



Zero Tolerance Policies and the Implications for Juvenile Justice

Brief History of Zero Tolerance Policies:

Originating out of drug policies in the 1980s, Zero Tolerance policies became popular in response to growing concerns about drugs, fighting and possible “gang-related” activity in and around schools¹. Zero Tolerance policies rests on the assumption that removing disruptive students deters similar conduct and the students who remain in the classroom will have an improved learning environment.² In 1994, the federal Gun-Free Schools Act required a one-year expulsion and referral to the justice system for students possessing firearms as a condition of schools eligibility to receive federal elementary and secondary schools funding.³

Since then, the range of situations to which Zero Tolerance policies have been applied has broadened. Many school districts now include drugs, alcohol, disruptive behavior, and nonviolent offenses among Zero Tolerance infractions.^{4/5} According to the most recent data of national implementation of Zero Tolerance policies, 94% of schools have Zero Tolerance policies for weapons or firearms, 87% for alcohol and 79% have mandatory suspensions or expulsions for violence or tobacco.⁶ Examples of the ever-broadening scope of Zero Tolerance policies include treatment of nail files, paper clips, scissors, and plastic knives as weapons and Aspirin, Midol, and Certs as drugs.^{7/8}

Facts Associated with “Zero Tolerance” and Similar School Exclusion Policies/Practices:

- African American students are more likely than white students to be suspended, expelled, and arrested for similar conduct at school.⁹
- Approximately 15% of youth in juvenile corrections facilities are considered to be severely emotionally disturbed.¹⁰ In 2006, 65-70% of youth involved in the juvenile justice system had at least one diagnosable mental health disorder.¹¹
- Students with disabilities, as defined by the IDEA¹², are more than twice as likely to receive at least one out-of-school suspension compared to students without disabilities.¹³

¹ Skiba, R. J. (2000). Zero Tolerance, Zero Evidence: An Analysis of School Disciplinary Practice. Bloomington: *Indiana Education Policy Center*.

² American Psychological Association Zero Tolerance Task Force. (2006). Are Zero Tolerance Policies Effective in the Schools? An Evidentiary Review and Recommendations [Summary]. *American Psychologist*. 63, 852-862.

³ Gun-Free Schools Act of 1994. 20 U.S.C. § 6301 Part F § 14601(b)(1) & §14602(a).

⁴ Civil Rights Project. (2000). *Opportunities Suspended: The Devastating Consequences of Zero Tolerance and School Discipline Policies*. Cambridge: Harvard University.

⁵ Skiba, R. J. (2000).

⁶ Skiba, R. J. (2000). (Note: the most recent data of this kind available is from 1996-1997 school year)

⁷ Civil Rights Project. (2000).

⁸ American Psychological Association Zero Tolerance Task Force. (2006).

⁹ Skiba, R. J. (2000).

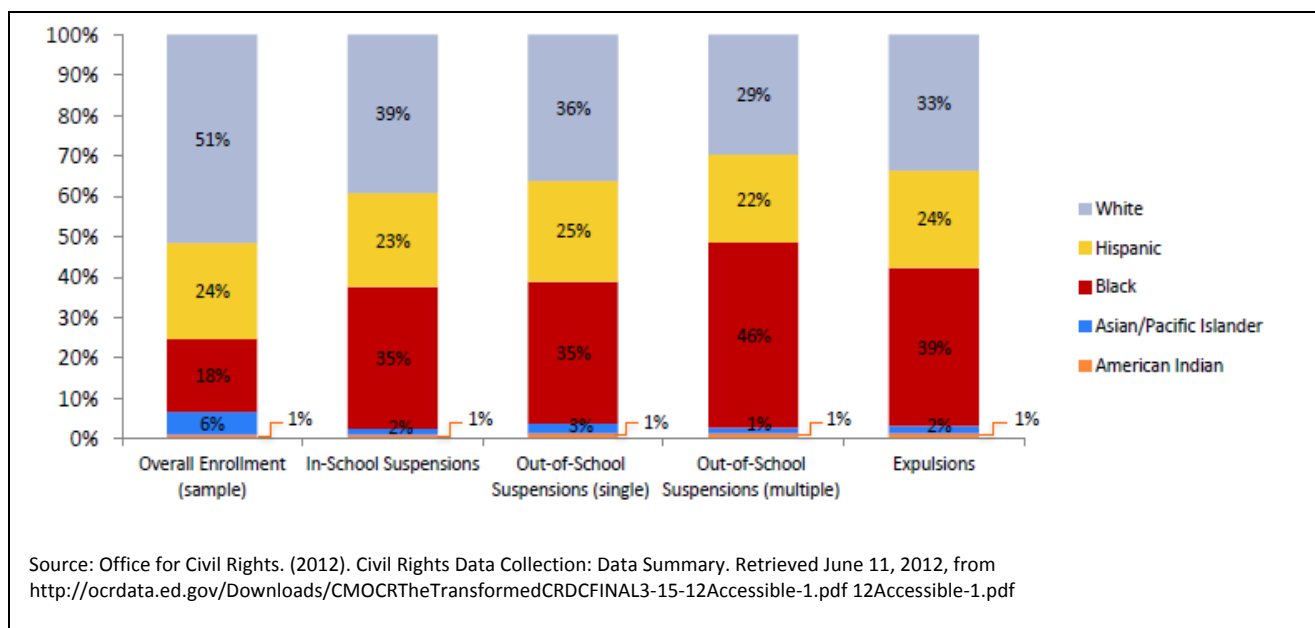
¹⁰ Quinn, M., Rutherford, R., Leone, P., Osher, D., & Poirier, J. (2000). Youth with Disabilities in Juvenile Corrections: A National Survey. *Council for Exceptional Children*. 71(3). 339-345.

¹¹ Shufelt, J. L., & Cocozza, J. J. (2006). Youth with Mental Health Disorders in the Juvenile Justice System: Results from a Multi-State Prevalence Study. National Center for Mental Health and Juvenile Justice. Research and Program Brief.

¹² Individuals with Disabilities Education Act (IDEA). 20 U.S.C. § 1401(a)(1).

¹³ Office for Civil Rights. (2012). Civil Rights Data Collection: Data Summary. Retrieved June 11, 2012, from <http://ocrdata.ed.gov/Downloads/CMOCRTheTransformedCRDCFINAL3-15-12Accessible-1.pdf>

- During the 2009-2010 school year African American students in Chicago Public Schools were nearly four times more likely to receive an out-of-school suspension than their Caucasian peers.¹⁴
- Civil Rights Data Collection found there are significant discipline disparity rates.¹⁵ African American students represented only 18% of the students in the sample but 35% of students suspended once, 46% of those students suspended more than once, and 39% of students expelled.¹⁶



- In Florida, the number of out-of-school suspensions increased 14% between the 1999-2000 and 2004-2005 school years.¹⁷ During the 2004-2005 school year, nearly 27,000 school referrals were made to the Department of Juvenile Justice; 76% of them were for misdemeanor offenses such as disorderly conduct or assault.¹⁸ Also during that year, Florida's African American students made up 23% of the student population but received 46% of out-of-school suspensions and police referrals.¹⁹
- In Indiana during the 2002-2003 school year 95% of students out-of-school suspensions related to incidence of disruptive behavior or other non-violent actions. Only 5% of the out-of-school suspensions were for incidences relating to dangerous substances or weapons.²⁰
- The Committee on School Health reported that suspension and expulsion can lead to or worsen academic problems, delinquency, crime, and substance abuse. They also noted that children most likely to be suspended are those who most need the assistance and supervision of professionals.²¹

¹⁴ Voices of Youth in Chicago Education. (2011). Failed Policies, Broken Futures: the True Cost of Zero Tolerance in Chicago.

¹⁵ Office for Civil Rights. (2012).

¹⁶ Office for Civil Rights. (2012).

¹⁷ NAACP Legal Defense and Educational Fund, Inc. (2006). Arresting Development: Addressing the School Discipline Crisis in Florida.

¹⁸ NAACP Legal Defense and Educational Fund, Inc. (2006).

¹⁹ NAACP Legal Defense and Educational Fund, Inc. (2006).

²⁰ Rausch, M.K., & Skiba, R. J. (2004). Unplanned Outcomes: Suspensions and Expulsions in Indiana. *Education Policy Briefs. Indiana Youth Services Association. Center for Evaluation & Education Policy.* 2(2). 1-8.

²¹ The Committee on School Health, 2003. "Out of School Suspension and Expulsion." *Pediatrics: Official Journal of the American Academy of Pediatrics:* 112(5), 1206-1209.

- A 2011 study in Texas found that 10 % of students who received at least one disciplinary action dropped out of school whereas only 2% of students who had not been subject to a disciplinary action dropped out of school.²² The same study found that 23% of students involved in the school disciplinary system also were involved with the juvenile justice system, compared to only 2% of students who did not have contact with the school disciplinary system.²³ Schools may be indirectly pushing certain students into the juvenile justice system.
- In 2003 only one quarter of State prison inmates had a high school diploma.²⁴
- In 2007 the U.S. spent over twice as much on each prisoner than on each public school student.²⁵

Recommendations:

In the Coalition for Juvenile Justice’s (CJJ) 2001 Annual Report to the President, the Congress, the Governors, the SAGs and the Office of Juvenile Justice and Delinquency Prevention at the U.S. Department of Justice (OJJDP), “Abandoned in the Back Row: Lessons in Delinquency Prevention,” we set forth several recommendations, including the following (listed verbatim—without the benefit of what CJJ may have added were they drafted today):

- School boards should steer away from rigid discipline policies that wind up denying education and emotional support to those youth who typically need it the most. Boards should be open to alternative and more meaningful ways of targeting youth with behavior issues, while also ensuring school safety.
- Zero Tolerance policies should not mean zero services for those students who often need the most support. Administrators should turn to well-tested alternatives, such as in-school suspensions and referrals to programs that treat a youth’s underlying ...problems.
- Teachers should be given training to identify learning disabilities and mental health issues. They should also receive training and remain open to innovative, child-centered, cost-effective classroom methods. They should eschew discipline policies that are merely punitive in favor of effective methods that offer incentives for positive behavior.

Please visit the CJJ Web site for further information: www.juvjustice.org

Prepared by the members of the CJJ Ethnic and Cultural Diversity Committee and CJJ staff, with Lauren Schick CJJ Spring 2009 Intern from the University California – Los Angeles Semester in Washington Program. May 2009 – Updated June 2012

²² Fabelo, T., Thompson, M.D., Poltkin, M., Carmichael, D., Marchbanks, M.P., & Booth, E.A.. (2011). Breaking Schools’ Rules: A Statewide Study of How School Discipline Related to Students’ Success and Juvenile Justice Involvement. *Justice Center. Public Policy Research Institute.*

²³ Martin, N., & Halperin, S. (2006). Whatever It Takes: How Twelve Communities are Reconnecting Out-of-School Youth. Washington, DC: *American Youth Policy Forum.*

²⁴ Harlow, C. W. (2003) Education and Correctional Populations. Bureau of Justice Statistics Special Report.

²⁵ Children’s Defense Fund. (2011). The State of America’s Children.