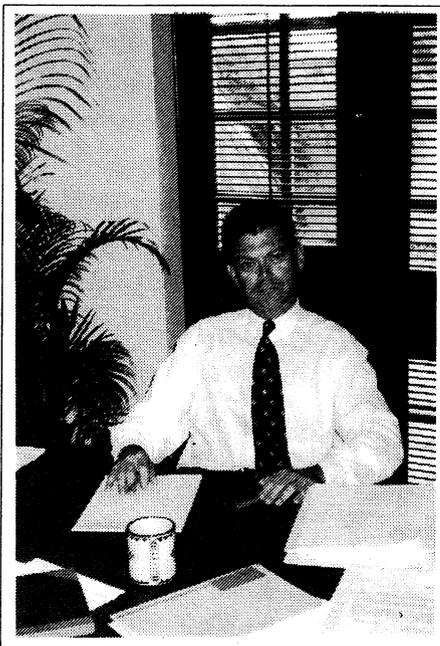
Lawyers have a habit of sticking their heads in the sand and letting them get away with it.

Our television screens have been used to herald the shining dawn of a new age, the age of zero tolerance. Its clutch of proponents, in company with those who just went along for the ride, are pictured dramatically striding through the streets and parks of the Big Apple like confused trainee gunfighters who have just lost their horses.

Are we expected to swallow such nonsense or is it really a joke without a punch line? How about it? Darwin and New York getting together and getting tough on crime.

The whole idea of zero tolerance generally is not new. A long time ago a chap by the name of Draco reorganised the laws of Athens with admirable impartiality. However, the severity of his penalties, death for almost every offence, made the strict execution of his code very unpopular. Now Draco didn't have to travel with a quango to Thebes to come up with his version of zero tolerance. He thought of it all by himself and he didn't have the Internet as a source of information either. The Greek locals found zero tolerance a bit draconian for their liking.

What does that chilling phrase "zero tolerance" mean to us? The answer is not much, but you don't have to go to New York to find out. Australians have studied the idea and a huge amount of information upon the topic is available on your computer.



One of the Australians who has investigated the operation of zero tolerance policing is Dr David Dixon, Associate Professor of the Faculty of Law, University of New South Wales. Rather than borrowing from Dr Dixon's work in the area I think it is important that some of his comments are reproduced at length. (I understand that he intends to write a full paper upon the topic in the near future):-

"The idea that policing tactics can significantly reduce crime runs counter to the findings of several decades of police research. The principal claims about New York's success are made not on the basis of independent research, but by politicians and ex-police officers for whom the New York experience has become a political and financial golden goose, producing votes, book sales, and consultancy fees. Before seeking to emulate New York's success, we should look a little more carefully both at what happened there and at the relevance of that experience for New South Wales.

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There are other factors in policing and its environment which may explain declining crime in New York. Firstly, the crackdown on public order and minor offences was just the most-publicised feature of wide-ranging changes in policing. As well as significant managerial changes, the NYPD moved heavily into intelligence-led policing, in which traditional reactive tactics are overtaken by computer assisted identification of places and people at risk. This new policing is harder to sell to a public fearful of crime, but its impact may well be significant. Secondly, a crucial factor in New York's crime rates was the decline in the crack epidemic (and of the appalling violence which went with it). This accords with the fact that crime rates have fallen in cities in the US which have not adopted a "broken windows" approach. It is likely that shifts in crime rates (up or down) are the product of multiple, complex factors.

It would be foolish to deny that the police may be responsible for some of the decline in crime. However, the lessons to be learnt from the New York are of limited relevance to NSW. Pro-active searches and arrests for minor offences may be productive when, as in New York, the target population is highly criminalised, with many people with warrants or on parole for serious offences, and in which carrying guns is connected closely to a pattern of serious assaults and homicides in public places. The population and patterns of crime in NSW are very different in each respect. It would be unrealistic to expect pro-active street policing to significantly affect rates of serious crime in NSW.

New York-style policing involves using enforcement of the criminal law as the primary tool in dealing with the disorderly behaviour of people who are drunk or mentally ill. For us, this would mean revert-

ing to methods of dealing with social problems which have long been discredited. It beggars belief that zero tolerance law enforcement should be promoted to deal with public drunkenness in the Northern Territory: the Royal Commission into Aboriginal Deaths in Custody showed us where that road leads. New York-style policing means fighting a war on drugs at a time when Australian Police recognise its futility, and support harm minimising. Our priority here should be putting this into policing practice, rather than indulging in fantasies of zero tolerance. New York-style policing will greatly expand the prison population (indeed, its exponents regard this as one of its great virtues) at a time when sensible policy is to minimise use of imprisonment because of its cost and its counterproductive effects. (Indeed, if one wanted to make minor crime lead to major crime, sending to jail those who commit the former would be the best way of doing so). In general, we grossly underestimate our own policies and institutions when we slavishly look to the United States for guidance. In many of the matters involve here, we have more to teach New York than to learn from it."

Another writer, Darren Palmer, who teaches legal studies at La Trobe University, in his article *When Tolerance is Zero* observes that 7000 new police were appointed by the New York administration to put into effect the policy of zero tolerance. He states in that article that two things are worth noting:-

"First, official crime statistics are a very limited and poor way of understanding levels of crime and measurement of police performance. The evidence that exists suggests a limited relationship between crime and police practices and that at best there might be a small short-term change. Second, New York has not been alone in securing significant drops in the recorded rate of crime. As one sceptical English Chief Con-

stable has noted, San Diego similar falls in recorded crime out the adoption of "Zero tolerance" tactics, thus suggesting there are quite distinct factors at work. If any weight is to be accorded to the effects of "Zero tolerance" through crime statistics, it would need far more information on such matters as crime reporting changes to reporting practices, changes to recording practices, any legislative changes, and comparison with other places."

Unfortunately, we are unlikely to hear such facts from the gallant but hardy travellers who have returned from the crucible of crime prevention. We are told how valuable the "experience" was. We will hear rhetoric designed to justify the expense of the mission rather than to inform us of its content. Can we expect more? After all is Mayor Giuliani likely to be any more forthcoming on zero tolerance than Mr Shane Stone has been about mandatory sentencing?

The present regime in the Northern Territory has had twenty years to develop strategies in crime prevention. It appears to have failed so badly that assistance from the American could save it.

Mr Stone QC says the itinerant is at the gates and we have to defend ourselves. In this debate I prefer the logic of Tonto: "What do you mean 'we', white man'?"

BALANCE

Published by
The Law Society of the Northern Territory
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