



# The Failure of Zero Tolerance

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From the Editors: Ironically, zero tolerance policies once promoted as a solution to youth violence have created a school to prison pipeline. Widespread discipline practices of suspension, expulsion, and arrest for school behavior problems are turning kids in conflict into criminal offenders. The preeminent researcher on zero tolerance reviews the evidence about these practices and proposes a preventive model to insure school safety without discarding our most marginalized youth.

## ***Introduction***

There is no doubt that the safety of our children in our schools and in our communities is paramount. Incidents of school violence in the United States have motivated researchers and practitioners to explore and employ effective methodologies and strategies to promote safety in classrooms and schools. Still, issues of disruptive behavior top the list of concerns about education among teachers and parents.

The controversies about promoting safety and discipline in our schools are not about whether to address those issues, but rather how best to address them. For the last 20 years, fear for the welfare of our children has led us down a “no-nonsense” path of increased punishment and school exclusion in responding to school and community disruption through an approach that has come to be known as *zero tolerance*. These policies have dramatically increased the number of students put out of school for disciplinary purposes, and may be accelerating student contact with law enforcement. In today’s

climate it seems school leaders are being asked to make a tough choice between keeping their school safe and ensuring that all students have the continued opportunity to remain in the school learning environment. The message of zero tolerance is intuitively appealing. When disruption and disorder threaten our schools and communities, it becomes increasingly easy to accept the notion that greater authority and force are necessary in order to keep schools secure. Faced with the undeniable need to preserve the safety of our children, which of us would not engage in strong actions for their sake when left with no alternative? The presumption that increased force was necessary in our schools motivated the vast social experiment called zero tolerance and has maintained it in one form or another for over 20 years.

As that policy has been implemented in our schools and communities, however, its outcomes have led many to the realization that increasing punishment creates unintended consequences for children, families, and communities. Moreover, the data that has emerged from this 20-year social experiment has overwhelmingly failed to demonstrate that school exclusion and increasing levels of punishment keep our schools and streets safer. Instead, the data suggest that suspension, expulsion, and the increased use of law enforcement in school settings are themselves risk factors for a range of negative academic and life outcomes.

Are the goals of keeping our schools safe and keeping our students in school necessarily mutually exclusive? This article suggests that exclusionary, zero tolerance approaches to school discipline are not the best way to create a safe climate for learning. Increasingly, there are sound alternatives available to schools that can promote a safe school climate conducive to learning without removing large numbers of students from the opportunity to learn or creating a more negative school climate through increased punishment. Where did the philosophy of zero tolerance come from? What do we know about its effects?

### ***The Rise of Zero Tolerance Philosophy***

In the United States in the 1980s and 90s, fears concerning violence in schools and classrooms led to a dramatic increase in the implementation

of so-called zero tolerance school discipline policies. The first recorded use of the term appears to be the reassignment of 40 sailors for drug usage on a submarine in the Norfolk, Virginia, shipyard. Although the policy was controversial from the start, it also found influential supporters. Not long after this first incident, First Lady Nancy Reagan appeared with the Secretary of the Navy to highlight the new “no-nonsense” approach to drug enforcement. Indeed, one can imagine that it was the First Lady’s influence that moved the philosophy forward. By 1986, the Reagan Administration had proposed the first zero tolerance legislation for our nation’s schools, although the bill was defeated in Congress.

Yet in an era in which it was widely believed that schools were being overwhelmed by violence, the term zero tolerance resonated. Although data has since refuted this presumption—school violence has stayed relatively stable for 30 years—school districts in the late 1980s and early 90s began reframing their disciplinary policies to increase both the number and the length of suspensions and expulsions for an ever-widening range of infractions, including fighting (or witnessing fights), wearing hats, even failure to complete homework. The Clinton Administration and Congress soon jumped on the bandwagon, passing the Gun Free Schools Act in 1994, mandating a one calendar year expulsion for possession of firearms on school grounds.

At the core of zero tolerance philosophy and policy is the presumption that strong enforcement can act as a deterrent to other potentially disruptive students. Relying primarily upon school exclusion—out-of-school suspension and expulsion and increases in security and police presence—the philosophy of zero tolerance is based on the “broken-window” theory. The theory is that communities must react to even minor disruptions in the social order with relatively strong force in order to “send a message” that certain behaviors will not be tolerated. Conversely, zero tolerance advocates believe that the failure to intervene in this way allows the cycle of disruption and violence to gain a solid toehold in our schools and community.

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## ***The Effects of Zero Tolerance***

Since the philosophy of zero tolerance is to treat all incidents as worthy of severe intervention, it is not surprising that there have been literally thousands of incidents in the United States in which the punishment seems out of scale to the offense. News reports have documented a seemingly endless stream of cases in which students in U.S. schools have been suspended or expelled for bringing a knife in a lunchbox to cut chicken, pointing a gun drawn on paper at classmates, bringing a plastic axe to school as part of a Halloween costume, or calling one's mother stationed in Iraq on a cell phone. Some of these cases have led to community outrage, even lawsuits. Zero tolerance policies in Fairfax County, Virginia, recently became the center of intense controversy when a successful student-athlete committed suicide after his removal from school for possession of a legal but controlled substance (St. George, 2010).

Similar unfortunate incidents have followed the rise of increased police presence in schools. In Toledo, Ohio, a 14-year-old girl was arrested for a dress code violation when she came to school wearing a midriff shirt. In Palm Beach, Florida, a 14-year-old student with disabilities was arrested after he was caught stealing \$2 from a classmate; although it was his first arrest, he was held for six weeks in an adult jail. The prosecutor filed adult felony charges but dropped them after a crew from *60 Minutes* arrived at the boy's hearing. In Chicago, Illinois, in 2009, two dozen 11- to 15-year-old students in a charter school were arrested and detained overnight for a food fight.

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These incidents, noteworthy enough to be highlighted in the media, may well be only the tip of the iceberg in terms of how exclusionary policies have changed school outcomes. The use of out-of-school suspension has approximately doubled since 1973, and almost tripled for Black students (Kim, Losen, & Hewett, 2010). In some school districts, these increases have been dramatic. In Chicago, Illinois, after the implementation of zero tolerance in 1995, the number of expulsions rose from 81 to 1,000 three years later. Evidence suggests that the number of referrals to juvenile justice from schools is also increasing. In Pennsylvania, a 2010 report found that the number of referrals to juvenile justice has

tripled over a period of seven years. In Florida, there were over 21,000 arrests and referrals of students to the state's Department of Juvenile Justice in 2007-2008. A large proportion of these school arrests or referrals are for misdemeanor offenses or disorderly conduct. This has resulted in complaints by judges who worry about clogging up the juvenile justice system and courts with behaviors that could have been managed in the classroom or at school.

## ***Has Zero Tolerance Made our Schools Safer?***

Clearly, the rise of a punishment- and exclusion-based philosophy of school discipline has created very real consequences for students. Yet given the responsibility of educators to keep students safe, more extreme approaches to school discipline might well be viewed as justified if those approaches could be shown to lead reliably to safer or more orderly school climates. Ultimately then, the most important question in examining zero tolerance is its effectiveness. Does the data show that zero tolerance has led to improvements in student behavior or school safety? Does it do so fairly and equitably for all students? The question might be framed as one of costs and benefits. Does the removal of troublesome students from school reduce disruption and improve school climate enough to offset the inherent risks to educational opportunity and school bonding that come from removing students from the school setting? Three criteria that we might use in judging the effectiveness of school removal are consistency of implementation, outcomes, and fairness of application across groups. In all of these areas, the data are surprising, often disconfirming what we commonly expect.

## ***Inconsistency of Implementation***

A basic rule of intervention effectiveness is that, for an intervention or procedure to be effective, it must be implemented in the way it was intended. Procedures such as conflict resolution, for example, demand a high level of training of both staff and students—if that training does not occur, it is almost certain the procedure will be less effective. This criterion—often referred to as *treatment fidelity* or *treatment integrity*—means that, unless an intervention can be implemented with some degree of consistency, it is impossible to know whether it could be effective.

One of the common findings of studies about the application of school suspension and expulsion is its high rate of inconsistency. Rates of suspension and expulsion vary dramatically across schools and

school districts. Although one would presume that, as a more serious punishment, the use of school suspension would be reserved for more serious offenses, national data suggest that out-of-school suspension is used in response to a wide range of behavior from fighting to insubordination, and that only a small percentage of suspensions actually occur in response to behavior that threatens the safety or security of schools (Heaviside, Rowand, Williams, & Farris, 1998).

Further, although it is often presumed that suspension and expulsion are a direct response to student disruption, which student actually gets suspended or expelled is determined as much or more by the unique characteristics of that particular school. School climate and school governance, school demographics, and principal and teacher attitudes all play significant roles in determining the rate of school discipline. It is not surprising, for instance, that there are significantly higher rates of out-of-school suspension and expulsion at schools with principals who favor a zero tolerance approach (Skiba & Rausch, 2006).

### ***Disciplinary removal appears to have negative effects on student outcomes and the learning climate.***

In short, there appears to be a high rate of inconsistency in the use of school suspension and expulsion, and its application is based as much on school attributes as on student behavior. It must be assumed that this failure to demonstrate treatment integrity limits the effectiveness of application of zero tolerance suspensions and expulsions.

### ***Poor Outcomes***

No data exist to show that out-of-school suspensions and expulsions reduce disruption or improve school climate. If anything, disciplinary removal appears to have negative effects on student outcomes and the learning climate. A number of researchers have found that students suspended in late elementary school are more likely to receive office referrals or suspensions in middle school than students who had not been suspended, prompting some researchers to conclude that suspension may act more as a reward than as a punishment for many students (Tobin, Sugai, & Colvin, 1996). School rates of out-of-school suspension are moderately associated with lower graduation or

higher dropout rates and greater contact with the juvenile justice system (Council of State Governments Justice Center, 2011). Indeed, it has been documented that suspension or expulsion are used by some administrators as a tool for “pushout” in an attempt to rid the school of perceived troublemakers or those whose long-term chances of success at school are seen as low. Somewhat surprisingly, however, purging the school of such students does not improve school climate. Schools with higher rates of school suspension have been found to have lower parent and teacher ratings of school climate and school governance (American Psychological Association, 2008). Most importantly, schools with higher suspension and expulsion rates have been found to have lower outcomes on state-wide test scores, regardless of student demographics (Davis & Jordan, 1994). It is difficult to argue that zero tolerance approaches are necessary in order to safeguard an orderly and effective learning climate when schools that use school exclusion more have poorer academic outcomes.

### ***Unfair Application***

One of the more consistent findings when looking at school discipline has been a high degree of racial disparity in school suspension and expulsion. In the United States, Black students are consistently suspended at rates two to three times higher than those for other students, and are similarly overrepresented in office referrals, expulsions, and corporal punishment. Those disparities have increased over the last 30 years. Although it is widely believed that racial disproportionality in discipline is an issue of poverty, not race, the data say otherwise: Statistical analyses show that racial gaps in discipline are as likely or more likely to occur in rich, suburban districts as they are in poor, urban districts (Wallace, Goodkind, Wallace, & Bachman, 2008).

Nor do the data support the widely-held perception that Black students earn a higher rate of school exclusion by acting out more. If anything, studies have shown that Black students are punished more severely for less serious and more subjective infractions. One study, “The Color of Discipline,” explored the differences in infractions leading to office referrals between Black and White students. Where there were differences, White students were referred more than Black students for more objective offenses, such as smoking and vandalism, while Black students were referred more than White students for more subjective offenses, such as disrespect or loitering (Skiba, Michael, Nardo, & Peterson, 2002). Researchers since then have consistently found that disciplinary disparities

between Black and White students occur most often in subjective categories, like defiance and disrespect. Some evidence suggests that these disparities are caused at least in part by cultural mismatch or insufficient training in culturally responsive classroom management (Vavrus & Cole, 2002).

### **What Have We Learned?**

Clearly, there was a hope in the United States in the 1990s that the increased surveillance and punishment associated with zero tolerance would send a strong message that could deter violence, crime, and disruption in schools. Yet data that have accumulated since those policies were first implemented have been highly consistent in showing that such an approach simply has not worked in promoting improved student behavior or school safety. The American Psychological Association, in response to concerns about zero tolerance, commissioned a Zero Tolerance Task Force to study the approach and make recommendations. After a year of reviewing extensive research and documentation, that Task Force concluded that:

*An examination of the evidence shows that zero tolerance policies as implemented have failed to achieve the goals of an effective system of school discipline.... Zero tolerance has not been shown to improve school climate or school safety. Its application in suspension and expulsion has not proven an effective means of improving student behavior. It has not resolved, and indeed may have exacerbated, minority over-representation in school punishments. Zero tolerance policies as applied appear to run counter to our best knowledge of child development. By changing the relationship of education and juvenile justice, zero tolerance may shift the locus of discipline from relatively inexpensive actions in the school setting to the highly costly processes of arrest and incarceration. In so doing, zero tolerance policies have created unintended consequences for students, families, and communities. (American Psychological Association, 2008, p. 860)*

Fortunately, during the last decade, there has also been considerable growth in knowledge of alternative strategies that appear to hold far more potential for reducing school disruption and ensuring the safety of students in school. What have we learned?

**While setting limits is often an important part of many programs, the effects of punishment are always unpredictable.**

Over five decades of study, behavioral psychologists have amassed data that should lead us to be highly skeptical of the effectiveness of punishment for changing the behavior of children. While setting limits is often an important part of many programs, the effects of punishment are always unpredictable. Rather than changing their behavior, children and youth are just as likely to respond to punishment with anger and aggression or running away. As many school districts relying on suspension and expulsion have found, students eventually become immune to a certain level of punishment, requiring ever longer and more severe penalties. In schools and systems that rely solely on punishment to contain student behavior, more and more staff effort and resources are progressively devoted to a system that over time seems less and less effective. This is not an abstract problem: Every year, our reliance on school exclusion for discipline means that the educational career and life course of students across the nation are disrupted, moving them away from educational success and toward increased contact with the justice system. Fortunately, there are alternatives.



## **Preventive Discipline**

In the last 10 to 15 years, a comprehensive model of preventive discipline and behavior support has begun to emerge as the model most likely to successfully address issues of safety, disruption, and discipline in schools. The approach is grounded in a primary prevention approach to mental health and behavior planning, targeting three levels of intervention simultaneously. First, school-wide prevention efforts, such as conflict resolution, improved classroom behavior management, and parental involvement, can help establish a climate less conducive to violence. At the second level, schools assess the seriousness of threats of violence and provide support to students who may be at-risk for violence and disruption through such interventions as mentoring, anger management screening, and teaching pro-social skills. Finally, schools that are prepared to prevent violence have plans and procedures in place to effectively respond to disruptive or violent behaviors that do occur, including school-wide discipline plans, procedures for individual behavior plans, and cross-system collaboration, especially between education and juvenile justice.

### ***Appropriate strategies for handling misbehavior and teaching appropriate behavior can help prevent minor misbehavior from accelerating into a crisis.***

A preventive model of school discipline assumes that there is no one simple solution that can address all problems of school disruption. Rather, developing safe and orderly schools conducive to learning requires comprehensive, long-term planning, an array of effective strategies, and a partnership of education and juvenile justice, families, the community, and students themselves. The following have been demonstrated to be effective components of a comprehensive program to ensure school safety:

- *School-wide Behavioral Planning and Improved Classroom Management.* School-wide discipline plans and behavior support teams, through programs such as Positive Behavior Interventions and Supports, build the consistency and communication that is critical in effective responses to school disruption. Appropriate strategies for handling misbehavior and teaching appropriate behavior can help prevent minor misbehavior from accelerating into a classroom or school crisis.

- *Social Emotional Learning.* Social instructional approaches can help establish a non-violent school climate, by teaching students alternatives to violence for resolving interpersonal problems.
- *Parent and Community Involvement.* Rather than blaming parents as the cause of discipline problems, schools, courts, and communities are beginning to find that it is more useful and effective to include parents as active partners in the process of behavior planning.
- *Early Screening for Mental Health Issues.* Early identification of students who may be at-risk for antisocial behavior or emotional disorders increases the chances of providing behavioral support to those students, so that unmet social and behavioral needs do not escalate into violence.
- *School and District-wide Data Systems.* Improved data collection on discipline, office referrals, and law enforcement contact, and in particular the disaggregation of such data by race and ethnicity, can be used to evaluate school and district progress in handling both major and minor disciplinary incidents. Disaggregation of those data for those groups who have been disproportionately affected by school discipline is key in bringing equity to our school discipline systems.
- *Effective and Ongoing Collaboration.* Reducing referrals to juvenile justice and school-based arrests will require collaboration between education, juvenile justice, and law enforcement in order to develop effective alternative strategies, such as restorative justice, that can contribute to school safety while reducing the risk of student involvement in the juvenile justice system.

## **Conclusion**

In the nineteenth century, the dunce cap served as a potent symbol of the prevailing belief that failure to learn was a character flaw that could not be remediated. In the intervening years, we have come to understand that mistakes are simply the first step in the learning process and that, with perseverance and improved teaching, all students can learn. We are due for a similar realization with respect to student misbehavior. We can no longer afford simply to throw away those who transgress in our schools, especially when such exclusions continue to disproportionately impact those who have been marginalized throughout our history. The cost to

society of an ever-expanding prison population, and to our communities of an increasing crime rate as more children spend more time out of school, is simply too great. Schools and communities across America are discovering that safety and academic opportunity are in no way mutually exclusive and that, by employing strategies to teach students what they need to know to get along in school and society, we strengthen our children, our systems, and our communities.

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