

**ZERO TOLERANCE POLICING: NEW AUTHORITARIANISM OR NEW
LIBERALISM?**

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INTRODUCTION

The notion of “zero tolerance” policing has been widely discussed in the media in recent years and has received considerable support from politicians right across the political spectrum both in the USA and the UK. Proponents of this apparently “get-tough” crime control style of policing have used widespread public enthusiasm for such initiatives to justify their implementation.² Opponents observe this policing style to be invariably targeted at poor and excluded members of society and part of a growing tendency towards authoritarianism in social policy.³

This paper proposes that simply dismissing public support for zero tolerance-style policing strategies as being part of a reactionary backlash against social reformist developments in policing - and wider society in general - fails to address some very legitimate public concerns about law and order. Indeed, it is the central proposition that such policing initiatives should be seen in the context of an emerging new conceptualisation of liberalism that promotes the notion of citizen responsibility in equal measure to the traditional demand for rights. The paper examines the socio-political circumstances in which different variants of zero tolerance-style policing has been introduced in the USA and the UK and the very different attempts to sustain that approach in both constituencies.

The structure of this paper is as follows. First, zero tolerance-style policing strategies are explained and located in theoretical context. Second, contemporary social formations

in which these policing initiatives have been introduced are discussed. Third, the introduction - and attempts to sustain - zero tolerance-style policing in New York City are examined. Fourth, the introduction – and attempts to sustain – such policing initiatives in various constituencies in Britain are examined. Fifth, it is concluded that “proactive, confident, assertive” policing initiatives can be successful but they need to be driven by the concerns and retain the legitimacy of the community in which they are introduced. We start with an examination of exactly what zero tolerance-style policing is.

ZERO TOLERANCE-STYLE POLICING STRATEGIES AND THEORETICAL CONTEXT

The notion of “zero tolerance policing” has been largely associated with the “broken windows thesis” discussed below. Its origins nonetheless lie very much in the “just say no to drugs” policies of the Reagan administration in the USA during the early 1980s. The notion of “zero tolerance” was later applied in other areas of public policy. In the USA, the concept became associated with targeting drink driving among teenagers and violence and guns in schools⁴ and later with campaigns against domestic violence, sexual assault and child abuse in various constituencies including the USA, UK, Canada and Australia.

In the area of policing, “zero tolerance” is a generic expression that has been used to describe a wide variety of what this author has termed “proactive, confident, assertive policing strategies”.⁵ The actual content of the various initiatives has varied with location but all have been fundamentally underpinned by the theoretical proposition that a strong law enforcement approach to minor crime - in particular public order offences - will help

prevent the incidence of more serious offences and ultimately lead to falling crime rates. Central to this proposition is the “broken windows” thesis developed in the USA in the early 1980s by James Q. Wilson and George Kelling two criminologists usually associated with the political right.⁶ It is suggested that the very existence of unchecked and uncontrolled minor incivilities in a neighbourhood - for example, begging or panhandling, public drunkenness, vandalism and graffiti - increasingly discourages legitimate business and respectable residents while providing a welcoming atmosphere to criminals.

The influence of the “broken windows” thesis has been readily acknowledged by the early pioneers of zero tolerance-style policing, William J. Bratton, the then Commissioner of Police with the New York Police Department (NYPD),⁷ and Superintendent Ray Mallon of the Cleveland Constabulary in the UK.⁸ In support of their argument that a positive proactive presence targeting petty offenders on the street can lead to substantial reductions in crime, they refer us to the statistics for their localities. These show that during the period 1994 to 1996 the official crime rate in New York City decreased by 37% - the homicide rate alone by 50%⁹ - and in Hartlepool, Cleveland, UK, by 27%.¹⁰

We should note that George Kelling has distanced himself on numerous occasions from the term “zero tolerance”. Nonetheless, his seminal text “Mending Broken Windows” - with Catherine Coles - clearly indicates him to be in favour of the notion that the police should “take care of the little things and the big things will take care of themselves” (a popular bumper sticker seen widely on police cars in some parts of the USA).¹¹ Moreover, it is a text that unambiguously opposes the handing over of US cities

to squatter camps of supposedly “homeless” people involved in activities on the streets and subways that most of us would define as extortion. Furthermore, it provides a meticulous and scholarly assault on the civil liberties “industry” that has sought to support those groups.

While at first sight, this stance might appear to be an unashamedly right-wing and illiberal; it is nonetheless a viewpoint very much in harmony with what can be identified as an emerging new configuration of liberalism both in the UK and the USA. The individual citizen is considered to have both responsibilities towards the general-well-being of society and the traditionally acknowledged entitlement to rights. It is a notion with significant criminological foundations in the increasingly influential idea that the rights of victims should be prioritised over those of the perpetrator.¹² In short, from this perspective it is acknowledged that both individuals and the collectivities - or communities - in which they live have rights. Consider the following quotation from Professor Eli Silverman, at John Jay College of Criminal Justice, New York City, as an example of that thinking located in the US context: “It is important to note that the community also has rights. Successful zero tolerance policing is more in harmony with community wishes than is the abandonment of public spaces to those who violate other people’s rights, privacy and passage”.¹³

There are however considerable legitimate grounds for concern about the nature of zero tolerance-style policing strategies. Academic opponents have noted a lack of convincing evidence to support a direct causal link between such initiatives and the apparent fall in the crime figures. Perhaps more disturbingly, they have raised the spectre of a return to the failed “military-style” proactive “swamp” policing tactics previously

pursued in inner-city neighbourhoods in both the USA and the UK and in which perceived police partiality and brutality culminated in major public disorders epitomised by Brixton, UK, 1981 and Los Angeles, 1992.

It is highly significant that respected criminologists with links to both ends of the political spectrum from both sides of the Atlantic have agreed in their criticisms of military-style policing. From the USA, James Q. Wilson - co-author of the “broken windows” thesis¹⁴ and strongly associated with the political “new right” - has argued that increased police activity targeted at “crime areas” can *appear* racist because black people make up a large proportion of such neighbourhoods. Moreover, *actual* racism leads to mistrust of the service by those they claim to serve. Consequently, the information flow on which the police heavily depend in order to successfully function as a crime-fighting entity ceases and they subsequently come to feel that the local population holds them in contempt. The British criminologists John Lea and Jock Young - strongly identified with the new political left – have taken the argument a step further and propose that reductions in crime that apparently occur as a result of military-style policing may actually be the outcome of an unwillingness to report offences on the part of an alienated public.¹⁵

Thus, it has been widely acknowledged that military-style policing amounts to the brutalisation of communities that in turn leads to more, not less, crime by the inhabitants. Moreover, illegal actions - whether perceived or actual - committed by over-enthusiastic police officers provokes younger inhabitants by bringing home to them their own powerlessness. This perceived unfair treatment and racism further reduces the flow of information from the public, and this in turn compels the police to become still more oppressive in order to obtain results. With the loss of support from the local community

officers come to rely heavily on stereotypes. This accentuates the impression of unfair treatment among the residents and the vicious circle is complete. The police become the perceived enemy of the community and offenders are secretly or even overtly admired and given sanctuary.

Therefore, the argument against military-style policing extends beyond normative allegations of alleged racism and unfair treatment. Such strategies are identified as simply counter-productive: they reduce the quality and quantity of information flow to the police that is vital to the detection of serious offenders. At the same time, there is an extension of the labelling process: entire communities are labelled “criminal” with the police themselves attracting the label “enemy”. Not only do they receive less information about criminals and their activities than they otherwise would, they also tend to provoke resentment and public unrest.

The Scarman Report¹⁶ into the Brixton disorders stressed that all aspects of police work should be premised upon the *active consent, trust and participation* of the community. The British public police service thus subsequently sought to undergo a transition towards community policing where “the intention was to break the cycle of antagonism and alienation that had hitherto existed between the police and some - invariably ethnic-minority – communities”.¹⁷

With the crime figures, apparently forever-increasing, community-policing strategies nonetheless - starved of resources and commitment from senior management - appeared not to work or satisfy public demand.¹⁸ The solution - for supporters of the community-policing model - is adequate implementation. By inference, it is preferable that the police have a tolerant attitude to minor criminal activity in certain communities than risk further

alienation and potential serious social unrest. However, it is a viewpoint not widely shared among the public. Crime surveys conducted in the UK have repeatedly shown that the public want a visible police presence on their streets.¹⁹ Senior police officers and their academic supporters argue however that there are insufficient resources available to implement such a strategy. Those police professionals who promise the public otherwise are accused of “dishonest policing”.²⁰ It is possible to observe an extremely convenient convergence between two discourses. On one hand, there is a traditional liberal/libertarian criminal justice perspective that proposes that the police should withdraw from whole areas of the social world so that they do not further criminalise groups of dispossessed unfortunates. On the other hand, there are the material concerns of senior police management with limited resources. There is a most convenient justification for doing little.²¹

For some years this considered withdrawal from the streets appears to have been *de facto* policing policy in large - predominantly urban - geographical areas of both the USA²² and Britain.²³ In general, it was an unspoken orthodoxy unchallenged until the introduction in the USA of zero tolerance-style policing strategies.²⁴ However, the latter style of policing does not have to be incompatible with the community-policing ideal.

The US policing academic Friedmann²⁵ provides a basis for theorising a more assertive form of community policing that takes account of both the rights of the community *and* the individual:

Community policing is a policy and a strategy aimed at achieving more effective and efficient crime control, reduced fear of crime, improved quality

of life, improved police services and police legitimacy, through a pro-active reliance on community resources that seeks to change crime causing conditions. It assumes a need for greater accountability of police, greater public share in decision-making and greater concerns for civil rights and liberties.²⁶

This author has proposed elsewhere that those zero tolerance-style policing strategies that aspire to *widespread legitimacy* and successes are those compatible with this definition. The police service takes a proactive, confident and assertive central role in seeking to confront and control crime but at the same time is highly dependent upon the support and legitimacy of the community it purports to serve.²⁷

In 1993, Mayor Rudolph Giuliani and NYPD Police Commissioner Bill Bratton first introduced a form of zero-tolerance-style policing to New York City.²⁸ Giuliani had been elected the first Republican mayor in the City for over sixty years that year after a campaign strongly focused on the issue of crime and disorder. He appointed Bratton to develop policing strategies to deal with these problems, and co-ordinated, himself, the activities of other essential city agencies.²⁹

Giuliani appears at first sight - and has been widely perceived - to be a fundamentalist right-wing Republican with a Reagan/Thatcherite agenda based on a marriage of authoritarian social policies and free market economics. Bratton firmly locates the policing initiative they introduced in terms of an opposition to the post-Vietnam liberal/libertarian discourse that he considered had come to dominate US public life.³⁰ Giuliani been himself previously closely linked with the neo-conservative think-tank the

Manhattan Institute founded in 1984 by Anthony Fischer (mentor to Margaret Thatcher) and William Casey (Ronald Reagan's director of the CIA). Closer examination reveals a more complex situation.

New York City is essentially an intensely populated metropolis of fragmented and diverse communities that could best be described - to use the language of contemporary social science - postmodern in nature. Mayor Giuliani could be considered a new style politician who was at least partly alert to some of the implications - and indeed electoral necessities - of trying to first get elected and then second govern such a society, albeit with undoubtedly strong political foundations in the "new" political right. Before examining that notion more closely, it is appropriate at this point to examine the notion of postmodernity - and the modernity it aspires to succeed - closer.

MODERN AND POSTMODERN SOCIAL FORMATIONS

Modern societies are fundamentally mass societies: mass production and consumption, corporate capital and organised labour, economically organising interventionist states, that aspires to full employment, demand management and public investment in health education and welfare.³¹ They are essentially social formations characterised by moral certainty and confidence in the explanatory power of grand social and political theories to solve the problems of humanity.³² There are competing ways of seeing and dealing with the world - for example, conservatism, liberalism and socialism - but the adherents to these different perspectives believe in the capacity of *their* particular doctrine to solve all problems in society.

These grand theories - or metanarratives³³ are invariably presented as signifying the perceived material interests of mass groups or social classes. Modern societies are therefore characterised by different political parties of the left and right with each purporting to have *the* solution to *all* societal problems. They thus seek to initiate programmes that satisfy the different class interests of the mass of society, and this has been achieved, in the main, through the creation of conditions to enhance economic development while at the same time providing widespread welfare provision for the workers.

During the last quarter of the twentieth century, there were however increasing doubts about the survival of the modernist project in an increasingly fragmented and diverse social world. Politically, the traditional parties of the “left” and “right” appeared incapable of representing multiple interest groups as disparate as major industrialists and financiers, small business proprietors, the unemployed and dispossessed, wide ranging gender and sexual preference interests, environmentalists, the homeless and the socially excluded.³⁴ Postmodern politics are thus complex and characterised by moral ambiguity. There is recognition that there are different discourses that can be legitimate and hence right for different people, at different times, in different contexts.³⁵ It is a perspective with its foundations firmly located in cultural relativism where the objective truth - or more accurately the competing objective realities - of modernity, are replaced by the multiple realities or moral ambiguities of postmodernity.

The postmodern condition raises all kinds of issues for politicians and the parties they represent because few of these varied views and discourses can be located easily and exclusively within the traditional boundaries of modernist political thinking. The

successful politician has to balance the various ambiguities in order to gain a coalition of support across a range of issues. The practical implications of these observations for New York City will now be considered.

POLICING THE POSTMODERN METROPOLIS: THE CASE OF NEW YORK CITY

New York City is very much a postmodern metropolis characterised by a mixture of diverse and fragmented communities with a wide range of interests and concerns. Virtually every ethnic group and cuisine available on the planet can be found on its streets. The aspiring successful politician has to be aware of the necessity of building coalitions between these diverse groups and the need to identify crucial issues that unite the widest possible range of interests. The issue identified by Mayor Giuliani was that of crime. At the time New York City was widely recognised as the crime capital of the world, many of its citizens were scared and they wanted something done about the problem).³⁶

It was in this context that Giuliani appointed Bratton Police Commissioner with a mandate to target crime. The latter enacted this authorisation by introducing a computerised managerial or geographical system (GIS) known as “CompStat” into the NYPD. This has been most noticeably used to target ‘quality of life’ crimes - the later termed “zero tolerance” policing strategy - as a means of recovering the streets of New York City for the law-abiding citizen.³⁷

Throughout this paper, the term “zero tolerance-*style* policing” has been used. This has been done for the simple reason that a zero tolerance-*in totality* approach is

impossible to implement. In New York City an extra 7,000 police officers were employed, and sophisticated computer crime mapping techniques were employed to rationalise the police response, to *target* specific areas for a limited time. A more accurate description of the New York initiative - and certainly all zero tolerance-style experiments in Britain, where it should be noted extra resources have not been made available - would be *selective intolerance* of a targeted crime problem.

Liberal academics argue that these zero tolerance-style policing strategies have been used to selectively target the poor and excluded sections of society in the interests of the middle classes.³⁸ However, while this is a perfectly legitimate observation, it is important to note that the targeting of “quality of life” crimes was - at least at its instigation - extremely popular with a large cross-cultural section of the population of New York City.³⁹

The crime statistics suggest a substantial reduction in the number of offences committed and the police received popular credit for this decline. There have been other widely touted explanations for that reduction: fewer young males in the population, the end of the crack-cocaine epidemic and a simultaneous desire among young black males raised in the ghetto to live longer and therefore stop shooting each other.⁴⁰ Logic suggests that these factors must have been influential and this author has argued elsewhere that, it is extremely likely that they provided the sociological preconditions for the initial widespread public support.⁴¹ Silverman is convinced the Giuliani/Bratton policing initiative precipitated the reduction in crime.⁴²

Further logic suggests that the extra 7,000 officers on the streets must have had some influence on events, a supposition supported by a 23 per cent increase in arrests during

the initial period of zero tolerance policing between 1993 and 1996. Moreover, the category of arrest reflected the strategy of targeting low level, public order and minor drug offences. Arrests for misdemeanours rose by 40 per cent; arrests for misdemeanour drug offences by 97 per cent. However, arrests for more serious offences (felonies) only rose by 5 per cent, although there was a 44 per cent decrease in reported serious offences (a 60 per cent decrease in murders, a 12 per cent decrease in rapes, a 48 per cent decrease in robberies and a 46 per cent decrease in burglaries.⁴³ It was this large reduction in the crime figures that was – at least initially – widely popular with the population across class and ethnic boundaries.

Silverman pertinently observes that the black communities of New York City had come to demand the same levels of policing traditionally enjoyed by the white middle-class suburbs.⁴⁴ Now at a theoretical level, this should not come as a surprise to observers and commentators in the UK. For some years, the findings of self-report crime surveys have informed us that it is the poorest sections of our societies - in particular, members of ethnic minority groups - who have experienced the highest level of crime victimisation.⁴⁵ It would thus seem reasonable to assume that the very same people would have a large demand for policing. However, this clearly has not been the case. Many other surveys have shown that these very same ethnic groups are vehemently anti-police.⁴⁶ This is because there has been a widespread perception among black people - acknowledged above in the discussion of the views of left and right realist criminologists - that the police have been racist. Understandably, they do not want police officers they consider to be external to their communities targeting people simply because they are black.

A group of people substantially over-represented among victims of crime - a group with a legitimate demand for quality policing, black people - have been the regular recipients of unprofessional treatment and this has been received as harassment and persecution. Law abiding black people at a high risk of crime victimisation have been discouraged from seeking help from a perceived racist police force and have developed common cause with a delinquent minority in their midst because of a shared status of being black and the victims of racism. In short, there is a widespread demand for policing among black people but they want professional behaviour on the part of the police. It appears that they were promised more professional treatment from the NYPD following the Giuliani /Bratton policing initiative than they had previously enjoyed.

Life is undoubtedly hard for many people in New York City. There are a great many poor people and a great percentage of these are black.⁴⁷ There is a lot of violence, people carry guns, many are killed and even larger numbers of black people are processed annually by the criminal justice system and a good proportion of these are incarcerated.⁴⁸ There is a long established history of police brutality involving black people in New York City.⁴⁹ Yet, there is evidence that the black communities welcomed the Giuliani/Bratton police intervention in a more positive fashion than others previously.⁵⁰ The police were seen to use “assertive” practices, but these were being used against people because they were criminal and not simply because they were members of a particular ethnic group. The police were gaining the respect - and this may have been a very grudging respect in black communities experiencing great poverty and deprivation - of the majority of law abiding black citizens. The crucial label was “criminal” rather than “black”.

It was a central part of the Giuliani/Bratton policing initiative to both tackle police corruption and, most importantly, to be seen by the public to be doing something about the problem. Bratton sent an unambiguous message to New Yorkers that he was going to do something significant about unprofessional behaviour within their police service.⁵¹ Problematically, the promise was not to be honoured in the long term and with it increasingly went support for zero tolerance-style policing in New York City.

Amnesty International noted that police brutality remained a serious problem in the NYPD with the large majority of victims from ethnic minorities. African-Americans made 50 per cent of complaints against the police lodged during 1995 with 26 percent by Latin Americans.⁵² Nearly all of the victims in the cases of deaths in custody were found to be members of ethnic minorities. During the period between 1993 and 1996 when Bratton was Police Commissioner, complaints concerning police conduct rose by 65 per cent. In the four years up to 1998, the filing of civil rights claims against police for abusive conduct had increased by 75 per cent.⁵³ Initially, however, the electoral coalition in support of zero tolerance-style policing held firm.

Rudolph Giuliani was re-elected in November 1997 with a greatly increased majority and electoral analysis suggests his tough stance on crime was responsible for his success.⁵⁴ Significantly, there was a “Democrats for Giuliani” group committed to securing his re-election. This at a time when that party were winning other elected posts in the city by large margins. Being seen to fight crime successfully appeared to be an excellent means of building electoral support between the very diverse ethnic and other interest groups in New York. It was a situation that was not to last.

In August 1997, two police officers were charged with assaulting a Haitian immigrant, Abner Louima, in a police station toilet. He had a broken broom handle forced into his rectum and was subsequently admitted to hospital for two-and-a-half months. One officer was sentenced to 30 years in prison after admitting the assault while another, who was convicted of holding Mr Louima down, was jailed for 15 years and eight months. This author has previously observed that it was significant that the NYPD responded swiftly in speedily charging the two officers with assault and taking action against other implicated personnel at all levels in the organisation.⁵⁵ Mayor Giuliani repeatedly expressed his dismay over the incident and professed his sympathy for the victim. He visited Mr Louima in hospital and appeared on television in an attempt to soothe tempers among the Haitian population. So while there was undoubtedly continuing racism and other forms of unprofessional behaviour in the NYPD, at the same time there appeared to be a high profile response on the part of the authorities to both do something and to be seen doing something about the problem. Police violence against ethnic minorities was nevertheless to continue and the public were increasingly to seek redress.

In February 2000, thousands demonstrated in New York City calling for social justice and law enforcement reforms after the acquittal of four white policemen on charges of murdering an unarmed West African man. Amadou Diallo had been hit by 19 out of 41 shots fired as he stood at the entrance of his Bronx apartment.⁵⁶ The following April, protestors clashed with NYPD officers during a funeral procession for another unarmed black man killed by officers. Twenty-three police officers and four civilians were injured in the clashes, and 27 people were arrested on charges that included disorderly conduct and inciting a riot.⁵⁷ NYPD Commissioner Howard Safir questioned about these three

cases showed a distinct lack of sensitivity in a troubled situation: “Those are tragic incidents but you have to put them in context. We have six million contacts with the public a year. We arrest almost 400, 000 people a year. And you’re talking about three incidents”.⁵⁸

His predecessor, Bill Bratton did not share this view. He proposed was that the police should avoid alienating ethnic minorities and - tacitly acknowledging the views of both the right and left realists discussed above - proposed that police effectiveness would be improved by working with communities. “If the police in 1997 had been pulled back from the assertive policing, the community-based policing could have reduced crime and disorder and improved race relations. Instead, we have the situations we find ourselves in now”.⁵⁹

Mayor Giuliani and Howard Safir stood by their “get-tough” approach, warning that anything less would bring back rampant crime and referred to a record of crime reduction “envied by the rest of the world”.⁶⁰ It was however a record becoming increasingly untenable for a much wider audience than the Black and Hispanic ethnic minorities.

In September 1999, the police were accused of using excessive force when officers shot dead a Jewish man, Gary Busch, wielding a hammer. Hundreds of Hassidic Jews took to the streets of an Orthodox Jewish area in Brooklyn to protest at the shooting chanting, “Jewish blood is not cheap!” The incident put renewed pressure on Mayor Giuliani to again defend his police force. He said that he believed the officers involved had kept to procedures but Jewish community leaders accused the police of using unnecessary force.⁶¹

At lunchtime on 20th June 1998, police descended on Washington Square Park in Greenwich Village seeking to serve warrants on small-scale marijuana dealers who hawk their product from park benches. The park's exits were sealed, trapping hundreds of law-abiding citizens inside. A Rutgers University professor was detained in handcuffs when he tried to leave to make an appointment. "There were a lot of mothers with baby carriages and children", one witness told the *New York Times*.⁶²

A significant part of the New York City zero tolerance-style policing initiative involved attempts at regulating various aspects of public expression, including refusals to permit processions, marches and rallies. There were number of Federal courts cases challenging violations of the First Amendments (the right to free speech). These included successful challenges to allow a protest procession by taxi drivers in May 1998, an attempt to prevent food vendors from marching against a curtailment of their stands, and a declaration that no more than 30 people could assemble at any one time on the steps of City Hall. In October 1998 the October 22 Coalition, who were planning a protest against police brutality, were refused a permit to march. The decision was overturned by a Federal Court judge who ruled that the refusal of the permit had more to do with the protestor's message than any likely traffic congestion. The City appealed the decision. Three Federal court judges however upheld the right to hold the march. In August 1998, a permit was refused to hold the Million Youth March in Harlem. A Federal Court judge ruled that the refusal was unconstitutional and that the rules in relation to granting permits were "breathtaking in their lack of standards". A later Federal court appeal upheld the right of the rally to take place.

The policing of demonstrations and marches in the city had been the subject of complaints about police concerning violence, provocation, the refusal to negotiate with organisers and widespread arrests. Immediately prior to the Million Youth March in Harlem the Police Commissioner announced plans to “saturate the site” with police and to promptly clear the streets at 4pm. The rally ended in violence when a police helicopter swooped low over the crowd and police in riot gear stormed the stage to shut down the meeting three minutes after the allotted time for the event had expired. The event had attracted 6,000 attendees and 3,000 police.

Mayor Giuliani might claim that his zero tolerance policy had brought the crime rate down in New York City to near record lows but by early 2000, the early widespread coalition of support for the “zero tolerance” policing initiative in New York City had been substantially reduced. In April the NYPD was forced to severely reduce the scale of “Operation Condor”, a typical zero tolerance-style initiative where waves of uniformed and undercover officers had been sent on to the streets to stop and search anyone they believed was acting suspiciously. The operation had been a statistical success with extremely high arrest rates for minor drugs offences, but it has been a public relations disaster. The New York media had been running daily stories of outrage from citizens who claimed that police based on ill-founded suspicion had subjected them to public humiliation. In the aftermath of the police killing of unarmed security guard, Patrick Dorismond, the NYPD announced that it had cut funding for “Operation Condor” by a third and redirected the funds to more traditional policing methods such as street patrols. Public opinion polls showed that the once apparently politically invincible Mayor

Giuliani was running a very poor second in the race with the Democratic candidate Hillary Clinton in the race to become senator for New York State in September.⁶³

It was noted above that the successful politician in the postmodern metropolis has to balance the various interests of diverse and fragmented communities in order to gain and sustain an electoral coalition. New York City is undoubtedly such a metropolis and Rudolph Giuliani had in 1993 successfully identified crime control as a unifying concern among all communities. Blacks, Hispanics, Jewish, the White middle class, women, and mothers with young children had all an interest in serious crime control. The evidence suggests at the outset a broad coalition of support for the Giuliani/Bratton zero tolerance-style policing initiative in New York. Crime levels were high and it would seem that neo-desperate measures were being quite widely called for. However, as we have seen in the above discussion, by 2000 each of these groups had good reason to doubt that the ends justified the “get tough” means that were being employed by the NYPD. Consequently, the foundations of Mayor Giuliani’s electoral coalition were falling apart. Zero tolerance-style policing strategies were no longer popular in New York City.⁶⁴ Before reflecting further on why that should be the case, we will consider the implementation of such measures in Britain.

ZERO TOLERANCE-STYLE POLICING IN BRITAIN

British zero tolerance-style policing experiments have been introduced in very different, but usually metropolitan, high crime locations. Hartlepool and Middlesborough, in Cleveland, are two of the few places - outside of London - where a police force has explicitly used zero tolerance-style policing in Britain.⁶⁵ Following the high profile and

much publicised adoption of the strategy in Hartlepool in 1994, the number of recorded offences was halved, while in Middlesborough reported crime was reduced by 20 per cent within six weeks.⁶⁶ Superintendent Ray Mallon - widely associated with the introduction of the strategy in both jurisdictions - was in late 1997 suspended from duty and accused of various counts of improper behaviour.⁶⁷ Zero tolerance-style initiatives have nonetheless continued to be used but in a much lower profile fashion by the Cleveland Constabulary to target particular crime problems in the area on a short-term basis.⁶⁸ This more surreptitious approach to the implementation of zero tolerance-style policing was to become increasingly characteristic of all British initiatives while at the same time seeking to gain and maintain the support of the local community in which it is introduced.

In October 1996, the Strathclyde Constabulary introduced the “Spotlight Initiative” in Glasgow.⁶⁹ Concerned at the outset about obtaining support and legitimacy, widespread consultations were held with the public. It was found that people were substantially more anxious about the security of their property and their personal safety in public places than they were about the possibility of becoming victims of serious crimes such as murder and rape. 20,000 stop and searches were made in the first month with an overall reduction of nine per cent in recorded offences.⁷⁰

Spotlight has remained a long-term initiative that takes a targeted approach to those areas of crime identified by the public as being the greatest concern to them. A flexible and responsive policing style involves using intelligence sources and technology to target problems and their sources. A high profile uniform presence offers reassurances to the public and partnerships are formed with other agencies.⁷¹

In November 1996, the Metropolitan Police, London, implemented a high profile – and again highly publicised - experiment “Operation Zero Tolerance”, in collaboration with the City of London Police and the British Transport Police, in King’s Cross. It lasted six weeks. The intention was “to target and prevent crimes which are a particular local problem, including drug-related criminality”⁷² and included elements of the New York approach of targeting minor crimes such as dropping litter, graffiti, aggressive begging, and low-level disorder adapted to deal with specific problems found in some locales in London. Police sources suggest a substantial reduction in the number of drug dealers operating in the area while independent evaluations showed that 81 per cent of residents in the Kings Cross area felt safer because of the operation.⁷³

The initiative was preceded and succeeded in the area by Operation Welwyn established to tackle the problems of drug-related crime and street prostitution in partnership with the London Boroughs of Camden and Islington, the respective Health Authorities and local Community Action Groups. The expressed intention of the unit is to improve the quality of life for the residents, commuters and people who work in or pass through the area, by reducing crime and the fear of crime. In order to target the specific issues raised by the public, the unit selects officers from Islington Police Station, the City of London and other specialist groups for short-term crackdowns. There are thirty-four officers currently working within Operation Welwyn. Two offences that particularly concern both the local population and those passing through are street drug dealing and prostitution. Long-term initiatives have thus been introduced to tackle these problems. Plain-clothed officers specifically tackle the former with the assistance of video and photographic surveillance. Between 1992 and 1998, the unit made 598 drug-

related arrests. Uniform officers tackle the problem of prostitution 24-hours a day. Kerb-crawlers are stopped and have courts summons sent to their home address.⁷⁴

The Metropolitan Police have also introduced other longer-term initiatives and short-term crackdowns against particular offences in specific areas where there is widespread public support for these strategies. Launched in 1993, Operation Bumblebee is a now force-wide initiative introduced to tackle burglary. Three million explanatory leaflets and stickers have been distributed to homes throughout London and raids have targeted burglars and those who receive and sell stolen property right across London. The public are shown the results of police investigations through the media. Between November 1996 and October 1997, for example, 145,900 residential burglaries in the capital were cleared up and offences fell by 11.5 per cent.⁷⁵

Launched in May 1996, Operation Crack Down aims to arrest and prosecute drug dealers while diverting users into appropriate treatment. High visibility policing and long-term intelligence gathering is used to target prominent criminals. Between July 19th and August 24th of that year, there were 837 arrests for supply and possession of drugs and other criminal offences. In terms of partnership, drug misuse is widely recognised as a problem for the whole community and working in conjunction with other agencies the police seek to tackle local problems through local crime reduction strategies introduced by the Crime and Disorder Act 1998, a highly significant piece of legislation to which we will return below.

Although these British zero tolerance-style policing initiatives have been far from homogeneous in approach there are identifiable common themes compatible with Friedmann's conception of community policing. First, they have all relied heavily on a

visible presence of police officers interacting with the public on the street. Second, there has been a central focus on the police consulting public, private and voluntary agencies. Third, all of the schemes have been demand led introduced in response to public anxiety about high levels of crime and disorder and more general concerns about community safety.

This public anxiety has been very understandable in the context of an increasing trend for an over-stretched, resource-strapped, British police service to ostensibly withdraw from whole areas of traditional police work by proactively selecting, with crime management desks, those incidents to which they will respond. The respected British criminologists Rod Morgan and Tim Newburn observe:

At least one chief constable, for a force which sees itself as a front-runner in the pursuit of the new [crime management approach], has privately said to us that the concept of the community constable is no longer feasible, if was ever sensible, and that he could envisage a time when up to three quarters of all calls from the public to his force would no longer result in attendance by an officer. To the extent that this is so, the public may be educated to the view that this shift in prioritising the allocation of police resources is sensible and acceptable. But there is substantial room for doubt whether the public will be satisfied by any significant diminution in the visible presence of uniformed officers in their communities.⁷⁶

There is no doubt that the British “New” Labour Government elected in 1997 identified the legitimate widespread concern about supposedly minor crime, incivilities and public order offences that plague our communities as a major issue that cuts across the liberal/conservative political divide. The Prime Minister, Tony Blair,⁷⁷ and his Home Secretary, Jack Straw,⁷⁸ both, prior to gaining office, made highly publicised statements supportive of “zero tolerance policing. Subsequently, their flagship criminal justice legislation, the *Crime and Disorder Act 1998* - placed a statutory responsibility on local authorities to work with the police to tackle crime and disorder and to set local targets for reducing the scale and prevalence of these social problems. At the time of its implementation, the then Home Office Minister Alun Michael said: “What we will do is place a new joint responsibility on the police services and local authorities to develop statutory partnerships to prevent crime and enhance community safety by means of Community Safety Orders. We recognise how plagued many neighbourhoods are by continual anti-social behaviour by individuals or groups of individuals”.⁷⁹

REFLECTIONS AND CONCLUSION

This paper has critically examined the introduction of zero tolerance-style policing strategies in the USA and UK and advanced the proposition that this approach should be considered in the context of a contemporary conceptualisation of liberalism that promotes equally citizen responsibility and rights. We have seen that these strategies take different forms in different locations but fundamentally, all are founded on the idea that a rigorous intervention against minor offences helps remove the preconditions that encourage more serious crime. It is proposed in this paper that “proactive, confident, assertive”⁸⁰ zero

tolerance-style policing strategies *can* be very much in accordance with this revised notion of liberalism. It is a form of community policing that takes account of both the rights of the community *and* the individual, but which is highly dependent upon the continuing support of the former to enable it to be - and remain - successful.

It was observed that the socio-political conditions in New York City were very much hospitable to a zero tolerance-style of policing when initiated by Mayor Giuliani and Commissioner Bratton in 1993. The former clearly came from an unambiguous right-wing political background but was very aware of the necessity of building a very broad electoral coalition that inevitably included both white liberals and sizeable numbers of ethnic minorities. It was a coalition highly receptive to the targeting of “quality of life” crimes in order to restore law and order to the streets. Moreover, it appeared to work. The crime statistics pointed to substantial reductions in crime.

Initially, the police were to receive widespread popular credit and support for the decline in the crime rate. Furthermore, the black communities initially welcomed the Giuliani/Bratton police intervention as it promised targeting the criminals in their midst to the advantage of the law-abiding majority.⁸¹ With the passage of time, the level of support went into steep decline and the dominant electoral coalition was to fragment. Police brutality remained a serious problem in the NYPD and the evidence suggests that the large majority of the victims of such abuses were members of ethnic minorities.⁸² Bratton himself – now the former Police Commissioner – argued that the police should avoid alienating ethnic minorities in order to boost police effectiveness but his successor and Giuliani remained committed to their “get-tough” approach.

Blacks, Hispanics, Jews, the White middle class, women, and mothers with young children all had a material interest in crime control. However, eventually members of each of these groups were to experience dubious NYPD tactics and incidents of unprofessional behaviour. There is a suggestion here that “get-tough” policing measures might be useful – and widely perceived legitimate - in the short-term. Communities seem prepared to tolerate such assertive approaches when the extent of crime problem is clearly intolerable. When the problem is alleviated, people rediscover their critical faculties. Moreover, it may be harder to restrain overzealous police officers from breaches of professional behaviour in the long-term. These lessons seem to be very much heeded in the rather different British context - and implementation - of zero tolerance-style policing.

British zero tolerance-style initiatives have been introduced in very different high crime locations and although not homogenous, all have common features. First, they have all been dependent on a highly visible police presence on the street interacting with the public. Second, there has been a central focus on the police consulting public, private and voluntary agencies in order to gain widespread legitimacy for their initiatives. Three, short-term focused “crackdowns” have been implemented to target particular offences without an overbearing long-term presence that comes to alienate the particular community. Fourth, and – perhaps, most significantly, in view of the experience of New York City – all schemes have not just been introduced in response to widespread public anxiety about high levels of crime and disorder but have remained sensitive to the demands of the community.

Thus, we might observe that successful proactive, confident, assertive policing initiatives need to be driven by the concerns of the particular community. Police activity that is not community driven is not community policing and will not be considered legitimate by the community. The police service cannot be used as a blunt instrument to help restore some partially and inaccurately remembered monocultural moral certainty of modernity. Such an approach can only lead to dissent and probably, serious social disorder, and indeed would be an essential defining characteristic of a new authoritarianism. A “new liberalism” - as we observed at the outset of this paper - promotes both the responsibilities and the *rights* of *all* its citizens in equal measure.

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² W.J. Bratton, “Crime is Down in New York City: Blame the Police” in N. Dennis (ed.) *Zero Tolerance: Policing a Free Society* (Institute for Economic Affairs, 1997); W.J. Bratton, *Turnaround*, (Random House, 1997); N. Dennis and R. Mallon, “Confident Policing in Hartlepool” in Dennis (ed.) *op. cit.*; T. Romeanes, “A Question of Confidence: Zero Tolerance and Problem Oriented Policing” in R. Hopkins Burke (ed.) *Zero Tolerance Policing* (Perpetuity Press, 1998); Silverman, E.B. (1998) ‘Below Zero Tolerance: The New York Experience’ in Hopkins Burke *op. cit.*

³ E. Currie, “The Scalpel Not the Chainsaw: The US Experience with Public Order”, *City: Analysis of Urban Trends, Culture, Theory, Policy, Action* (Vol. 1 No. 8) pp. 132-7; R. Morgan, R. “Swept Along by Zero Option”, *The Guardian* (January 22, 1997); I. Taylor, I. “New York/Manchester: Zero Tolerance or Reclaim the Streets”, *City: Analysis of Urban Trends, Culture, Theory, Policy, Action* (Vol. 1 No. 8) pp. 139-48); C. Crowther, “Policing the Excluded Society” in Hopkins Burke *op. cit.*; J. Wadham, “Zero Tolerance Policing: Striking the Balance” in *ibid.*

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- ⁴ M. Neimeier, "Zip, Zero, Zilch: The New Alcohol Tolerance Law for Underage Drivers in Michigan" *University of Detroit Mercy Law Review* (Vol. 73, No 1, Fall 1995) pp. 45-71.
- ⁵ R Hopkins Burke, "A Contextualisation of Zero Tolerance Policing Strategies" in Hopkins Burke *op. cit.*
- ⁶ J. Q. Wilson and G. L. Kelling, G.L. "Broken Windows", *Atlantic Monthly* (March 1982) pp. 29-38.
- ⁷ Bratton *op. cit.* (1997), *op. cit.* (1998).
- ⁸ Dennis and Mallon *op. cit.*; Romeanes *op. cit.*
- ⁹ Bratton *op. cit.* (1997);
- ¹⁰ Dennis and Mallon *op. cit.*
- ¹¹ G. L. Kelling and C. M. Coles, *Fixing Broken Windows: Restoring Order and Reducing Crime in Our Communities* (The Free Press, 1998).
- ¹² L. Zedner, "Victims" in M. Maguire, R. Morgan and R. Reiner *The Oxford Handbook of Criminology - 2nd Edition* (Clarendon Press, 1997).
- ¹³ Silverman *op. cit.* at p. 58.
- ¹⁴ Wilson and Kelling *op. cit.*
- ¹⁵ J. Lea and J. Young, *What is to be Done about Law and Order?* (Penguin, 1984).
- ¹⁶ Lord Scarman, *The Brixton Disorders 10-12 April 1981: Report of an Inquiry by the Rt. Hon. the Lord Scarman, OBE* (HMSO, 1981).
- ¹⁷ E. McLaughlin, "Police, Policing and Policework" in E. McLaughlin and J. Muncie (eds) *Controlling Crime* (Sage in Association with the Open University, 1996).
- ¹⁸ D. Smith, "The Police and Community", in P. Wilmott (ed.) *Policing the Community* (Policy Studies Institute, 1987).
- ¹⁹ R. Morgan and T. Newburn, *The Future of Policing*, (Clarendon Press, 1997).
- ²⁰ D. Bayley, *Police for the Future* (Oxford University Press, 1994).
- ²¹ R. Hopkins Burke, "The Socio-Political Context of Zero Tolerance Policing Strategies", *Policing: An International Journal of Police Strategies & Management* (Vol. 21[4]) pp. 666-82.
- ²² Kelling and Coles *op. cit.*; Bratton, *op. cit.* (1997)
- ²³ Dennis and Mallon *op. cit.*
- ²⁴ Hopkins Burke *op. cit.* (1998).

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- ²⁵ R.R. Friedmann, *Community Policing: Comparative Perspectives and Prospects* (Harvester Wheatsheaf, 1992).
- ²⁶ *Ibid.* at p.26.
- ²⁷ Hopkins Burke *op. cit.* (1999).
- ²⁸ Kelling and Coles *op. cit.*; W.J. Bratton, "How We Cleared Up New York" in *The Sunday Times* (24 November, 1996).
- ²⁹ Bratton *op. cit.* (1997).
- ³⁰ *Ibid.*; Bratton *op. cit.* (1998).
- ³¹ D. Harvey, *The Condition of Postmodernity: An Enquiry into the Origins of Cultural Change* (Basil Blackwell, 1989).
- ³² R. Hopkins Burke, *An Introduction to Criminological Theory* (Willan Press, 2001).
- ³³ J.-F. Lyotard, *The Postmodern Condition: A Report on Knowledge* (Manchester University Press, 1984).
- ³⁴ A. Giddens, *Beyond Left and Right* (Polity, 1994); .A. Giddens, *The Third Way: The Renewal of Social Democracy* (Polity Press, 1998).
- ³⁵ Hopkins Burke *op. cit.* (1998).
- ³⁶ Bratton *op. cit.* (1997).
- ³⁷ Kelling and Coles *op. cit.*; Bratton *op. cit.* (1996), (1997); Silverman *op. cit.* (1998).
- ³⁸ Crowther *op. cit.*; Wadham *op. cit.*
- ³⁹ Silverman *op. cit.*
- ⁴⁰ Currie *op. cit.*
- ⁴¹ Hopkins Burke *op. cit.* (1999).
- ⁴² Silverman *op. cit.*
- ⁴³ J. Greene, "Zero Tolerance: A Case Study of Police Policies and Practices in New York City", (Unpublished paper, 1998).
- ⁴⁴ Silverman *op. cit.*
- ⁴⁵ See: J. Young, "Incessant Chatter: Recent Paradigms in Criminology" in M. Maguire, R. Morgan and R. Reiner (eds) *The Oxford Handbook of Criminology*, (Clarendon Press, 1994).

⁴⁶ C. Norris, N. Fielding, C. Kemp, and J. Fielding, "Black and Blue: An Analysis of the Influence of Race on Being Stopped by the Police", *British Journal of Sociology* (Vol. 43(2)) pp. 207-24; T. Bucke, *Policing and the Public: Findings from the 1994 British Crime Survey*, Home Office Research and Statistics Department, Research Findings No. 28 (Home Office, 1992).

⁴⁷ Fiscal Policy Institute cited by NY1 Television News Channel Internet Service (18 December, 1997).

⁴⁸ J. Miller, cited in V. Chaudhary and M. Walker, "The Petty Crime War", *The Guardian* (21 November, 1996).

⁴⁹ Amnesty International, *United States of America: Police Brutality and Excessive Force in the New York City Police Department* (Amnesty International Report, AMR 51/36/96, 1996).

⁵⁰ See Silverman *op. cit.*

⁵¹ Hopkins Burke *op. cit.*

⁵² Amnesty International *op. cit.*

⁵³ Greene *op. cit.*

⁵⁴ NY1 Television News Channel Internet Service (4 November, 1997).

⁵⁵ Hopkins Burke *op. cit.* (1998).

⁵⁶ BBC News Online, 'Brutality' Cases Sour Community Relations (13th July, 2000).

⁵⁷ BBC News Online, *Clashes Erupt at NY Funereal* (8th April, 2000).

⁵⁸ CNN.Com US News (30th April, 2000).

⁵⁹ *Ibid* at page 3.

⁶⁰ *Ibid.*

⁶¹ BBC News Online *Outrage at NYPD Shooting* (1st September, 1999).

⁶² B. Shapiro, "Zero-Tolerance Gospel", *Index Online* (Issue No. 4, 1998).

⁶³ M. Riley, "Police Tactics Exceed New Yorkers' Tolerance", *The Age* (11th April, 2000).

⁶⁴ Rudolph Giuliani later withdrew from the electoral race for the Senate when he was diagnosed with cancer. Hilary Clinton subsequently won the Senate Seat for New York State. According to opinion polls, Giuliani remained extremely unpopular and although excluded by electoral law from seeking a third term of office the Republican candidate trailed a bad second. All of this was reversed following the terrorist

attack on the World Trade Center on September 11th 2001 when the Mayor became famous worldwide for his charismatic and dignified response to the disaster.

⁶⁵ The Times, “Zero Tolerance: There Should be No Blind Eye to Crime”, *Leading Article* (19 November, 1996).

⁶⁶ R. Chesshyre, “Enough is Enough”, *Telegraph Magazine* (1 March, 1997) pp. 20-6.

⁶⁷ At the time of writing in early 2002, Mallon is still awaiting a disciplinary hearing but remains extremely popular in the locality. In fact, the local Labour Party wish to adopt him as their candidate for the first elected Mayor of Cleveland.

⁶⁸ Cleveland Constabulary, *Policing Plan 2001-2*, (Cleveland Constabulary, 2002).

⁶⁹ J. Orr, “Strathclyde’s Spotlight Initiative”, in Dennis (ed.) *op. cit.*

⁷⁰ W. Ellis, “Justice of the First Resort”, *The Sunday Times* (24 November, 1996).

⁷¹ Strathclyde Police, “Introduction to Spotlight”, *Office of Chief Constable* (Strathclyde Constabulary, 2002).

⁷² Metropolitan Police, *Policing Plan 1995/96* (Metropolitan Police, 1995).

⁷³ BBC News Online, *Ray Mallon and ‘Zero Tolerance’*, (1 December, 2001).

⁷⁴ Metropolitan Police, *Metropolitan Police Fact Sheets: Operation Welwyn* (Metropolitan Police, 2002).

⁷⁵ Metropolitan Police, *Metropolitan Police Fact Sheets: Operation Bumblebee* (Metropolitan Police, 2002).

⁷⁶ Morgan and Newburn *op. cit.* at p. 212.

⁷⁷ T. Blair, “Interview with Tony Blair”, *The Big Issue* (8 January, 1997).

⁷⁸ A. Travis, “Atlantic Cuffings”, *The Guardian* (21 November, 1996).

⁷⁹ A. Michael, “First Steps in Consultation on Crime and Disorder”, *Home Office News Release*, 149/97 (12 June, 1997).

⁸⁰ Hopkins Burke *op. cit.* (1998).

⁸¹ Silverman *op. cit.*

⁸² Amnesty International *op. cit.*