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**MOVING AWAY FROM ZERO?
THE CURRENT STATE OF ZERO TOLERANCE IN AMERICA'S SCHOOLS**

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Abstract

Zero tolerance policies in American public schools, which prescribe stringent punishment such as suspension and expulsion for certain student misbehavior, rose to national prominence during the mid-1990s in response to a perceived increase in school violence. However, as zero tolerance policies spread throughout the country, critics emerged, arguing that the policies were too harsh and ineffective at reducing violence in schools. This paper provides an account of the current state of zero tolerance in American public schools. It introduces zero tolerance by discussing its origins and application in the public school context. Then, both sides of the zero tolerance debate are reviewed, including the theories and outcomes upon which proponents and opponents rely to analyze this controversial policy initiative. Lastly, this paper discusses the ongoing debate over zero tolerance in the state of Delaware where recent media attention thrust zero tolerance into the forefront of the state's education discourse. Delaware's zero tolerance debate serves as a useful illustration of where the issue presently stands in the United States.

Introduction

Zero tolerance policies in American public schools, which prescribe stringent punishments such as suspension and expulsion for certain student misbehavior, rose to national prominence during the mid-1990s. Proponents of zero tolerance policies felt the policies' strong mandates were necessary to curb a rising trend of school violence. However, as zero tolerance policies spread

throughout the country, critics emerged, arguing that the policies were too harsh, and were ineffective at reducing violence in schools. While critics mount strong challenges to zero tolerance's efficacy, and even present evidence of its detrimental consequences, zero tolerance proponents continue to convince policy makers and the public that zero tolerance contributes to safer schools. Without question, zero tolerance's place in American public education remains a heated debate.

This paper provides a policy framework for this debate. It introduces zero tolerance by discussing its origins and application in the public school context. Then, both sides of the zero tolerance debate are reviewed, including the theories and outcomes upon which proponents and opponents rely to analyze this controversial policy initiative. Lastly, the zero tolerance debate in the state of Delaware is discussed, as policy-makers there are engaged in an ongoing review of the policy.

An Introduction to Zero Tolerance

In the public school context, zero tolerance policies prescribe predetermined, mandatory punishments for specific offenses, ranging in severity from possession of a firearm on school property to redundant tardiness. When zero tolerance policies are strictly applied, school administrators are bound to give relatively strict punishments when a student commits one of the enumerated offenses. For example, under a typical zero tolerance policy, an administrator is bound to expel a student for possession of a "weapon" on school property, regardless of the reason for the student's possession of that weapon - in one extreme instance, a student faced expulsion when a butter knife was discovered in the back of his truck, parked on school grounds (Reyes, 2006).

Zero tolerance policies were widely implemented in the mid-1990s following the passage of the Federal Gun-Free Schools Act of 1994 (GFSA), which mandated a one-year expulsion for possession of a firearm on school property.¹ While a small group of school districts implemented zero tolerance policies prior to the GFSA, such policies quickly spread throughout the country following its enactment (Skiba & Peterson, 1999). Notably, the GFSA made federal education funding contingent on compliance with its mandates, leading states and school districts to adopt complying policies that often far exceeded the GFSA's provisions. Within five months of its passage, all states passed legislation reflecting GFSA's mandates (Dohm, 2001). By 1996-1997, 94 percent of public schools had zero tolerance policies for firearms, 91 percent for weapons other than firearms, 87 percent for drugs and alcohol violations, and 79 percent for fighting (Casella, 2003; Stader, 2006). Zero tolerance policies vary across school districts, but all include strong punishments such as suspensions and expulsions for enumerated offenses. Importantly, most policies afford administrators some limited degree of flexibility in punishing students. While the GFSA specifically afforded "chief administering officers" case-by-case review to modify punishments, most state and local policies limited the discretion afforded to school administrators (Reyes, 2006).

Zero tolerance policies emerged from growing public concern over safety in schools (Pederson, 2004). This concern was fueled by a perceived epidemic of violence amongst youth (Casella, 2003), and supported by government reports that recounted increases in student involvement in violence, violence against teachers and student fear of violence (Sughrue, 2003). Zero tolerance was viewed as a necessary response to a drastic situation (Casella, 2003).

Beyond the broader goal of making schools safer, zero tolerance policies are thought to have three specific benefits. First, they will change the violating students' behaviors through

punishment. Second, they will remove violent and dangerous students from the school environment, thereby protecting the student body at large. Third, severe punishment of violating students will deter future misbehavior on the part of other students (Gladden, 2002).

Common Ground Amongst Zero Tolerance's Proponents and Opponents

Before the zero tolerance debate is discussed, it is important to note that distaste for the extreme consequences of zero tolerance policies is seemingly universal. Both proponents and opponents of zero tolerance criticize its application when it results in severe punishments for seemingly innocuous behavior (e.g., Ayers, Ayers & Dorhn, 2001; Pederson, 2004; Stader, 2006). Examples of such incidents abound and are frequently cited in the zero tolerance debate. In addition to the butter knife incident discussed above, frequently cited incidents in which the zero tolerance punishment did not match the severity of the offense include:

- expulsion for using a steak knife to peel an apple in the cafeteria (Ayers, Ayers, & Dorhn, 2001);
- expulsion for bringing a carved cane, which was deemed a weapon, to school for show-and-tell (Ayers, Ayers, & Dorhn, 2001);
- suspension of a student for possessing a knife which he took from his friend who had expressed suicidal intentions and which he voluntarily presented to the school principal (Pederson, 2004);
- suspension of a six-year-old for sharing a lemon drop with another student (Pederson, 2004);
- suspension of three students for playing "cops and robbers" (Pederson, 2004);

- expulsion of a student for shooting a paper clip with a rubber band at a classmate, missing and hitting a cafeteria worker (Martin, 2001);
- expulsion of a student for having a cardboard cut-out of a rifle in a car window on school property (Schwartz & Rieser, 2001); and
- suspension of a student for having a plastic ax attached to a Halloween costume (Schwartz & Rieser, 2001).

Zero tolerance opponents frequently cite these examples to shock their audience and provide real-life examples of the potentially extreme consequences of zero tolerance (e.g., Martin, 2001; Schwartz & Rieser, 2001). Proponents note that such incidents occur rarely and could have been avoided if school administrators had used common sense and employed the small amount of flexibility afforded by most zero tolerance policies in determining the students' punishments (Sughrue, 2003). In fact, one study found that zero tolerance policies are waived at the local level 30-40 percent of the time (Stader, 2006). Although such incidents are attention-grabbing, they do not lie at the core of the zero tolerance debate.

Support for Zero Tolerance

Zero tolerance proponents offer theoretical support for its application in the public school context. They argue that rational choice theory indicates that zero tolerance will effectively deter misbehavior (Casella, 2003), and that zero tolerance's strict mandates promote equality in punishment (Reyes, 2006). To buttress the theoretical foundation for zero tolerance, proponents offer outcome-based support for their belief that schools are safer due to zero tolerance (Stader, 2006).

Theory Behind Zero Tolerance

Rational choice theory suggests that zero tolerance will have the desired effect of deterring the targeted misbehavior. Rational choice theory is based on the economic principle that a person will weigh the consequences of a potential action before taking it, and will only take such an action if its benefits outweigh its negative consequences. Thus, according to the theory, zero tolerance heightens the negative consequences of taking a potential action, such as fighting in school, and decreases the likelihood that a student will act (Casella, 2003).

Proponents also value zero tolerance policies' "blind" application of punishment to offense - by not considering who an offending student is and what circumstances led to the offense, zero tolerance is thought to remove personal discretion from the equation (Reyes, 2006). Students have consistent expectations for their behavior and punishment for their misbehavior. Proponents contend that this will result in a disciplinary system free from bias, favoritism or racism. In other words, uniform application guarantees equal application (Casella, 2003).

Outcome-based Support for Zero Tolerance

Proponents highlight both national and local outcomes that suggest zero tolerance has made schools safer. These include the following:

- The number of homicides at school has decreased from thirty per year in 1992-1993 to twelve per year in 1999-2002 (Stader, 2006);
- Between 1993 and 2003, the percentage of students who self-reported carrying a weapon to school during the previous thirty days dropped from twelve percent to six percent (Stader, 2006);

- Student victimization at school dropped from 48 to 33 violent incidents per 1,000 students between 1992 and 1999 (Gladden, 2002);
- Camden, New Jersey's school district reported that its zero tolerance policy contributed to a 30 percent drop in superintendent disciplinary hearings and almost a 50 percent decline in drug offenses (Casella, 2003); and
- A school district in Tacoma, Washington, reported that school fighting reduced by nearly one-half in the first year of its zero tolerance policy, and dropped from 194 fights to three fights between 1991 and 1994 (Casella, 2003).

Based on these outcomes, proponents contend that properly applied zero tolerance policies have resulted in the lowest level of school crime in decades, particularly in urban schools (Feldman, 2000).

Proponents also note that zero tolerance does not exist in a vacuum, nor should it. Rather, it is part of comprehensive school discipline plans. Indeed, violence prevention programs coupled with zero tolerance policies have been found to diminish school violence (Casella, 2003). Also according to proponents, suggestions that zero tolerance policies are void of sufficient support services for troubled youth is belied by many districts' discipline plans, which often include alternative schooling, conflict resolution initiatives, and other services (Stader, 2006).

Criticism of Zero Tolerance

Opponents of zero tolerance policies attack it on several fronts. First, they argue that such policies were adopted based on false pretenses - there was not a school violence epidemic in the United States. Second, the theoretical supports advanced by zero tolerance proponents are faulty,

as is the outcome-based support advanced by zero tolerance proponents. Third, zero tolerance policies cause several unintended and detrimental effects.

The Faulty Premise Supporting Zero Tolerance

Opponents of zero tolerance urge that violence in schools is not a significant impediment to education, nor was it when zero tolerance policies were being adopted (Skiba & Peterson, 1999). Rather, support for zero tolerance emerged from public misperception of violence at school, spurned in large part by the media (Schiraldi & Ziegenberg, 2001). For example, while occurrences of juvenile homicides dropped by 13 percent between 1990 and 1995, network evening news coverage of such incidents increased 240 percent (Dohrn, 2001). A 1996-1997 survey that asked school disciplinarians what were serious or moderate problems at their schools revealed that significantly more disciplinarians viewed less serious offenses – such as tardiness, absenteeism and fighting – as serious or moderate problems, than viewed more serious offenses – such as drugs, gangs, weapons possession and physical attacks of teachers – as serious or moderate problems (Skiba & Peterson, 1999). The same survey found that violent crimes occurred infrequently, at an annual rate of 53 per 100,000 students (Skiba & Peterson, 1999). Opponents also note that, despite the frequent public attention afforded to such events, a very small percentage of youth homicides occur at school. For example, in 1998-1999, one percent of youth homicides occurred at school (Gladden, 2002). Thus, opponents of zero tolerance contend its alleged necessity was based on the public's false impressions of reality.

The Faulty Theory Behind Zero Tolerance

Opponents further criticize zero tolerance because it fails to adhere to the theoretical bases upon which it is formed. Zero tolerance critics argue that rational choice theory is misapplied in the zero tolerance context because what is rational for youth facing difficult circumstances is not understood (Casella, 2003). For example, a student confronted with repeated bullying may choose to bring a weapon to school to scare off his harassers, despite the severe punishment he will face if caught with the weapon. To this student, the threat of expulsion does not outweigh the potential benefit of ending his continued victimization and the rational choice is to bring the weapon to school. Such a hypothetical scenario is based in reality – students are commonly confronted with bullying and the most common reason for bringing weapons to school is for protection (Stader, 2006). Thus, bringing a weapon to school for self-defense may be a rational choice, despite the possibility of harsh discipline.

Opponents also vigorously contest the notion that zero tolerance allows unbiased application of discipline and ensures equal punishment amongst students because it minimizes discretion. On the contrary, multiple studies demonstrate that zero tolerance policies disproportionately punish African American and Latino students (Gordon, Della Piana & Keleher, 2001). Though African Americans are only 17 percent of the public school student body, they comprise 32 percent of out-of-school suspensions (Gladden, 2002). Even when socioeconomic status is taken into account,² African Americans are disproportionately suspended (Skiba, 2001; Skiba & Peterson, 1999). Data from the 1998-1999 school year in South Carolina further demonstrates the disproportionate treatment of African Americans (who were 42 percent of the student body):

- African American students were 69 percent of the students charged for disturbing school;

- African American students were 71 percent students charged for assault; and
- African American students were 69 percent students charged for threatening a school official (Advancement Project & Civil Rights Project, 2000).

Thus, the notion that zero tolerance removes bias, and therefore discrimination, from school discipline is in doubt.

The Faulty Outcome-based Support for Zero Tolerance

Opponents of zero tolerance contend that many of the alleged outcomes cited by zero tolerance proponents do not demonstrate that such policies make schools safer. While rates of violent crime at school may have dropped significantly during the 1990s, the decline is not necessarily due to zero tolerance policies. Proponents point out that the decline in school violence mimics the decline in crime rates nationally, suggesting that there are forces greater than zero tolerance at play (Molsbee, 2008). Further, although national statistics may point to a decline in school violence, opponents argue that school-specific analysis suggests that zero tolerance is ineffective - even after zero tolerance policies were in place for four years, schools with zero tolerance policies remain less safe than those that do not have such policies (Skiba & Peterson, 1999).

The Unintended and Detrimental Effects of Zero Tolerance

Zero tolerance policies also receive criticism because they contributed to a dramatic increase in suspensions and expulsions. From 1974 to 2001, suspensions nearly doubled from 1,700,000 to 3,100,000 and expulsions increased by approximately 97,000. The overwhelming majority of suspensions and expulsions came as a result of relatively minor offenses, such as

tardiness, truancy, smoking and dress code violations (Molsbee, 2008). While zero tolerance is not solely to blame for this increase, it certainly contributed.

Zero tolerance critics contend that the consequences of these increases are dramatic. A history of suspension or expulsion is a strong predictor of dropping out of school (Skiba & Peterson, 1999). Suspension and expulsion are also commonly cited reasons for students' decisions to drop out (Molsbee, 2008). Zero tolerance policies commonly fail to provide education to students while they are suspended or expelled. Students facing disciplinary action are often already struggling in school, and disruption in their educational progress pushes them further towards failure (Sughrue, 2003). Misbehavior and poor school performance build upon one another. As students fall behind academically, they become less invested in school and tend to misbehave. This leads to suspensions or expulsion, which further delays their academic progress and causes them to further devalue school (Gladden, 2003). Just as a history of exclusion is a predictor of dropping out, academic struggles are demonstrated predictors of exclusionary discipline (Haft, 2000).

Moreover, suspended and expelled students have high rates (between 35 percent and 45 percent) of recidivism (being subsequently suspended or expelled for misbehaving at school) (Molsbee, 2008). This suggests that zero tolerance's goal of reforming misbehaving students is not being met. Teachers report that exclusionary punishments are more often administered to students whom the teachers expect to reoffend – in other words, teachers do not expect such punishments to prevent future misbehavior for most students (Wald & Casella, 2001).

Zero tolerance opponents are also quick to point out that, other than the threat of missing school, suspensions and expulsions do nothing proactive to reform misbehavior (Sughrue, 2003). Although teachers report that they value zero tolerance because it enables them to remove

disruptive students from their classrooms, they note that zero tolerance fails to do anything to prevent repetitive misbehavior (Wald & Casella, 2001). Moreover, suspension and expulsion may enhance a student's social isolation, which has been identified as a cause of misbehavior (Haft, 2000).

Opponents of zero tolerance also contend that such policies are part of the "schoolhouse to jailhouse pipeline," which places misbehaving students on a narrow path to incarceration in juvenile detention centers and, ultimately, prison. As part of their zero tolerance approach, more than forty states require schools to report students to the police for certain misbehavior (Robbins, 2008). For example, many schools are required to report students involved in schoolyard fights to the police, which results in assault charges (Advancement Project & Civil Rights Project, 2000). The majority of arrests for school misbehavior are not the result of serious violent crime. For example, in 1997, approximately 180,000 students nationally were arrested for fighting in school, 120,000 for theft in school, 110,000 for vandalism in school, but only 20,000 for committing violent crimes (other than fighting) in school (Dorhn, 2001). Thus, in 1997, more than 400,000 students were arrested for misbehavior that once was addressed within the school context - a new population of youth is being introduced to the juvenile justice system due to zero tolerance.

Opponents also stress that zero tolerance policies removing discipline decision making from those who best know the offending students - teachers and lower-level school administrators (Sughrue, 2003). A practical result of this is teachers facing the tough decision of reporting a misbehaving student to administrators, likely resulting in an unduly harsh punishment, or bucking school policy, keeping the student's misbehavior to herself, and giving the student her own punishment. Learning theories suggest that punishment is more effective when the punisher is trusted and respected and the punishment itself is well reasoned. Therefore, teachers should not

face the discipline dilemma described above; rather, they should be empowered to develop relationships with their students in which students can expect fair punishments for misbehavior (Gladden, 2002).

Alternatives to Zero Tolerance

Importantly, opponents of zero tolerance policies offer various alternative approaches to school discipline. Such policies include: formal mentoring programs for misbehaving students, peer mediation and other conflict resolution initiatives, deliberate study of character and social well-being as part of the academic curriculum, enhanced counseling services, in-school-suspension that features modified academic programs, discipline contracts developed and signed by students and community partnerships (e.g., Casella, 2003; Advancement Project & Civil Rights Project 2000). Notably, some critics of zero tolerance concede that circumstances, although rare, do occur in which suspensions and expulsion are necessary. However, exclusionary punishments should be last resorts, not automatic sanctions (Haft, 2000).

The Zero Tolerance Debate in Delaware

In the autumn of 2009, a six-year-old student in Delaware's Christina School District was suspended for 45 days because he brought a camping utensil that can be used as a spoon, fork and knife to school. The boy had recently joined the Cub Scouts of America, and was excited about using his new gadget during lunch. According to the school district's code of conduct, which was directed by state law, the gadget qualified as a weapon and suspension was mandatory, regardless of whether he intended to use it for harm (Urbina, 2009). Thus, school officials were dutifully following the laws and regulations in place when they suspended the student. Remarkably, this

incident came on the heels of another harsh application of Christina School District's zero tolerance policy. In 2007, a twelve-year-old was expelled for bringing a utility knife blade to school for a class project. The student had used the knife to cut windows out of a paper house (Janerette & Shepperson, 2009).

In response to the media attention these incidents garnered, as well as outrage from concerned parents, the Christina School District and the Delaware State Legislature reviewed their zero tolerance policies. Specifically, in 2009, the House of Representatives formed a School Discipline Task Force to examine whether House Bill 85, which introduced zero tolerance policies to the state in 1993, should be changed to effectuate school discipline practices that yield more fair and reasonable outcomes (School Discipline Task Force, 2010). In forming the Task Force, the House desired to determine whether greater discretion for school officials was feasible, and if other changes to the law or to school districts' codes of conduct should be made. The Task Force included various school administrators, government officials, advocates and others who brought a wide array of perspectives to bear on the zero tolerance issues facing the state (School Discipline Task Force, 2010).

Several detrimental consequences of Delaware's zero tolerance approach were highlighted by members of the Task Force (School Discipline Task Force, 2010). For example, as applied, zero tolerance precipitated high arrest rates, as well as arrests for students with no prior discipline issues. These arrests often harmed students' chances of university admission and employment and placed an unnecessary burden on the resources of the Attorney General's Office and the Family Court. Inconsistent application of zero tolerance rules across Delaware's nineteen school districts was also noted (School Discipline Task Force, 2010).

Based on the insights of Task Force members, a number of recommendations to the General Assembly and to the school districts in the state were made. Suggested policy changes included: providing school boards and other officials greater discretion when reviewing the application of zero tolerance punishments, incorporating more moderate and graduated disciplinary responses for students who violate their district's code of conduct, ensuring that suspended and expelled students have adequate educational opportunities, and redrafting portions of House Bill 85 to include specific, common sense language that can be better understood by those interpreting it (School Discipline Task Force, 2010).

The evaluation of zero tolerance in Delaware serves a prime example of the current state of zero tolerance nationwide. The General Assembly is considering softening the laws and regulations in effect to avoid the more extreme applications of zero tolerance that occurred in 2007 and 2009. However, they are not going so far as to repeal zero tolerance entirely and grant teachers and administrators the wide disciplinary discretion they once had. Because safety in schools remains a prominent and essential issue, policy makers are seeking ways to remain tough but reasonable. Their hope is to provide school administrators with firm guidelines to follow that contain just enough flexibility to allow them to avoid blatantly unreasonable applications of zero tolerance. At the same time, the Task Force noted the importance of providing quality educational opportunities for students who face suspension or expulsion to mitigate the detrimental effects of these severe punishments. Their recommendations serve as a strong example of a policy discussion in which striking a balance between ensuring that schools remain safe and ensuring that every student has acceptable educational opportunities drives the conversation. Notably, this scrutiny has thus far only led to minimal changes in the Christina School District and Delaware's zero tolerance rules.

Conclusion

Since its peak in popularity in the late 1990s, zero tolerance remains a pillar of school safety policy. Despite significant criticism, zero tolerance continues to enjoy widespread support. For example, a study conducted in 2004 found that 88 percent of parents supported zero tolerance policies in their children's schools (Stader, 2006). Parents, administrators and lawmakers alike value zero tolerance as a decisive and strong reaction to school violence and other misbehavior (Gladden, 2002).

It appears that zero tolerance in public schools is not simply a policy fad; rather, as stories such as the Columbine shootings continue to stoke the public's fear of violence at school, zero tolerance and similar "get-tough" policies promise to endure. As is demonstrated by the ongoing debate in Delaware, states and school districts are considering adjusting zero tolerance policies to afford administrators more discretion and to eradicate instances of extreme punishments mandated by zero tolerance laws (Molsbee, 2008). At the same time, the federal government is encouraging states to provide better educational opportunities for offending students, such as alternative schools and in-school-suspensions, to minimize the disruption in students' educational development (Stader, 2003). Thus, while its opponents may not successfully defeat zero tolerance, their critiques contribute to states', districts' and schools' continuing efforts to construct comprehensive school policies that equitably and efficiently create safer school environments and reform misbehaving youth.

¹ In 1995, the GFSA was amended to pertain to "weapons," which included any device that could be used as a weapon.

² Notably, zero tolerance also disproportionately affects lower socioeconomic classes – high income students are less likely to receive referrals for misbehavior, which result in suspensions and expulsions. (Molsbee, 2008).

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