# Zero policy

**Ben Bowling** critiques the commitment to 'zero tolerance' arguing that it sanctions police abuse of stop-and-search powers.

***My heart sank when I read that 'zero tolerance' was a theme of Jacqui Smith's first conference speech as Home Secretary. Having won the bidding war to appear 'tougher than the rest', I wondered what New Labour had in mind to reinforce their 'tough on crime' credentials. But when I read the speech, I found no concrete proposals to 'give teeth to zero tolerance' as Jack Straw had done when introducing ASBOs a decade earlier. In place of policy, I found empty rhetoric. The Home Secretary said:***

> Let me be clear. I've zero tolerance of anti-social behaviour, and zero tolerance of its causes. [. . .] I've zero tolerance of homes being broken into or bags being snatched to feed a drug habit – and zero tolerance of people not getting drug treatment when they need it.

Is it too much to hope that this incoherent waffle will be the last time that the government invokes 'zero tolerance' as a buzzword to describe their crime policy?

The language of zero tolerance emerged in 1980s campaigns against domestic violence and the US war on drugs (Jones and Newburn, 2006) and most readers will be familiar with the claim that 'zero tolerance policing' caused a spectacular decline in New York City murder (Punch, 2007). ZTP – aggressive enforcement of minor offences – became the silver bullet of law enforcement based on an urban myth of the 'New York murder miracle' promulgated by media-savvy cops and their political masters on both sides of the Atlantic (Bowling, 1999). In fact, violent crime fell in New York for numerous complex reasons most of which only partly related to policing (Karmen, 2005). The crime *drop* was in fact a crime *spike* that tracks the contours of the crack cocaine 'epidemic'. Systemic violence stimulated by the rapid expansion of open-air crack markets began in 1985, peaked in 1990–1992 with more than 2000 murders per year and then fell dramatically (Bowling, 1999). By the time that the famous NYPD Commissioner Bill Bratton was appointed in 1994, gun homicides had already fallen by 30 per cent as crack went out of fashion, and the market shrank. Innovations in policing, such as problem-solving rooted in timely and accurate information, may have played a role in reducing crime still further, but locally funded youth crime prevention, peer mentoring, and community-led denunciation of street violence also played their part (Bowling, 1999).

A decade after it was first coined, use of the phrase 'zero tolerance' has exploded around the world from Amsterdam to Zimbabwe. This vacuous one-liner is now merely a lazy way of cussing things that we don't like – from failing schools to poor punctuation (Truss, 2003). We should nonetheless be alive to the dangers in using the language of intolerance in the context of policing. Even if it is meaningless in terms of specific policy proposals, it indicates a renewed emphasis on aggressive policing. The political rhetoric of 'crack downs' and zero tolerance reflect worrying trends in the inappropriate, ineffective, and unfair use of police powers.

The Home Secretary's words are intended to give a green light for the police to continue to abuse their powers. Section 1 of the 1984 Police and Criminal Evidence Act standardised and formalised the power to search people in public places. Rather than permitting a police officer to arrest somebody on the merest suspicions (common practice in London under the hated 1824 Vagrancy Act 'sus laws'), an officer now had the power to stop-search a person – without arresting them – whom they reasonably suspected of being in possession of prohibited items (e.g. stolen goods or drugs). Research and statistics show that in most cases, the suspicion on which the decision to stop is based is so flimsy as to stretch the idea of reasonableness to breaking point. Typically about nine out of every ten stops and searches on 'reasonable suspicion' that a person has committed an offence turn out to be unfounded.

Faced with an earlier panic about violent crime, the Conservatives introduced section 60 of the Criminal Justice and Public Order Act 1994. Within a designated area where a senior office believes that violence may be anticipated, a constable may stop and search any person or vehicle they think fit *whether or not they have any grounds for suspecting* that they are carrying weapons or dangerous articles. Searches not requiring individual suspicion were also included in s.44 of the Terrorism Act 2000. Such *suspicionless* searches rarely result in arrest; the most recent statistics suggest that about 1 per cent of people stopped under s.44 are arrested, mostly for offences unconnected with terrorism (Ministry of Justice, 2007). About 1 in 400 s.44 stops results in an arrest 'in connection with terrorism', but as Lord Carlile, the Commissioner for Terrorist Legislation put it, 'a section 44 search has never led to the finding of any terrorism material [or] provided a link in the terrorism chain' (Libischer, 2007). This absurdity was pointed out a year ago by Assistant Commissioner Andy Hayman, the UK Counter-Terrorism lead, who said

> I am not sure what purpose it serves, especially as it upsets so


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> many people, with some sections of our community feeling unfairly targeted. It seems a big price to pay [. . .] we have to question the way we use a power that causes so much pain to the community we serve, but results in so few arrests or charges. Is it worth it? (Metropolitan Police Authority, 2006)

The crucial point well made by Assistant Commissioner Hayman is that the use of police stop-and-search powers comes at a cost. The British Crime Survey estimates that the police stop about ten million people on foot or in vehicles every year, and the police record around 900,000 searches annually. Each encounter between a police officer and the 'suspect' is an opportunity cost; nine times out of ten it is time that could have been better spent doing something else. But the cost is not only financial. Each time a person is unjustifiably stopped and searched, it undermines respect for the police, drains public confidence, causes resentment, and severs the link between the citizen and the law. It is well documented that the aggressive enforcement of minor offences falls disproportionately on the most marginalised sections of our community and therefore that people from minority ethnic groups are disproportionately represented amongst those who are stopped and searched (Ministry of Justice, 2007). Although the debate about its causes continues, the evidence shows that the key reason is police discrimination amounting to 'racial profiling' (Bowling and Phillips, 2007).

If police stop-and-search powers can't be justified on the basis that the suspicion is reasonable or that the searches are accurately identifying offenders, can they be justified on the grounds that they disrupt or deter criminal activity? On principle, they cannot. Taking s.1 PACE, the purpose of the power to stop and search is an investigative one; it is to initiate an investigation to confirm or allay a reasonable suspicion that a person is involved in crime. It is part neither of the letter nor the spirit of the law that random stops and searches could or should be used as a way of deterring citizens from carrying drugs, weapons, or other 'prohibited articles'. While a deterrent rationale is implicit in s.60 and s.44 stops, the public has never been properly consulted about whether they want the police to carry out random searches as a means of general deterrence. The principle – which can be argued on both utilitarian and deontological grounds – is that the state should interfere in the private lives of individuals or their freedom of movement and association *only with proper justification*. Where there is no suspicion that a person is involved in crime, there should be no power for the police to search that person's home, vehicle, bag, or clothes.

In the face of persistently high levels of public anxiety about crime, and particularly serious violent crimes, it is of course understandable that the government should be pursuing a strategy to improve community safety. However, police abuse of stop-and-search powers with which present and past governments have colluded is not the way. Current practice has not only failed to prevent violent crime; it has actually contributed to weakening the legitimacy of the police and undermining the criminal justice process. Instead of being part of the solution, stop and search has become a cause of the problem. Disturbingly, frontline police practice has not improved despite instruction from senior police officers and those to whom they account.

It is time for radical change. The use of more-or-less random stops and searches wrapped up in zero tolerance rhetoric is simply *not good enough* (Bowling, 2007). Searches should be restricted only to those instances where there is a clear basis for suspicion, not mere speculation. The bottom line for 'reasonable suspicion' is whether it is proven correct half the time *at the very least*. Communities can argue about what 'strike rate' they find acceptable, but it seems obvious that the current rate of no better than 12 per cent – which means wrongly treating someone as a suspect nearly nine times out of ten – clearly is not.

We need a fresh approach. There is an alternative to the false choice between 'zero tolerance' and 'withdrawing the police from the streets'. Talk to young people, even those who have come into conflict with the police, and they'll describe the 'good police officer' who treats them with respect and is an excellent communicator and problem-solver. With an imaginative and flexible approach, it is possible to rebuild public trust and create the partnerships necessary to make our communities safer. But to do this, the police must first treat young people as citizens, not suspects. ■

**Ben Bowling** is Professor of Criminology and Criminal Justice in the School of Law, King's College London.

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