

Zero -Tolerance Policies and Youth: Protection or Profiling?

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ABSTRACT

The purpose of this article is to analyze and explore the various uses of zero-tolerance among youth in the United States. The authors illustrate the origin, goals, problems, and perceptions associated with this “crime-control measure” among youth within educational settings.

Introduction

Under this insufferable climate of increased repression and unabated exploitation, young people and communities of color become the new casualties in an ongoing war against justice, freedom, social citizenship, and democracy. Feeding on moral panic and popular fear, zero tolerance policies not only turn schools into an adjunct of the criminal justice system, they also further rationalize misplaced legislative priorities, which have profound social costs (Giroux, 2003). To this end, the following research will explore the use of zero-tolerance among youth in the United States. This purpose of this paper will address various aspects associated with the use of this “crime-control” measure. The

intent of this document is to raise awareness and stimulate discussion regarding the need and extent of zero-tolerance in relation to youth and their safety within school settings.

The Origins of Zero-Tolerance – A Law Enforcement Measure

Zero tolerance stems from a two-decade-old study by two conservative social scientists who proposed the "broken windows" thesis: if people are allowed to break windows with impunity, not only do smaller crimes lead to more serious ones, but the "disordered" appearance of the neighborhood perpetrates criminal disorder (Wilson and Kelling, 1982). To this end, the term zero tolerance refers to those policies which deal out severe punishment for all offenses, no matter how minor, ostensibly in an effort to treat all offenders equally in the spirit of fairness and intolerance of rule-breaking (Skiba and Peterson, 1999). The use of zero tolerance policies began with federal and state drug enforcement agencies in the early 1980s. By 1988, these programs had received national attention, and Attorney General Edwin Meese allowed customs agents to seize the boats, automobiles and passports of any persons crossing American borders who were found with even trace amounts of drugs (Henault, 2001).

Specifically, zero tolerance was then viewed as an anti-crime measure for local conditions and embodied a highly localized language of order and disorder in public space (Smith, 2001). Interesting enough, research associated with the initial use of zero tolerance and policing has led to an increase in police brutality and abuse, with a rash of police murders, shootings, beatings, sexual assaults, wrongful arrests, and various forms of corruption, suggesting a police force out of control. In the wake of one such incident, the killing of Guinean immigrant Amadou Diallo in a hail of 41 bullets fired by four New York police officers in the notorious "Street Crimes Unit" demonstrates this phenomenon. Even the police union has complained that zero-tolerance tactics have become a "blueprint for a police state and tyranny" (Cooper, 1999).

In addition, according to research conducted by Smith (2001) the Street Crimes Unit of the New York police, a centerpiece of zero tolerance policing, made 45,000 street searches of disproportionately minority youths and made 10,000 arrests. Subsequently, zero tolerance policing has encouraged race and class profiling that places a premium on street arrests of suspects while minimizing concerns about evidence. With the Street Crimes Unit, apprehension and arrest were used as a disciplinary measure against poor and minority youths, many of whom were never charged nor had the minimal charges dropped for want of evidence (Smith, 2001). From aforementioned studies, we can conclude that the origin of the zero-tolerance policy that is prevalent within our schools in the U.S. stems from a federal and local law enforcement measure.

The Goal of Zero-Tolerance – The Safety of Youth in the School Settings

By the early 1990s zero tolerance policies were being used by school boards across the country, and a national mandate for these policies was issued by the 1994 Gun-Free Schools Act. This Act requires a mandatory expulsion of one year for possession of a weapon on campus and students breaking this rule are referred to either the criminal or juvenile justice system. The zero tolerance policies in schools now embrace not only the issues addressed by the Gun-Free Schools Act, but are also used to discipline students who disrupt classes or bring tobacco to school (Skiba and Peterson, 1999).

States have responded to the growth of violence in their schools by passing zero-tolerance legislation. Many states passed these regulations, providing for immediate suspension or expulsion when a person on school grounds possesses a weapon. In Michigan, the law provides for permanent expulsion when a student is found with a weapon on school grounds, or when a student is found guilty of arson or rape. What makes the Michigan law so unusual is that it provides for permanent expulsion, without any alternative education setting or any opportunity to return to the school. This strict liability in schools does not achieve the goal of preventing violence; it only removes some of it from the school grounds. By not providing any alternative means for a student to achieve an education, the zero-tolerance legislation is doing more to encourage crime than prevent it (Bogos, 1997).

Recent studies reveal that zero-tolerance policies are being established and enforced in order to protect certain students who experience a great deal of danger and hostility due to their sexual preferences. According to Morrow (2004) the school setting is a hostile environment for gay, lesbian, bisexual and transgender youth. To this end, significant reformation is needed for them to be emotionally and physically safe. Sexual orientation and gender identity should be included in school nondiscrimination policies, and those policies must be fully enforced. There must be zero tolerance for anti-gay, lesbian, bisexual and transgender (GLBT) language and behaviors in the same way that other hate language and behaviors are not tolerated (Morrow, 2004).

The Impact of Zero-Tolerance

Increase in the Arrest of Female Youth

Many schools, especially in the large urban centers, have adopted zero tolerance policies toward violence, use metal detectors and video cameras, and hire full-time school police. To this end, heightened public concern in recent years about school safety has escalated the vulnerability of girls being arrested for assault offenses as a result of pro-arrest policies for physical confrontations or threats occurring in or near school grounds. (Murphy, 2003, 2004; Rimer, 2004; Scherser and Pinderhughes, 2002). Both male and

female youth are being arrested in substantial numbers for behavior that, before these preventive measures, would have likely been handled as a school disciplinary matter (Hagan et al, 2002; Rimer, 2004). Research also suggests that this policy has led to net-widening in school arrest policies has disproportionately escalated girls' arrests for violent crimes, particularly for assaults involving minor physical confrontations or verbal threats-most frequently with another girl-that in the past would have been ignored or responded to less formally (Hall, 2004; Rimer, 2004).

Unreasonable Extremes and Examples

Any sense of perspective or guarantee of rights seems lost as school systems across the country clamor for metal detectors, armed guards, see-through knapsacks, and, in some cases, armed teachers. Some school systems are investing in new software to "profile" students who might exhibit criminal behavior (Moore, 2000). As a one-size-fits-all solution to school problems, zero tolerance policies redefine students as criminals and as a result, increasing numbers of young people are suspended, arrested, or expelled from school, often for ludicrous reasons. For example,

- Two Virginia fifth-graders who allegedly put soap in their teacher's drinking water were charged with a felony (Goodman, 2000).
- A 12-year-old boy in Louisiana who was diagnosed with a hyperactive disorder was suspended for two days after telling his friends in a food line, "I'm gonna get you" if they ate all the potatoes! The police then charged the boy with making "terroristic threats" and he was incarcerated for two weeks while awaiting trial (Claiborne, 1999).
- A 14-year-old disabled student in Palm Beach, Florida, was referred to the police by the school principal for allegedly stealing \$2.00 from another student. He was then charged with strong-armed robbery, and held for six weeks in an adult jail, even though this was his first arrest (Cooper, 1999).
- There is also the equally revealing example of a student brought up on a drug charge because he gave another youth two lemon cough drops (Jackson, 2000).
- One eleven year-old student in Columbia, South Carolina, who brought a knife to school in her lunch box to cut her chicken, was taken away from school in a police car (Civil Rights Project, 2001).

Youth under 16 cannot get a tattoo or get their ears pierced without the consent of an adult, but are considered old enough to be tried and jailed as an adult, and put to death. and the numbers are increasing at an alarming rate (Grossberg, 2001). This intolerable situation, tolerated by politicians and adults, suggest that a war is being waged against young people in this country. It points to a much larger crisis that calls into question adult

society's commitment to the future and to the demands of a democratic society. To this end, school districts may view zero tolerance policies as their primary method of reverting school violence. Rather than taking motives into account, zero tolerance policies treat every incident and every student as though they are equally dangerous (Merlo and Benekos, 2000).

Race and Zero-Tolerance

Zero tolerance laws, while a threat to all youth and any viable notion of equal opportunity through education, reinforce in the public imagination the image of students of color as a source of public fear and a threat to public school safety. Zero tolerance policies and laws appear to be well-tailored for mobilizing racialized codes and race-based moral panics that portray black and brown urban youth as a frightening and violent threat to the safety of "decent" Americans. Most high-profile zero tolerance cases involve African-American students, and such policies reinforce the racial inequities that plague school systems across the country. For example, the New York Times has reported on a number of studies illustrating "that black students in public schools across the country are far more likely than whites to be suspended or expelled, and far less likely to be in gifted or advanced placement classes" (Lewin, 2000, p. 14).

From a national standpoint, the Department of Education recently released figures showing that though African American children represent only 17% of public school enrollment nationally, they make up 32% of out-of-school suspensions. In contrast, white students, who make up 63% of the national enrollment, make up only 50% of the suspensions and 50% of the expulsions (Department of Education, 2000). Not surprisingly, research shows that one result of zero-tolerance legislation is an increased disparity in the application of these rules against black students (Claiborne, 1999). For example, the Harvard University Civil Rights Project on Zero Tolerance interviewed attorneys who represent children facing disciplinary actions based on zero tolerance policies and found those attorneys were convinced that racial profiling played a large part in determining which students were subject to the harsh penalties associated with zero-tolerance policy. They reported African American and Latino students were more likely to be disciplined for offenses like "defiance of authority" and "disrespect of authority." The subjective nature of these offenses, the attorneys posit, make it easier for racial bias to play an integral role in student discipline (Civil Rights Project, 2001).

Perceptions and Zero-Tolerance

In terms of perceptions associated with zero-tolerance policies and youth, research conducted among undergraduate students by Benekos et al, (2002) reveal that

students support zero tolerance policies to prevent school violence. In addition, their perceptions that school violence is worsening and their support for zero tolerance are related. Class rank and major do not appear to be related to views on zero tolerance but females are more likely than males to support zero tolerance policies (Benekos et al., 2002). To the contrary, and from a legal standpoint, the American Bar Association voted in 2001 to recommend ending zero tolerance policies for school discipline (CNN.COM, 2001). The report submitted with the recommendation stated that "zero tolerance has become a one-size-fits-all solution to all the problems that schools confront... and has redefined all students as criminals, with unfortunate consequences" (CNN.COM, 2001, p. 1).

Resisting Zero-Tolerance

There is evidence that young people are resisting coercive, zero-tolerance policies in their schools and communities (Gold et al., 2002; Murashige, 2001). Arnett (2002, p. 312) notes that youth are frustrated by and alienated from conventional political processes, and political engagement is often directed "toward specific areas of importance to them, where they believe they are more likely to see genuine progress," rather than toward conventional civic participation. In April 1999, representatives from 20 youth organizations formed the Youth Force Coalition to proactively fight for educational reform and challenge "zero tolerance" policies in their schools.

Working with adult allies, the Youth Force Coalition planned direct actions, designed and distributed material to educate the public, and held meetings and hosted conferences on their strategy to reduce jails and increase funding to improve their schools. In February 2000, over 700 students walked out of 15 schools in the San Francisco Bay Area to protest California's Juvenile Justice Crime Bill, which encouraged tougher sentencing by prosecuting youth in adult courts. The students demanded that policymakers focus less attention on incarcerating youth and pay closer attention to better books, improved facilities, and more equitable educational opportunities for working-class youth of color (Ginwright et al., 2005).

Concluding Remarks

In conclusion, it is evident that policy changes regarding zero-tolerance are needed. Federal, state and local municipalities must address and evaluate the need for such zero-tolerance policies in relation to incidents that merit attention exclusively from a safety standpoint. To this end, extreme measures (i.e. arrest, searches, etc.) must be carefully examined and accepted at the expense of considering their potential detrimental impact towards certain youth. In an attempt to remedy this dilemma and ensure fairness

regarding the use of zero-tolerance among youth regardless of race, it might be suggested that the federal government should withhold federal resources to schools which discriminately use zero-tolerance policies towards minorities. From this standpoint, maybe we would actually see the worth of zero-tolerance, or just maybe we would simply be able to tolerate it.

References

- ABA takes stand on school rules, immigration.* (n.d.). CNN.com/Law Center. Retrieved September 23, 2006, from CNN.com/Law Center Web site: <http://www.cnn.com/2001/index.html>
- Arnelt, J.J. (2002). Adolescents in western countries in the 21 century. In B.B. Brown, R.W. Larson, & T.S. Saraswathi (Eds.), *The world's youth: Adolescence in eight regions of the globe* (pp.307-343). New York: Cambridge University Press.
- Benekos, P., Merlo, A., Cook, W. & Bagley, K. (2002). A preliminary study of student attitudes on juvenile justice policy. *Journal of Criminal Justice Education, 13*(2), 273-299.
- Bogos, P. M. (1997). Expelled. No excuses. No exceptions. — Michigan's zero tolerance policy in response to school violence: M.C.L.A. Section 380.1311. *University of Detroit Mercy Law Review, 74d*, 357-387.
- Claiborne, W. (1999, December 17). Disparity in school discipline found; Blacks disproportionately penalized under get-tough policies, study says. *The Washington Post*, pp. A3.
- Cooper, M. (1999, April 15). Vote by P.B.A. rebukes Safir and his policy. *New York Times*, pp. A1.
- Ginwright, S., Cammarota, J. & Noguera, P. (2005). Youth, social justice, and communities: Toward a theory of urban youth policy. *Social Justice, 32*(3), 24-40.
- Giroux, H. (2003). Zero tolerance, domestic militarization, and the war against youth. *Social Justice, 30*(2), 59-65.
- Gold, E., Simon, E. & Brown, M. (2002). Successful community organizing for school reform. Chicago: Cross City Campaign for Urban School Reform. *Research for Action, 5-60*.
- Goodman, E. (2000, January 4). Zero tolerance' means zero chance for troubled kids. *Centre Daily Times*, pp. 8.
- Grossberg, L. (2001). Why does neo-liberalism hate kids? The war on youth and the culture of politics. *The Review of Education/Pedagogy/Cultural Studies, 23*, 2.
- Hagan, J., Hirschfield, P. & Shedd, C. (2002). Shooting at tilden high: Causes and consequences. In M. Moore, C. Petrie, A. Braga & B. McLaughlin (Eds.), *Deadly lessons: Understanding lethal school violence* (pp. 143-174). Washington, DC: National Research Council.
- Hall, W. (2004, April 21). Violence among girls on upswing. *The Patriot News*, pp. A1, A8.

- Harvard University, Massachusetts, Civil Rights Project (2000, June). *Opportunities suspended: The devastating consequences of zero tolerance and school discipline policies*. Retrieved September 25, 2006, from <http://www.law.harvard.edu>
- Henault, C. (2001). Zero tolerance in schools. *Journal of Law and Education*, 30(3), 547-584.
- Jackson, Jesse (2000). *An interview with Jesse Jackson: First-class jails, second-class schools. Rethinking Schools*. Retrieved September 20, 2006, from www.rethinkingschools.org/
- Lewin, T. (2000, March 11). Study finds racial bias in public schools. *The New York Times*, pp. A14.
- Merlo, A.V. & Benekos, P.J. (2000, November). *The end of innocence: Images of youth and juvenile justice policies*. Paper presented at the Annual Meeting of the American Society of Criminology, San Francisco, CA.
- Moore, B. (2000, September 8). Letting software make the call. *Chicago Reader*, 49, 29.
- Morrow, D. (2004). Social work practice with gay, lesbian, bisexual, and transgender adolescents. *Families in Society*, 85(1), 91-100.
- Murashige, M. (2001). *The future of change: Youth perspectives on social justice and cross-cultural collaborative action in Los Angeles*. Los Angeles, CA: Multicultural Collaborative.
- Murphy, J. (2003, March 20). Board tackles plan to label unsafe schools. *The Harrisburg Patriot-News*, B4.
- Rimer, S. (2004, January 4). Unruly students facing arrest, not detention. *New York Times*, 15A.
- Scherzer, T. & Pinderhughes, H. (2002). Violence and gender: Reports from an urban high school. *Violence and Victims*, 17, 57-72.
- Skiba, R. & Peterson, R. (1999). The dark side of zero tolerance: Can punishment lead to safe schools? *Phi Delta Kappan*, 80, 372-376.
- Smith, N. (2001). Global social cleansing: Post-liberal revanchism and the export of zero-tolerance. *Social Justice*, 28(3), 68-75.
- U.S. Department of Education, Office for Civil Rights. (2000). *Fall 1998 elementary and secondary school civil rights compliance report: National and state projections*. Retrieved September 26, 2006, from <http://www.nwlc.org/pdf/SciTechTestimony.pdf>
- Violence up in schools, report says (2004, May 29). *The Harrisburg Patriot-News*, A1, A8.
- Wilson, James Q. & Kelling, G. (1982, March). Broken windows: The police and neighborhood safety. *The Atlantic*, pp. 29-38.