A Generation at Risk: The Ties Between Zero Tolerance Policies and the School-to-Prison Pipeline

Mikki L. Smith
msmit245@emich.edu
A GENERATION AT RISK: THE TIES BETWEEN
ZERO TOLERANCE POLICIES AND THE
SCHOOL-TO-PRISON PIPELINE

Mikki L. Smith
Dr. Janet Okagbue-Reaves, Mentor

ABSTRACT

This research will discuss the use of “zero tolerance policies” in public schools across America. These policies have been shown to adversely affect students from urban backgrounds, particularly minority males and those with disabilities. Equally, the use of out-of-school suspension is statistically proven to have a negative impact on high school completion, often resulting in criminal activity and future incarceration for these students, a phenomenon described as the “school-to-prison pipeline.” This research will discuss the history of zero tolerance policies, reveal bias in their use, and review alternative solutions that have proven successful.

INTRODUCTION

The term “zero tolerance policies” refers to individual school or district-wide policies that mandate predetermined, typically harsh punishments, such as suspension and expulsion for a wide degree of rule violations (National Association of School Psychologists, 2001). According to data from the U.S. Department of Education and the Center for Safe and Responsive Schools, at least 75% of schools report having zero tolerance policies (National Association of School Psychologists, 2012). Public schools across the nation have adopted policies requiring students to pass through metal detectors and be monitored by cameras throughout the building (Robers, Zhang, & Truman, 2012). On
average, states [in the U.S] spent about 2.8 times as much money per prisoner as per public school pupil in 2007 (Children’s Defense Fund, 2009). In Michigan alone, 3.2 times the amount of money was spent per prisoner than per public school student (Children’s Defense Fund, 2009).

In the past decade, zero tolerance policies have faced much criticism for reasons ranging from the overrepresentation of their use on certain minority groups, to causing elevated rates of dropouts (Children’s Defense Fund, 2009; Robers et al., 2013; Losen & Martinez, 2013; Chappell, 2014). Without the proper reform of such policies, students subjected to zero tolerance policies may be destined to become victims of the school-to-prison pipeline. This paper will discuss the history of zero tolerance policies in public schools across the United States and examine their ties to the school-to-prison pipeline, by revealing bias in their disproportionate use against black male and disabled students. Successful alternatives to zero tolerance policies will also be discussed, showing that the school-to-prison pipeline need not be the outcome of failed educational policies.

Zero tolerance policies, which are in effect at many public schools, are the most extreme form of punishment under a punishment paradigm. In the 1980s, when these policies were first used in public schools, zero tolerance was initially defined as “consistently enforced suspension and expulsion policies in response to weapons, drugs and violent acts in the school setting” (NASP, 2013). In 1986, U.S. Attorney Peter K. Nunez brought national attention to the term when he used it to describe a program he started in San Diego that impounded seagoing vessels carrying any trace of illegal drugs. U.S. Attorney General Edwin Meese embraced Nunez’s program as a national model (American Civil Liberties Union Pennsylvania, 2013); the use of “zero tolerance” was expanded after Meese began a so-called “war on drugs” (Skiba & Rausch, 2006; Rethinking Schools, 2011-2012).

In response to multiple school shootings that took place in the early 1990s, (Rethinking Schools, 2011-2012), President Bill Clinton signed the Gun Free School Act (GFSA), which was passed by Congress in 1994 (Hitchcock, 2013). The GFSA
asked states to pass laws requiring all local school districts to expel any student, for at least one year, who brought a weapon to school (NASP, 2013; Hitchcock, 2013). Districts were also given the option of enacting a zero tolerance policy; refusing to do so, however, would result in the loss of federal funds (NASP, 2013). By the 1996–97 academic year, 79% of public schools in the United States had adopted zero tolerance policies in order to guarantee their funding for the following year (NASP, 2013; Kang-Brown, 2013).

Zero tolerance policies reduced but did not eliminate incidents with firearms; more than such 30 incidents were reported between 1990 and 1998 (Rethinking Schools, 2011-2012). Although incidents involving weapons were still seen as a prominent issue in schools throughout the 90s, it was not until 1999 that zero tolerance was fully enforced in schools across America (NASP, 2013).

Following the events in 1999 at Columbine High School, people across the country worried that the next devastating school shooting would occur in their own district. This led to the expansion of zero tolerance policies to encompass a wide range of misconduct: “Under zero tolerance, policies require that both minor and major disciplinary events be treated equally” (NASP, 2013). Zero tolerance was instituted as a way to maintain order and reduce the occurrence of violence and drug use in schools, but there were also benefits seen in removing disruptive students from the classroom (NASP, 2013; Rethinking Schools, 2011-2012). A key assumption was that the removal of disruptive students would result in a safer climate for others (Ewing, 2000).

By 2000, zero tolerance policies were applied to behavior as simple as truancy and speaking too loudly in a classroom setting (NASP, 2013; Rethinking Schools, 2011-2012; Losen & Martinez, 2001; Ward, 2014). The newly amended policies were seen as a means of protecting students while keeping them under control (Ewing, 2000; Public Agenda, 2004). Although many administrators, teachers, and parents supported the original use of zero tolerance in schools, many others questioned whether its expanded applications would actually make schools safer (Blankstein, 1999; Public Agenda, 2004).
The new phase of zero tolerance was enacted with the “broken glass theory” in mind (Children’s Defense Fund, 2009). This theory was used to justify the need for school officials to punish minor offenses severely (Shelden, 2001; Kelling & Sousa, 2001; Teske, 2011). The “broken glass theory” argued that “in order to prevent students from becoming unruly, they must be critically punished for minor offenses, to avoid major ones” (Shelden, 2001; Kelling & Sousa, 2001; Teske, 2011). However, research indicates that, as implemented, zero tolerance policies resulted in a number of negative consequences, including increased numbers of school dropouts and the discriminatory application of school disciplinary practices (NASP, 2013; Sheldon, 2001; Children’s Defense Fund, 2009). Although it is important for students to face consequences due to unruly behavior and misconduct, it is neither productive nor beneficial for students to miss up to ten days of instructional time due to minor offenses (Ewing, 2000; APA, 2008; NASP, 2013; Losen & Martinez, 2013; Ward, 2014).

The high number of dropouts among those who experienced suspension indicates that the zero tolerance culture had a powerful impact on public schools across the country (Lee, Cornell, Gregory, & Fan, 2011). Many students in urban areas arrived at school every morning to face metal detectors and wand searches, which adversely affected their learning experience (Bachman, Randolph, & Brown, 2011; Schreck & Miller, 2003; Phaneuf, 2009; Beger, 2003). Although such practices were established in the pursuit of safety, students were unable to receive education when suspended from classes or expelled (Lee, Cornell, Gregory, & Fan, 2011; Bachman, Randolph, & Brown, 2011; Schreck & Miller, 2003; Teske, 2011). Kang-Brown reports, “Nationally, nearly a third (31%) of black boys in middle school were suspended at least once during the 2009–10 school year. Part of this dynamic is that under-resourced urban schools with higher populations of black and Latino students are generally more likely to respond harshly to misbehavior” (2013). Without education, opportunities for legitimate jobs are limited; thus urban students are statistically more likely to engage in activities that result in their incarceration.
I. The School-to-Prison Pipeline

The “School-to-Prison Pipeline” (STPP) refers to the overrepresentation of minority students, particularly African-American males, in the juvenile corrections system and, consequently, in the prison system (Children’s Defense Fund, 2009; Robers et al., 2013; Losen & Martinez, 2013; Chappell, 2014; Skiba, 2000). Civil rights advocates argue that zero tolerance practices push students, especially students of color, “out of school and into the juvenile and criminal justice systems” (Curtis, 2014). Black males represent the largest percentage of detainees in juvenile detention as well as in American correctional facilities nationally (Robers et al., 2013). Among middle school students, black youth are suspended nearly four times more often than white youth; Latino youth are twice as likely to get suspended or expelled than white youth (Children’s Defense Fund, 2009). The Children’s Defense Fund estimates that in 2005, some 580,000 Black males were serving sentences in state or federal prison, while fewer than 40,000 Black males earn a bachelor’s degree each year (Children’s Defense Fund, 2009). These rates have caused educators and social theorists to question whether socioeconomic or racial differences are a factor in this growing societal problem.

In the year 2000, Black students represented only 17% of the student population, yet constituted 34% of the population of students suspended from school (Wald & Losen, 2003). According to the Zero Tolerance Task Force of the American Psychological Association, “[t]here is no evidence connecting this disparity to poverty, or assumptions that youth of color are [more] prone to disruptive and violent behavior” (Skiba et al., 2006). Most studies indicate that the overrepresentation of minority students in the suspended population is related to referral bias on the part of school officials (Skiba, 2000). If no factual evidence proves that a particular group of students is alone responsible for trouble in the school setting, one must question why that group represents the majority of the suspended population.

The STPP involves a series of factors that, when combined, predicts the future of a vulnerable student. In case studies performed by Julia Cass and Connie Curry, ten “risk factors” were identified as
predictors of the likelihood of a child entering the STPP, including poverty, limited access to health and mental health services, family composition, underperforming schools, unsupportive cultural environments, child welfare, and juvenile justice systems that are in need of some reform (Children’s Defense Fund, 2009). The Children’s Defense Fund went on to note that a young child exposed to six or more of these risk factors is ten times more likely to enter the pipeline than a child who experiences only several risk factors.

Out-of-school suspension is also strongly associated with student involvement in the juvenile justice system (Children’s Defense Fund, 2009; Fabelo, 2011; Robers et al., 2013; Chappell, 2014). Students who are drawn into the STPP usually enter after being removed from the classroom following a suspension (Fabelo, 2011; Robers et al., 2013; Chappell, 2014). Studies have found that “disciplining harshly with out of school suspension (OSS) and criminal sanctions, regardless of the risk level of the student, exacerbates the problem by making students worse” (Andrews & Bonta, 1998; Mendez, 2003).

The disproportionate number of minority students experiencing OSS appears to be related to racial and ethnic disparities in the juvenile justice system. This information has lent additional support to the argument that “removing students from positive learning environments and criminalizing normative immaturity increases the risk of incarceration” (Skiba, 2000). While all behavior committed against school policies should have a consequence, severely punishing a student for an action seen as normal for a particular age group appears to do more harm than good.

The STPP has often been linked to an overreliance on punitive school disciplinary policies. Donna Lieberman, an attorney with the New York branch of the American Civil Liberties Union, stated, “[i]f they [students] have been suspended once, their likelihood of being pushed out of the school increases” (cited in Chen, 2010). Some public schools with zero tolerance policies began meting out excessive punishments for minor offenses, such as giving tickets for truancy if students were late for class. Manuel Criolo, the lead organizer of the “No to Pre-Prison” campaign at The Strategy Center in Los Angeles, asserted that “[students] just end up not going to school at all” (Chen, 2010).
II. The Connection between Zero Tolerance Policies and the School-to-Prison Pipeline

Minority students, as well as students from low socioeconomic backgrounds, are heavily affected by the STPP. Teske reported that in 1998, black youths with no prior criminal history were six times more likely, and Latino youths were three times more likely, to be incarcerated than white youths who had conducted the same offenses (Teske, 2011). Zero tolerance policies have become a barrier between student success and juvenile dropout rates. When students are adversely affected by these policies, their chances at higher levels of education, employment, and their freedom from incarceration are put into jeopardy.

In a study conducted in Texas, Fabelo (2001) showed that if a student is subjected to a single suspension or expulsion for a discretionary offense that did not include a weapon, that student’s likelihood of becoming involved in the juvenile justice system in the following academic year almost tripled. Labels such as “thug” or “hoodlum” may be attached to these adolescents, which might restrict them from receiving subsequent academic support, putting them at risk for recidivism. Data presented by the Office of Juvenile Justice and Delinquency Prevention showed that

In 2008, there were over 1.6 million youth whose cases were disposed in juvenile courts across the country. Black youth were highly over-represented in the country’s juvenile courts when considering that [b]lack youth comprised 34% of those cases disposed and yet, they only constituted 16% of the population at risk or all youth aged 10 to 17 (Department of Justice 2008).

In 2008, Harris et al. reviewed the percentage rates of recidivism in juvenile delinquents and offenders. According to their data, collectively 49% of youth offenders were rearrested within the first 12 months of freedom, a number that rose to 66% within the first 24 months post-incarceration. Of those, 25% were reconvicted in the first 12 months, and 47% experienced problems within the
first 24 months (Harris et al., 2009). The sample consisted of New York juvenile offenders from 2006 to 2008. No solid data have been released to support the use of zero tolerance policies as a positive disciplinary practice in public schools.

Recent data show a relationship between educational failure and juvenile crimes (Fabelo, 2011; NASP, 2013; Children's Defense Fund, 2009). The data suggest that as education fails public school students, juvenile crime rises (Fabelo, 2011). The crimes that these students have committed in recent years are often minor offenses, such as defacing school property, including desks. “Under zero tolerance, [the broad] policies require that both minor and major disciplinary events be treated equally” (NASP, 2013). Cruel and unusual punishment is prohibited under the eighth amendment of the Constitution, as well as excessive or disproportionate punishment. If the policies set in place to maintain order do not protect the students, students will no longer abide by them.

Across the nation, data from the Department of Education have shown that “suspension rates have more than doubled over the past two decades” (Hitchcock, 2013), yet “the rate of violent crimes in U.S. public schools has declined since 1994” (Defoe et al., 2002). After combining the number of murders, aggravated assaults, robberies, and rapes per 100,000 students, the total number of violent crimes in 2007 was less than a third of what it was in 1994, and continues to decline (School Violence Myth, 2014).

Despite multiple media sources reporting that school violence is skyrocketing, data suggest that violence in public schools has drastically declined. “Rates of nonfatal victimizations in schools declined dramatically over the past two decades, from nearly 200 victimizations per 1,000 students in 1992, to fewer than 50 victimizations per 1,000 students in 2011” (Curtis, 2014). Some critics credit this decline to zero-tolerance policies. However, Curtis notes that “rates of nonfatal victimizations away from school fell at similar rates between 1992 and 2011, which may suggest that the declines were not caused by school policies” (Curtis, 2014).

Dewey Cornell, a clinical psychologist and professor of education at the University of Virginia, has examined the media’s promotion of the belief that the rare mass shootings in schools are evidence that all schools are unsafe (cited in Neuman, 2012). He
has examined trends in school violence in the past several decades and has shown that although there is a perception that crime is on the rise following any school shooting, it is not true; “[i]n fact, there’s been a very steady downward trend in the past 15 years” (cited in Neuman, 2012). Cornell’s research, as well as that of other scholars in the field, has shown that “school-age and college-age kids are not only safer but far more secure on school campuses than anywhere else” (cited in Neuman, 2012; Gastic, 2011; Borum, Cornell, Modzeleski, & Jimerson, 2010; Altheide, 2009), and that “zero tolerance policies popular in some school systems have had little to do with the decrease [in school violence] and may, in fact, have proved to be counterproductive” (Neuman, 2012).

School violence in the U.S. reached a peak in 1993 (Neuman, 2012). According to the National Center for Education Statistics (NCES), in 1993 there were 42 homicides by students and 13 “serious violent crimes” per 1,000 students in primary and secondary schools: “[These crimes ranged from] rape, sexual assault, robbery, and aggravated assault” (NCES, 2013). By 2010, those numbers had decreased to two homicides and four violent crimes per 1,000 students, per year (Neuman 2012). Figure 1. illustrates the rise and fall of crime rates in the United States between 1960 and 2012.

![Crime Rate in the United States, 1960–2012](image)

Figure 1. Crime rate in the United States. 1960 – 2012.
The discrepancies between the data and public perception make public school students and members of urban communities feel they are more at risk, which may lead to general distrust of school practices (Bachman, Randolf, Brown, 2011; Schreck & Miller, 2003; Gastic, 2011). Communities are affected by the spread of false information that may not be questioned.

III. The Misuse of Out-of-School Suspension

Another controversial aspect of zero tolerance is the use of out-of-school suspension. Out-of-school suspension (OSS) is the most common form of formal discipline, yet as discussed above, its overuse can result in young people losing learning time and leaving school (ACLUPA, 2013). Data show a national overrepresentation in minorities, as well as students with disabilities, in the use of OSS (ACLUPA, 2013). Figure 2. illustrates the use of out-of-school suspensions by race and disability from 2009 to 2010. African-American students, with or without disabilities, accounted for the largest group subjected to OSS. Overall, all groups, except Asian-Americans, experienced higher rates of OSS than whites with or without a disability.

![Figure 2.](source)

The 2013 revision of ACLUPA’s Beyond Zero Tolerance report shows that nationally, about 10 OSSs were issued for every 100 students during the 2011–2012 school year. During 2009–2010, 1 out of every 15 students was suspended from school at least
once (ACLUPA, 2013). The report indicates that black students in the Philadelphia school system have the greatest likelihood of receiving OSS and expulsions (ACLUPA, 2013). Statewide, 1 out of every 6 black students was suspended from school at least once in 2009-2010 (ACLUPA, 2013). These rates made black students almost five times more likely to be suspended than white students (ACLUPA, 2013). The Philadelphia school system also engaged in a disproportionate use of OSS with students with disabilities who are, data show, almost twice as likely to be suspended than other students. Black students with disabilities receive OSS at the highest rate of any group; 22 out of every 100 were suspended at least once (ACLUPA, 2013). Many school districts do not require missed work to be provided to students while suspended, which means that they re-enter the classrooms at a disadvantage.

IV. The Creation of a New Caste System

With rates of juvenile arrests and subsequent incarcerations rising, zero tolerance policies may be seen as the source of a new racial and socioeconomic caste in American society. In a National Public Radio (NPR) interview, Michelle Alexander, author of *The New Jim Crow* (2010), addressed the idea that institutionalized racial casting occurs, and is strengthened when non-whites and the poor are sentenced to maximum jail sentences for misdemeanor offenses. Alexander added that following a felony conviction, minorities and low SES people are “branded”:

People are swept into the criminal justice system—particularly in poor communities of color—at very early ages...typically for fairly minor, nonviolent crimes. ... [Young black males are] shuttled into prisons, branded as criminals and felons, and then when they’re released, they’re relegated to a permanent second-class status, stripped of the very rights supposedly won in the civil rights movement—like the right to vote, the right to serve on juries, the right to be free of legal discrimination and employment, and access to education and pub-
lic benefits. Many of the old forms of discrimination that we supposedly left behind during the Jim Crow era are suddenly legal again, once you’ve been branded a felon (NPR, 2012).

These men may never overcome the label of “felon,” which can prevent them from finding employment beyond low-wage, hourly positions, or basic blue collar work. Lacking opportunities, many re-enter the criminal justice system (Fabelo, 2011). The broad range of current zero tolerance policies results in students leaving school; these policies may be seen as a source of low wage urban workers (Robers et al., 2013) and inmates for the private prison industry.

The financial success of private prisons lies in having as many inmates as possible, housed as cheaply as possible (Whitehead, 2012). In order for the private prison industry to succeed, inmates must be provided from a group that can be easily targeted and labeled a “danger to society” (Whitehead, 2012). Crime rates have always been dramatically higher in poorer urban areas than in their suburban surroundings (Whitehead, 2012). Alexander notes that although crime rates have dipped in recent years, the number of African-American men who are incarcerated has surged, mainly due to “the War on Drugs, a war waged almost exclusively in poor communities of color” (cited in Price, 2011). Incarcerated men are worth more to private prisons than they are to their communities on the streets of urban America (CDF, 2007; Robers et al., 2013; Hitchcock, 2013).

Rea writes, “In many large urban areas, the majority of working age African American men now have criminal records, and are thus subject to legalized discrimination for the rest of their lives” (Karlin, 2012). It is viewed as “normal” in many urban communities that young men go to prison or jail. A study conducted in Washington, D.C., indicated that, “3 out of 4 black men, and nearly all those living in the poorest neighborhoods, could expect to find themselves behind bars at some point in their life. Nationwide, 1 in 3 black men can expect to serve time behind bars, but the rates are far higher in segregated and impoverished
black communities” (Karlin, 2011). This massive penal system has a greater impact on the poor and non-whites and has the power to undermine minority communities across the nation. Zero tolerance policies form the basis of a redesigned caste system that impacts a heavily disadvantaged population.

V. The Reform of Zero Tolerance Policies

The legitimacy of zero tolerance policies was called into question by the Obama Administration in January 2014 because of the alarming rise in rates of suspensions, dropouts, and a decrease in graduation rates. U.S. government figures show that “of the 3 million students who were suspended or expelled during the 2010-11 school year, a quarter of a million were referred to law enforcement, even though 95 percent were removed from the classroom for nonviolent behavior. [Of these numbers], 7 out of 10 were black, Latino or kids with disabilities” (Chappell, 2014).

Overrepresentation of certain racial groups is one of the largest concerns with zero tolerance policies (Robers et al., 2013; Chappell, 2014), which have faced much criticism for their disproportionate application to minorities, and the subsequent elevated rates of dropouts (Losen & Martinez, 2013; Children’s Defense Fund, 2009). Some who oppose zero tolerance policies are also concerned about the lack of clarity surrounding what behavior deserves “felony” charges, and what constitutes a “misdemeanor.” Many students have been subjected to overzealous punishment for “crimes” that deserved nothing more than a detention. Joshua Wachtel, the author of Safer Saner Schools: Restorative Practices in Schools and Educational Settings (2011), reported that “since the enforcement of zero tolerance, nearly 100,000 students have been referred to law enforcement by schools in Colorado. The majority of those referrals had been for minor offenses that reflect normal adolescent behavior and did not threaten school safety.”

The ultimate goal of any education policy should be to educate and protect students’ rights. Christopher Pelliccioni, who openly challenges zero tolerance policies, asserts that school districts are ignoring the protection of student’s constitutional rights while trying to maintain a safe and enriching environment:
“Since the policies operate under an automatic presumption of guilt, the Supreme Court has clearly limited the right for due process” (cited in Quezada, 2011). Due process gives defendants the opportunity to prove their innocence, and instructs a jury to view them as innocent until proven guilty. Zero tolerance policies, in many cases, do not.

After reviewing the data, the Obama administration issued voluntary guidelines to help reconstruct disciplinary plans within public school systems, without employing extreme punishments that could be detrimental to students (Chappell, 2014). These guidelines call for more training for teachers and more clarity in defining security problems within schools. This step forward follows years of complaints from civil rights groups and others who say the policies are ineffective and take an unfair toll on minority groups (Chappell, 2014). Zero tolerance measures have been shown to increase the number of suspensions and expulsions and to equate minor infractions with criminal acts (Losen & Martinez, 2013; Children’s Defense Fund, 2009; Robers et al., 2013; Chappell, 2014). It is time for policymakers to create disciplinary guidelines that protect future generations without jailing them.

The Equity Project, which was founded at Indiana University, is “a consortium of projects dedicated to providing high quality data to educational decision-makers in order to better understand and address issues regarding educational equity and bridge the gap between research and practice” (Skiba & Rausch, 2006). The goal of this project is to represent all students equally and to honor the notion of universal rights that guarantee the right to education. The Equity Project primarily focuses on two areas of inequity in American public education: special education and school discipline. In both areas, minorities are overrepresented and greatly affected.

The Equity Project is important in fighting the school-to-prison pipeline because it addresses the civil rights of students by presenting data to school authorities, who then re-examine educational policies in their district. The Equity Project’s goal is to advocate for improvement across the nation by sponsoring the Leadership with Equity conference and the Excellence Forum, where “educators, policy makers, students, parents, advocacy groups, and community members gather to share current research...
and best practices about building and strengthening systems of educational equity” (Center for Evaluation and Education Policy, 2014). The project’s members view such changes as a community-based effort, in which all stakeholders must share the responsibility to improve public education.

Restorative justice is also being practiced throughout the nation. On June 12, 2012, the Michigan State Board of Education decided to end zero tolerance policies; the resolution written by the school district officials stated,

Given the steadily increasing use of zero tolerance policies, the alarming rate of suspensions in school districts across Michigan, the lack of evidence [that] these policies improve safety, and negative impact these disciplinary actions are having on student outcomes; the State Board of Education calls for schools across the state to adopt discipline policies without mandated suspension or expulsion for issues that do not involve weapons (Wachtel, 2012).

This was a very important step in bringing public recognition to the fact that zero tolerance does more to harm students than to address the causes of misconduct and deal with them appropriately.

**CONCLUSION**

No student, regardless of race, gender, sexual orientation, disability, or socioeconomic status should be targeted to fail in the very environment that was created to help him or her thrive. With much activism, policies to address student misconduct can be reestablished and geared toward serving and protecting all students in public schools. As more awareness is been brought to the school-to-prison pipeline, programs and strategies can be formed to counter it. The future of our nation will be determined by how effectively we educate our young. Restorative justice applied to zero tolerance policies can offer logical and ethical solutions to problems within school settings, bringing an end to the school-to-prison pipeline.
REFERENCES


