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May 22nd, 9:00 AM - May 25th, 5:00 PM

### Response to my commentator

Sheldon Wein

*Saint Mary's University, Department of Philosophy and International Development Studies Program*

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# Response to my Commentator

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All zero tolerance arguments (both fallacious and non-fallacious ones) take the standard form of practical reasoning (or pragmatic argumentation). And Lewiński's formulation of such arguments is perfectly acceptable:

- I. Y (a social goal) is desirable.
- II. X leads to Y.
- Ergo:
- III. We should do X.

And he is certainly correct in claiming the causal premise (II. above) is usually the important one and I am happy to accept his formulation of that premise (X is *the best*, that is, most *cost effective*, means to achieving Y). And I accept Lewiński's points that more needs to be done to characterize the idea of "best means" of achieving something. For instance, I see now that I was implicitly assuming that both those advancing the argument and their audience would agree on what side constraints had to be avoided in order for some means to count as "the best" in the circumstances, so that when doing a cost-benefit analysis one excluded all those means that involved (say) serious human rights violations. Of course, in many situations that assumption does not hold.

The important point is that when one looks at zero tolerance arguments this way, my view is that good zero tolerance arguments are those which at least approach closely enough an adequate account of why each of the six features (full enforcement, a lack of prosecutorial discretion, a strict constructivist interpretation, strict liability, mandatory punishment, and a harsh punishment) is needed to achieve the end in the best (most cost-effective) means. And, since in most cases where people advance arguments that a zero tolerance policy is needed to deal with a social problem they fail to come even close to saying the six conditions, in most cases where one argues for a zero tolerance problem one is committing the zero tolerance fallacy.

Lewiński raises the question of whether we should allow that some arguments for unworthy goals should be given a laudatory title such as "good" or "valid". On this matter I side with those that are willing to hold that good arguments can be produced for bad ends. It might be that there is a good argument for me to abandon my children—they deprive me of things I value (money, my sanity, sleep!)—yet, of course, were I to act on this good argument I would be doing something quite wrong. So, just as we can talk sensible about a good assassin (one

who ensures her victim dies), we can talk about good zero tolerance policies for evil ends. Of course, we ought to work to rid the world of assassins (and especially of the “good” ones). And, that a zero tolerance policy is the best means of achieving an end which is itself evil is all the more reason to avoid adopting that zero tolerance policy. (This is one of those situations where it might be wise to *say* that such an argument committed the zero tolerance fallacy, even if one knew that it did not.)