

ZERO-TOLERANCE VERSUS PERSONALISED POLICING

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Abstract

This literature review will compare New York, Copenhagen, and Seattle in terms of their policing of the homeless and homeless programs. The comparison will explore the zero-tolerance and broken-windows policing method in New York that criminalises the homeless through spatial exclusion and gentrification. It will also explore the personalised/community policing methods in Copenhagen and how the city attempts to help their homeless population through Housing First principles. Seattle will also be explored in the comparison as the state has used both methods of policing through banishment and civility codes, but now has more programs that are aligned with the principles of harm reduction. The paper also outlines the implications for future research in terms of treating the complex problems of the homeless community, not criminalizing them, and focusing on a personalized policing approach. The importance of this comparison is to highlight different policing and government strategies that can benefit all and not perpetuate an individualised approach to the cause of homelessness.

Keywords: zero-tolerance, Denmark, USA, banishment, quality of life, disorderly, harm reduction

1.0 INTRODUCTION

Policymakers try to formulate rules and regulations that appeal to the mass population. Whatever the mass society deems as a value, influences what policies are implemented. However, there can be policies that are broken or severely bent resulting in specific vulnerable populations being discriminated against and disadvantaged. These rules and regulations attempt to police people who are “out of place” but have become a tool to control the lower class and type of person. Policies and laws relating to vagrancy have traditionally taken a zero-tolerance and broken-windows approach in certain cities like Seattle and New York, where one can be severely punished for being homeless. The current capitalist society has further normalised and stigmatised vagrancy and has made it among the few situations where the victim is seen as at fault for their circumstances and has no one else to blame but themselves (Scott, 2016). Zero-tolerance policing is an instrument used to control inner-city populations with intractable crime problems. The presumption is that this tool promotes equality because the traditional discretion of police is reduced. However, people of lower social and

economic capital overcrowd the courts and prisons due to the over-policing of urban neighbourhoods.

Broken windows acknowledge that severe crimes of violence, gangs and drug trafficking can destroy communities, but society should not be fooled by the damage that can come from a more tolerated, slower, and less dramatic social order. Like several other police tactics, this approach is deeply rooted in social norms that protect public space through social control. This approach may potentially reduce the fear of crime primarily within middle and high-class neighbourhoods but is less valid for significantly disadvantaged areas, especially to gentrify these disadvantaged communities by criminalising these community members.

Different countries around the world utilise different policing strategies. Denmark is known for operating under a Housing First initiative and views homelessness as a social problem. In 2017, there were an estimated 553,742 people in the United States experiencing homelessness on any given night (The State of Homelessness in America, 2017). Whereas, in Denmark, as of 2017, there were 6635 homeless people (Global Homelessness Statistics, 2017). Also, parts of Denmark's police forces operate under the principles of community or personalised policing. Community policing relies on the consent and support of the community they are assigned to supervise and protect. It requires constant interactions between the police and community members regarding what policing tasks need to be done and how the police should go about tackling those priorities (Pakes, 2010). The police should be aware of their community's unique characteristics and preferences and be sensitive to them (Pakes, 2010). With different policing practices, different punishments are also enforced, as New York and Seattle would have heavier punishments for homelessness as they blame the individual for their living situation.

In comparison to Copenhagen, for example, where punishment would not be as harsh as homelessness is seen as a social problem and those involved would work towards a positive solution. The importance of comparing the three cities is to highlight how homelessness can be viewed as a social problem or as an individual problem. The policing of the homeless population is more to help satisfy the needs and safety of the dominant, being middle to upper-class white men (and women) and ensuring that they feel safe, when it is seen as an individual problem, to make the streets look "cleaner". However, when explored as a social problem, like in Copenhagen, there are different measures taken to ensure homelessness is reduced whether it be through affordable housing, rehabilitation, or social programs.

Ultimately, the significant points that will be explored are the policing measures that are utilised in New York and how effective they may be in terms of banishment and controlling the homeless population. Secondly, this paper will explore the policing measures in Copenhagen and how the city looks at homelessness as a social problem and not as criminal behaviour. Finally, this paper will look at Seattle, as one state that uses both measures of banishment and community policing to manage the homeless population. This paper will examine a comparative analysis of zero-tolerance/broken windows policing in New York and personalised policing in Copenhagen to explore the banishment and social problems of the homeless populations and will finally look at Seattle as a state that utilises both measures.

2.0 LITERATURE REVIEW

This section will look at previous literature that has discussed the different policing methods in New York, Copenhagen, and the hybrid approach in Seattle. Such policing practices manage their homeless populations differently, as New York takes a zero-tolerance and broken-windows approach that aids in the gentrification of specific low-income communities. Copenhagen utilises a Housing First principle to aid those with mental health illness and substance abuse, among other problems while increasing funding for other homeless programs and initiatives. Seattle is known to use a mixed method when addressing the problems of the homeless population; banishment, Housing First principles, and harm reduction.

2.1 Zero-Tolerance in New York

New York is one state that has seen an intense implementation of zero-tolerance and broken-window policies to combat homelessness. Some would argue that even though zero-tolerance policing was very harsh towards the homeless population, it was successful in crime reduction, especially in New York. Zero-tolerance and broken-windows policing are considered to be order maintenance policing that has developed due to the social norms of society (Davis, 2017). These policing methods are all strategies that are crucial in gentrification, which suggests that many who fall victim to these forms of social control are vagrants. This type of policing in New York consisted of aggressive stop-and-frisks, which were first implemented in the early 1990s and targeted disorderly conduct such as homelessness (Davis, 2017). It was implemented under the leadership of Mayor Giuliani and Police Commissioner Bratton (Pakes, 2010). This approach is deeply rooted in social norms that protect public space through social control. At first, the public saw the targeted policing of the homeless population as a significant concern, but the public fear of crime was more substantial, which is why such policing was continued. As society deemed it okay to aggressively police the homeless, then it became more acceptable.

Anyu Fang (2009) states that New York has adopted "quality of life" programs and policies that can consist of prohibiting sleeping and begging in specific public spaces, which creates the criminalisation of homelessness. There is a focus on developing strategies to limit people's access to specific public and quasi-public spaces, especially those considered by society to be disorderly.

The quality of life policing method is to set out patrols with a mandate to arrest those committing disorderly offences in the streets, parks, stores, and other public locations (Golub *et al.*, 2003). Under this policing method, the punishment usually consisted of detainment for twenty-four hours, a guilty plea at the arraignment, and an imposed fine, community service or jail time (Golub *et al.*, 2003). This process made sure that no matter what, the accused would spend at least one day in jail and have a swift and sure penalty. The homeless population was permanently banished from specific areas, as it made others, like community members and tourists, feel uneasy and fearful. The intensified fear of disorder and its association with lower socio-economic status has resulted in crime prevention styles becoming more intrusive and discriminatory towards those of a lower socio-economic background. This policing behaviour promotes the idea that "disorderly behaviour left unattended is a sign that nobody cares and leads to fear of crime, more serious crime and, ultimately, urban decay" (Sousa & Kelling, 2006, p 78). Policymakers and the government have even gone as far as prohibiting charitable organisations and regular citizens from donating food to the homeless population as a

way to push them out of the city (Fang, 2009). The government would also cut social funding to programs and initiatives that worked to help the homeless population (Fang, 2009). Throughout the years, new policies were adopted to justify the harassment of the poor population and utilised the broken windows theory as a way of looking at the targeted population as things and "shattered pieces of glass that ought to be cleaned up on a dirty sidewalk" (Waldron, 2000, p. 387). According to the New York Times, in 2009, the city issued 520,00 summonses, and only about 5 of those resulted in a guilty verdict (The Legacy of Zero Tolerance Policing, 2017). This shows that many of the summonses are given out without a legitimate cause and a way to target the homeless community.

These policies were implemented to improve the quality of life for "regular" citizens and a way to boost commercialisation. The government got the public to shift its primary focus to property, and building property (gentrification), which meant that visible homelessness was becoming a concern, and the overall consensus on homelessness is that it should be criminalized (Fang, 2009). As policymakers act in the best interest of the general public, new policies were made to criminalise and banish the homeless and to gain profit through gentrification. This approach may potentially reduce the fear of crime primarily within middle and high-class neighbourhoods but is less accurate for significantly disadvantaged areas. The ideology emphasises punitive measures through prevention, which are often disproportionately enforced upon vulnerable populations like the homeless. The targeting of the homeless population is presumed to be linked to them being more visible, unlike serious crimes that are more discrete, placing vagrants at the forefront of over-policing - making those without homes, more susceptible to being blamed for public disorder.

The consequences of such behaviour for this targeted population came in the form of banishment. Banishment is a means of spatial control over those defined as disorderly. This displacement or removal is achieved through sentencing, whether jail or probation, that includes off-limit orders which forbid offenders from returning to specific areas. The rationality of zero-tolerance policing has been widely questioned because the punishment imposed is often disproportionate to the crime. This means a person can be sent to prison for a long time for petty offences, like sleeping in a park, especially if it is their third offence (Fagan & Davies, 2000). Zero tolerance can result in punishing all offences under sentencing guidelines that disregard mitigating factors, and being that vagrancy is a circumstantial victimization, it fails to explore the extenuating circumstances that paint a vivid picture of those this practice attempts to displace and banish.

2.2 Community Policing in Copenhagen

In Denmark, Copenhagen, the idea of community/proximity policing started in the early 1990s and consisted of the notion that small police units were stationed in communities to help in crime reduction (Holmberg, 2002). This non-aggressive approach to policing communities was beneficial in many ways. The relationship between officers and ethnic minorities did improve, and there was a reduction in the level of "everyday crime," with statistics showing a 22% decrease in reported burglaries (Holmberg, 2002). These policing methods focus more on forming a relationship with the community and do not target populations of a lower socioeconomic status. This type of policing takes a dim view of different types of disorder where hefty penalties can be imposed (Pakes, 2010). The police focus more on satisfying the interests of the community they are policing and not the interests of the state (Pakes, 2010). So, if they are policing a lower-income

community, their priority is not to criminalize everyone and end up gentrifying the community but to help the community members and keep it safe.

In terms of managing the homeless, different cities in Denmark, like Copenhagen, have been known to use a Housing First policy that looks at homelessness as a social problem, which was implemented from 2009-2012 (Benjaminsen, 2018). There are four goals that the Danish government aims to accomplish with their homeless population: no one should live on the streets, young people should not stay at homeless hostels, no person should have to stay in a homeless hostel for more than 120 days, and better accommodation solutions must be in place for people being released from prison or leaving institutional care (Hansen, 2010). The government sees homelessness as unacceptable and works with political parties to increase funding for programs and initiate a national homelessness strategy. These programs also came about as pressure from European organisations, including the European Commission, pushed for a more established homelessness strategy (Hansen, 2010). Copenhagen strengthens the services that are available for homeless people by increasing funding by an extra 500 million DKK to the initiative (Hansen, 2010).

One homeless strategy program that is utilised is the Assertive Community Treatment (ACT) method, where a support team is deployed to address the complex needs of the individual that consists of social support workers, a psychiatrist, an addiction treatment specialist, and other vital workers (Benjaminsen, 2018). This holistic method is suitable for homeless people with mental illness and substance abuse problems. Another strategy program that is used is the Critical Time Intervention (CTI) method which offers support for a limited time of nine months to aid in moving the individual from homeless shelters into their housing (Benjaminsen, 2018). The workers in the CTI method also set up the individual with social and practical support and connections to mainstream services in their local community (Herman et al., 2011). To gain access to such programs, one could register for them. However, they would have to deal with the waitlists, but can also be referred to the program (Benjaminsen, 2018). Priority is given to vulnerable populations such as women, children, and the homeless. Programs like these are implemented to primarily target those who are chronically homeless, as they have been on the streets for a lot longer.

2.3 Hybrid Approach in Seattle

Seattle is one state that has more humane programs that rely on harm reduction and Housing First principles but still looks to banish and criminalise the homeless (Herbert & Beckett, 2017). Seattle is one state that adopted civility codes in the 1990s as they targeted more specific behaviours of vagrancy (Beckett & Herbert, 2011). Banishment is recognised as a hybrid approach because it combines penal and civil laws. Civility codes criminalize many common behaviours such as drinking, sleeping, and urinating when they occur in public spaces, which disproportionately impact the homeless (Beckett & Herbert, 2011). Police in Seattle are given full authority to question and arrest those who appear as “disorderly.” Importantly, these programs increase the power of criminal law by mobilising other forms of law, most notably civil law and administrative law (Herbert & Beckett, 2017). Seattle has been known to use the tools of banishment to create and enforce zones of exclusion, which enables the criminal justice system to monitor, arrest, charge, and jail those who are considered “disorderly” (Beckett & Herbert, 2011). The use of banishment gives the police a bigger legal capacity to monitor and arrest those who are deemed disorderly, which is proven to be ineffective against

problems such as poverty, addiction, and mental illnesses and further increases such behaviour. Banishment works to criminalise someone based on their status and is an exclusionary tactic used by the criminal justice system to reduce the life circumstances and the rights-bearing capacity of the homeless and lower socio-economic status. Banishment can be seen by limiting access to other kinds of properties that are typically open to the public, which is known as trespass admonished (Beckett & Herbert, 2010). In Seattle, once convicted of a specific trespassing offence, as a condition, they must stay out of specific sections of the city, which is known as off-limits orders (Beckett & Herbert, 2010). The areas that people are banned from typically consist of significant parts of the city like an entire downtown core, where many social and legal services are held, so they may find it hard to access the resources to help them.

On the other hand, ironically, Seattle effectively practices more promising public policy options that draw on a harm reduction philosophy. The central principle of harm reduction recognises that individuals will engage in risky behaviours, such as drug use and sexual commerce, and no matter what, they will continue participating (Herbert & Beckett, 2017). The principle states that no society has ever eradicated all unwanted forms of deviance, so society should look to mitigate the negative consequences of such behaviours, not eradicate the behaviour (Herbert & Beckett, 2017). One Housing First approach in Seattle was innovated by Dr. Sam Tsemberis, who stressed the importance of permanent housing (Tsemberis, 2004). An example of this approach in action is the Downtown Emergency Services Center (DESC) in Seattle, where homeless people, especially chronic alcoholics, are given subsidised housing and social and health services (Herbert & Beckett, 2017). At the DESC, the participants are allowed to drink on the premise that it is doubtful that a chronic alcoholic will completely stop drinking, so following the harm reduction principle, they allow for moderate, supervised drinking to mitigate the negative consequences. Another harm reduction program in Seattle is the LEAD program, Law Enforcement Assisted Diversion, which is a program to reduce disorderly conduct (Herbert & Beckett, 2017). Under this program, low-level drug and prostitution offenders are no longer subject to prosecution and incarceration but are directed toward community-based treatment and support services.

Seattle is a paradoxical place in the sense that it enforces banishment principles for unwanted residents and gives the police power to arrest whomever they deem disorderly through civility codes and spatial restrictions. However, on the other hand, they create promising and humane alternatives to homelessness that rely on harm reduction and Housing First principles.

3.0 ANALYSIS

3.1 Success Rates

Some argue that zero-tolerance policing and banishment have been successful in cleaning public spaces, especially as this practice was taken up globally (Devlin, 2018). If certain groups do not fit the criteria of whatever public space they are in, they would be criminalised through a zero-tolerance approach. Under the quality of life program and taking a pro-development side for the city, those who did not fit the subjectivities that populate public space, like homeless people and squatters, were criminalised. At the same time, street vendors could stay as they fit the attributes of the public space (Devlin, 2018). Findings indicate that when broken windows and zero-tolerance policing are done correctly, it is

approved by the neighbourhood residents, reduces the fear of crime, and even reduces some street crimes and can genuinely be successful (Sousa & Kelling, 2006). However, these policing methods are rarely done 100% correctly, as it means that law enforcement must have no other bias towards the homeless. In reality, these methods of policing have been proven to do more harm than good. Through banishing, many have reported that their capacity to meet their physical needs and social services was hugely diminished as a consequence of their exclusion (Devlin, 2018). Loss of services was further proven to put the individual at a disadvantage because if for whatever reason, they need healthcare services, they cannot access it due to the banishment.

Zero-tolerance and broken windows have also been proven to do more harm than good as it does not stop such “disorderly” behaviours from occurring, they just push them underground to unsafe areas where they cannot be policed (Davis, 2017). Overall, zero-tolerance, broken windows, and banishment are not effective and further push disorderly behaviour underground and do nothing to aid the vulnerable population, it puts them more at risk of serious consequences and there can be no quick help or access to law enforcement medical services.

Community/personalised policing in Copenhagen has been successful but not without drawbacks. Findings conducted by Benjaminsen (2018) show that even though these initiatives are shown to be successful, not every homeless individual is eligible to enter the Housing First program. It mainly targeted chronic homelessness, and even after prioritising a select group in individual municipalities, even fewer were included in the program and received support. It was shown that one in twenty homeless individuals was approved to participate in the Housing First initiative (Benjaminsen, 2018). Funding even posed a problem as individual municipalities find it difficult to further upscale support services as they generally have a spending cap. The personalised policing that Copenhagen also uses has its pros and cons. It was found that this personalisation of policing can be advantageous in the sense that the rate of low-level crime had gone down and the quality of life had improved. However, it could also be a disadvantage to police officers when the workload can be overbearing as only they can deal with some issues in their community and the possibility of unequal law enforcement for different communities (Holmberg, 2002). Different officers have different biases and may over-police in some communities, as that is their traditional style of policing. However, with all these approaches to policing and caring for the homeless population in Copenhagen, according to the 2007 and 2009 consensus, the number of homeless people has not changed over the years, and the homeless policies have not been sufficiently effective (Hansen, 2010). Overall, the measures that Copenhagen has enforced are not as effective in the homeless community. However, it is a step in the right direction, especially in comparison to New York.

3.2 Comparison

A comparison between the USA and Denmark, from a broader perspective, can be made on shelter use and the welfare system. Denmark has a more extensive welfare system and a much smaller homeless population but it also consists of individuals with complex support needs such as mental illness or substance abuse problems in comparison to the USA (Benjaminsen & Andrade, 2015). As Denmark's homeless population has more complex needs, it works to their benefit that they tackle this issue as a social problem and not through criminalisation. The prevalence of shelter use in Denmark is only about one-third that in the United States (Benjaminsen & Andrade, 2015). As the USA lacks social housing and has more poverty, it produces a much larger extent of homelessness in comparison to the welfare system in Denmark, which has higher income equality and large-scale subsidised public housing. However, in both countries, the number of long-term marginalised homeless people in shelters is almost equal (Benjaminsen & Andrade, 2015). One other commonality between the two is that those who are episodically homeless, those who repeatedly and have frequent short stays in shelters, have the same difficulties in accessing any support systems and even using shelters consistently (Benjaminsen & Andrade, 2015). Overall, Denmark appears to be better equipped to tackle homelessness as it has an extensive welfare system, much more subsidized housing, and higher-income equality, and does not traditionally engage in zero-tolerance, broken windows, and banishment-type policing. However, they do not have a perfect system as their homeless population still exists, and they have almost the same amount of long-term homeless people in shelters as the USA.

4.0 DISCUSSION

4.1 Current Findings

Concerning previous literature and the current findings of this comparative research, it is evident that the USA, especially New York, had adopted harmful policing methods that looked to criminalise the homeless population and those of a lower socioeconomic background. These harmful methods are done by banning homeless people from significant areas that hold legal and social services that they need. A zero-tolerance and broken-windows approach also does more harm than good as it pushes “disorderly” behaviour such as drug use underground to be conducted in a dangerous environment. New York and Seattle have created policies and regulations to ban homeless people from sleeping or panhandling during certain hours of the day and have cut funding to programs and initiatives that look to help the homeless population. On the other hand, Denmark, more specifically Copenhagen, has increased funding for homeless initiatives and has upheld a personalised policing method to help and to better the relationship between law enforcement and community members, especially communities with residents of a lower income. Overall, Copenhagen has a more positive and useful approach to homelessness. Seattle, which was known as a state to implement the use of banishment, has started to look at homelessness the same way as Copenhagen and has created programs following the principles

of harm reduction and Housing First. Instead of criminalising the complex problems of homeless people, it looks to mitigate the negative consequences of their actions and helps to limit such behaviour, such as drug abuse. Overall, it shows that Denmark has better managed the homeless population, but not by much as the number of long-term homeless people who use shelters is equal to that of the USA.

4.2 Significance of Research

The significance of this comparative research is to show how aggressive policing is not always the solution and can make matters worse. USA has started stepping in the right direction, especially when analysing Seattle, as it no longer uses its harsh banishment techniques and is moving towards more humane programmes and initiatives like the LEAD program and more Housing First principles. Zero-tolerance can prove to be successful but only to a select few who look to gentrification, for example, to build up a community and reduce disorderly conduct. Not that Copenhagen is a perfect society that has no crime, as many researchers have argued that Scandinavian countries are more committed to rehabilitative principles like harm reduction. However, the criminal justice system is more punitive regarding migrants and foreigners (Brochmann & Hagelund, 2011). Denmark is not an ideal country to emulate their policies and regulations, but their rehabilitative principles towards the homeless are something that other countries like the USA should look to model to a certain extent. Cities should look to not criminalise homelessness and the complex problems associated with it, but look to help and mitigate the consequences, and even experiment with community policing in specific neighbourhoods. Weiss and Rossum (2006) San Diego and Chicago are two states that have moved towards a more community-policing method which has been beneficial to the communities.

5.0 CONCLUSION

5.1 Implications for Future Research

The significance of this comparative research is to show how aggressive police can be with the homeless population, which only benefits society, which sees homelessness as an eyesore or unwanted, deviant behaviour, without wanting to create a solution. This comparative paper mentions how Copenhagen has a more positive approach to homelessness and its policing of those lower socio-economic communities with personalized policing. The implication of this for researchers and policymakers, especially in a criminal law context in the United States, is to take a softer approach to the homeless. Instead of banning them from sleeping and urinating in a park, the government should allocate costs for more subsidised housing, for example. Instead of criminalising the homeless who have mental health illnesses and substance abuse problems and isolating them away from essential services, policymakers should urge for more safe injection sites and counselling in the communities that the homeless occupy. Treating the problems of the homeless and trying to figure out what leads these people to be homeless and not criminalising, creates the discussion of a more rehabilitative

and restorative approach. This would also aid in creating a solution that is not heavy on punishment but more on rehabilitation and equipping this population with the right tools and resources for success.

5.2 Recommendations for Future Research

Future research that would be recommended is to explore how not only primarily to target those who are chronically homeless. Programs should be open for everyone, regardless of how long they have been on the streets. Also, having a referral system where someone must refer a homeless person for a program can work but only for so long. Some people desperately need to be in programs but cannot because of the waitlist and because they have not been referred. Future research that would also be recommended is more of a preventative measure on how to keep people in their homes and off the streets. Anyone can become homeless, no matter the education level or experience that they have. Researchers should investigate what are the leading causes of homelessness and focus their work on those who are very close to being homeless, instead of waiting for someone to become homeless and then trying to make an effort for them to be placed back in a home. For example, many veterans end up homeless due to lack of support and resources from the government, mental health problems, and substance abuse problems, because they have gone through so much trauma when at war. The government does not do much to help this population, so having more invested programs that work with the veterans and try to set them up with the appropriate resources and support could aid in keeping them off the streets.

This paper has illustrated the policing methods used in New York, Seattle, and Copenhagen while examining the homeless programs and principles used in each city. The provided findings can incentivise policymakers to develop more humane programs, especially in the USA, to aid in lowering their homeless population and getting more people into affordable housing with appropriate resources.

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