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The Hidden Side of Zero Tolerance Policies: The African American Perspective

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Abstract

Several papers have documented the disproportionate representation of African Americans in school discipline and incarceration settings as a result of zero tolerance policies. In 2009, a federal study of the Chicago Public School system found African American boys represented 23 percent of the school age population, 44 percent of students who were suspended, and 61 percent of students who were expelled within the 2007 school year. Twenty years after the implementation of the Anti-Drug Abuse Acts of 1986 and 1988, studies show African Americans comprised a startling 74 percent of those incarcerated for drug offenses despite being only 15 percent of America's drug users. Despite overwhelming evidence that suggests African Americans are adversely affected by zero tolerance policies, African American perceptions of zero tolerance policies remain relatively hidden in the literature. The current review seeks to explore a seemingly bidirectional process that involves how zero tolerance impacts African Americans and how African Americans perceive zero tolerance policies.

Introduction

Early studies on African American disproportionate representation in school discipline settings focused exclusively on a unidirectional process in which the environment and socioeconomic risk factors played a causal role in shaping undesired academic outcomes. In light of evidence that highlights the subjective application of zero tolerance policies, the adoption of these policies into the school discipline framework has been widely criticized (Skiba and Peterson, 1999). Researchers have noted that zero tolerance policies, which established mandatory minimum punishments for designated offenses, have a history of discriminating against black males (Skiba and Peterson, 1999). As a result of research that shows black males are removed from school via school suspension and incarcerated at alarming rates, the current review seeks to provide a novel outlook on zero tolerance policies from the perspective of those who are adversely affected by this practice.

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The origins of zero tolerance

The concept of “order maintenance” as emphasized in zero tolerance policies can be traced back to broken window theory, which claims that allowing minor infractions to occur encourages criminals to commit more serious offenses. According to Drs. James Wilson and George Keeling, the perceived notion of less social control that is evident by the presence of dilapidated property creates an environment that attracts serious crime because criminals believe they can avoid being caught (Wilson and Keeling 1982). This concept has been widely accepted by sociologists and is deeply rooted in social control theories that intend to deter serious offenses. The application of broken window theory has led to strict state and federal legislation on drug distribution, gun possession, and several other criminal offenses. While the United States has adopted a strict stance on undesired behaviors, it should be noted that legislation varies significantly across different states and at the federal level.

Although recent attention on zero tolerance policies has focused on their implementation in public schools throughout the United States, research shows us that zero tolerance policies were first used as a legal deterrent in narcotics trafficking cases (Skiba and Knesting 2001). Pre-dating the inception of zero tolerance policies in the United States, Governor Nelson Rockefeller advocated a change in New York state law that would provide mandatory 15years to life sentences for drug dealers and addicts – even those caught with minor amounts of illegal substances (Drucker 2002). Specifically, under the Rockefeller drug laws selling at least two ounces of heroin, cocaine, or cannabis or possessing at least four ounces of these substances warranted a minimum 15years to life prison sentence (Drucker 2002). Facing a serious heroin social problem and escalating homicide rates in the city of New York, Governor Rockefeller proposed perhaps the first documented zero tolerance policy due to the perceived failure of the most rigorous rehabilitative efforts. The evident shift in Governor Rockefeller’s perception of drug trafficking and addiction as a medical problem to a criminal offense has influenced drug sentencing throughout the nation for much of the last 40years (Drucker 2002).

Despite considerable opposition to Rockefeller’s strict drug laws in New York, the state of Michigan adopted a similar policy in 1978 known as the “650-Lifer Law” (Thomas 1998). Under Michigan’s “650-Lifer Law,” the sale, manufacture, or possession of at least 650 grams of cocaine, heroin, or any other schedule I or schedule II opiate warranted life imprisonment without the possibility of parole (Thomas 1998). Prior to the implementation of the 650-Lifer Law, distribution of schedule I or schedule II opiates warranted a prison sentence of up to 20years, while possession was only punishable up to 4 years in prison. Governor William Milliken championed the change in legislation because he believed the harsh sentences would primarily apprehend high-level drug dealers, often characterized as “kingpins” in drug culture. In 1987, the state of Michigan adopted a consecutive sentence policy, which stated that drug offenses were required to be served consecutive to any term of imprisonment for another felony offense (Happy Anniversary, Michigan Reforms 2014). The swift change in Michigan’s drug laws proved to be one of the most severe in the nation and would eventually lead to much scrutiny.

Although zero tolerance policies were becoming very popular in drug legislation implemented by several states, it took nearly 10 years for similar policies to be adopted by their federal counterpart. Due to the development of illegal drug enterprises and the increasing availability of semi-automatic assault rifles in the United States, the federal government passed the Anti-Drug Abuse Acts. Specifically, the Anti-Drug Abuse Acts of 1986 and 1988 established a minimum 5 year prison sentence for selling five grams of crack cocaine, while selling five hundred grams of power cocaine warranted the same prison sentence (Mauer and Huling 1995). Also, in 1988, US attorney general Edwin Meese adopted zero tolerance policies as a national model and ordered US customs agents to seize the property of anyone carrying trace amounts of illegal substances. Thus, as illegal narcotics trafficking gained popularity, zero tolerance policies spread rapidly throughout the local, state, and federal government in an effort to maintain social control.

After the Anti-Drug Abuse Acts and several other zero tolerance initiatives gained national attention, public outrage arose due to the disproportionately harsh prison sentences that minorities received. Between 1974 and 2002, the state of New York prison population increased from 14,400 to 70,700 inmates which is the highest incarceration rate in the state's history (Drucker 2002). New York state prison demographic data from the year 2000 shows over 90 percent of the inmates who were incarcerated due to the Rockefeller drug laws were black or Hispanic males. The rate of incarceration for black males under the Rockefeller drug laws was the highest of any group with 1,516 inmates per 100,000 black individuals in the general population compared to 34 inmates per 100,000 whites in the general population. Furthermore, between the ages of 21 and 40, the ratio of black men to white men incarcerated under the Rockefeller drug laws in 2002 was 40:1 (Drucker 2002).

Although zero tolerance policies have an early history in states such as New York and Michigan, these policies would eventually be adopted across the nation. A study conducted in Pennsylvania showed the number of referrals to the Department of Juvenile Justice tripled from 2003 to 2010 (Skiba 2014). Research also shows between the years 2007 and 2008 over 21,000 students were referred and arrested in Florida (Skiba 2014). These findings are particularly devastating for African Americans and data shows if these trends continue, 1 in every 3 black males born today can expect to spend time in prison at some point in their lifetime (Mauer 2011). In regard to the racial disparities in prison sentencing, in 2006, researchers studied crack cocaine sentencing practices and found for every 10 black men tried for possession, only one white defendant was charged (Beaver 2009). Given the disproportionate incarceration of black men and the economic consequences associated with this practice, social scientists have begun to question the effectiveness of zero tolerance policies.

Zero tolerance in schools

As zero tolerance policies spread through local and federal government, K–12 institutions were desperately seeking a deterrent to violent offenses committed on school grounds. In 1989, school districts in several states including California and New York mandated expulsion for violent offenses and drug activity (Skiba 2000). In 1994, the Clinton Administration signed the Gun Free Schools Act which required a 1-year expulsion for

students in possession of a fire-arm, thereby creating a pipeline between the Department of Corrections and K–12 institutions (Skiba 2000). Several years after the Gun Free Schools Act was implemented nationwide, zero tolerance policies in K–12 institutions expanded to include a variety of undesired behaviors, and they initiated the transformation of urban US schools into places that resembled prisons. The use of metal detectors and the visible presence of armed guards would soon become the norm at many urban schools.

In 1996, social scientist Dr. John Dilulio warned policymakers that groups of teenage “super-predators” would emerge in American society (Super Predators 2014). According to Dr. Dilulio, a super-predator was characterized as a new breed of juvenile delinquents that had no respect for human life or hope for the future. Furthermore, in his research, Dr. Dilulio and his colleagues described super-predators as “radically impulsive, brutally remorseless youngsters, including ever more teenage boys, who murder assault, rob, burglarize, deal deadly drugs, join gun-toting gangs, and create serious disorder” (Bennett et al. 1996). Dr. Dilulio’s warnings regarding the emergence of super-predators and the tragic Columbine High School shooting in 1999 sparked fear of young men, which served as a catalyst in the effort to increase the prevalence of zero tolerance policies in public schools. In the 1996–1997 school year, approximately 79 percent of schools had adopted zero tolerance policies for violence (Kang-Brown et al. 2013). In addition, between 1997 and 2007, the number of US high schools with armed security guards tripled (Kang-Brown et al. 2013). Thus, the use of fear coupled with the implementation of zero tolerance policies had transformed the educational institution from a place of learning to one of punishment.

Although zero tolerance policies were intended to be a deterrent for all offenders, research shows African Americans have been suspended and incarcerated at higher rates than their white counterparts for over three decades (Children’s Defense Fund 1975; Wu et al. 1982). While socioeconomic status was initially used to explain the differences in the suspension of white and black students, studies have controlled for socioeconomic status and still found that blacks were suspended at higher rates than whites (Skiba et al. 2000; Wu et al. 1982). This finding has been consistent in the literature over several decades and has led to concerns regarding the practicality of zero tolerance policies. Current research shows black males are four times more likely to be suspended than their peers and an alarming percentage of black male suspensions are for subjective rather than objective wrongdoings (Caton 2012; Kang-Brown et al. 2013).

In the 2009–2010 school year, research shows nationally 31 percent of black boys in middle school were suspended at least one time (Kang-Brown et al. 2013). Although the disproportionate representation of black boys in school discipline settings is portrayed as a social phenomenon limited to urban settings, research shows school suspension in many suburban areas demonstrate a similar pattern. The State of Maryland’s regional educational laboratory reported black students were suspended at twice the rate of white students in all of its 24 school systems (Porowski et al. 2014). In addition, for the same type of infraction, black students were suspended or expelled at higher rates than Hispanic and white students.

The implications of zero tolerance policies have been so drastic in the US education system that advocacy groups, such as the American Civil Liberties Union (ACLU), have conducted

serious investigations into the practices behind zero tolerance policies. In 2009, the ACLU released a detailed report on zero tolerance policies in the state of Michigan which documented the disproportionate suspension and/or expulsion of African Americans in several school districts (Fancher 2009). For example, in the 2006–2007 school year in the Ann Arbor School District, black students represented 18 percent of the secondary school student population but received 58 percent of the out of school suspensions. In addition, black students in Ann Arbor School District received 83 suspensions for insubordination compared to 20 suspensions for white students for that specific infraction.

Research in the ACLU report also documents a well-known trend regarding the relationship between excessive school suspension and high school dropout. According to the ACLU, nearly 50 percent of the students who entered high school with three suspensions or greater eventually went on to drop out of school (Balfanz et al. 2014). Social science research estimates nearly 20,000 students in Michigan drop out of school annually and notes their tendency to rely heavily on government welfare subsidies for support. Studies estimate the cost of Michigan's drop outs in terms of government assistance at nearly \$2.5 billion (Balfanz et al. 2014). Furthermore, the consideration of lost revenue when comparing high school dropouts to those who completed high school shows if the 21,185 students who dropped out of school in 2007 had completed high school, they could have added an estimated \$329 billion to the economy over the course of their lifetime. Thus, the implications of zero tolerance policies go far beyond the African American population into economic issues that potentially impact the entire country.

While zero tolerance policies are recognized for contributing to the disproportionate suspension and expulsion of black boys in adolescent populations, new research shows black preschoolers are also suspended at higher rates than their white counterparts (Civil Rights Snapshot 2014). According to a recent study conducted by a civil rights advocacy group, black children represent 18 percent of the preschool enrollment population and 48 percent of the children who were suspended in the 2011–2012 school year. In addition, 6 percent of the nation's school districts that contain preschools report suspending at least one preschool student. This finding confirms disparities in school discipline begin much earlier in the education process and could adversely impact preparation for subsequent grade levels. In regard to the impact of school discipline on academic achievement, the co-director of the Advancement Project, Judith Browne Dianis, states, "We do know that schools are using zero tolerance policies for our youngest also, while we think our children need a head start, and schools are kicking them out instead" (Preschool to Prison 2014).

In addition to the emphasis on black males and young children, zero tolerance policies also adversely impact African American females and black children with disabilities. For example, the results of the U.S. Department of Education Office for Civil Rights study showed 12 percent of black girls were suspended in the 2011–2012 school year compared to 7 percent for American Indian and 2 percent for white girls (Civil Rights Snapshot 2014). Black students with disabilities were not an exception to this phenomenon with data showing nearly 25 percent of black boys and 20 percent of black girls with disabilities were suspended in the 2011–2012 school year. Several advocacy groups, such as the Center for Civil Rights Remedies organization, consider these results troubling because the data does

not support a higher incidence rate of weapon use in preschool, black female, or disability populations. Although zero tolerance policies were implemented to deter violent offenses, the subjectivity embedded in the application of these policies necessitates further review.

In order to conduct deeper exploration into zero tolerance policies from the perspective of black students, researchers employed qualitative methodology to investigate black male perceptions. In 2012, Dr. Marcia Caton interviewed 10 black males who dropped out of high school due to suspension or expulsion within the past year. Throughout the interviews, the four primary themes that emerged were (I) the impact of security measures on school environment, (II), the need for strong teacher-student relationships, (III) the impact of school exclusionary practices, and (IV) the impact of disciplinary space on student learning. Counter-storytelling was employed as a method of gaining insight into the perspectives of black males and highlighting each participant's real-world experience to unveil the reality of the school-to-prison pipeline.

The results showed the participants believed school security measures created an unwelcoming environment. The participants described frequent full-body and bag searches, metal detectors, and being the target of intense scrutiny from security guards. Some participants expressed the belief that their personal space was frequently violated while others described numerous similarities between their school and correctional facilities. For example, a participant identified as Cliff stated,

I did not want to go to school because I felt uncomfortable in the environment. The cameras were always watching you. You felt like you were constantly under observation. At times, it appeared that the security guards were always breathing in your personal space. One of my relatives attends a high school with White and Asian students, and this school did not have cameras and the body searches. This school had security guards at the entrance of the building checking IDs. The guards did not shout at the students

(Caton 2012, pg. 1065).

Furthermore, the participant's responses regarding the impact of the disciplinary space on student learning revealed a serious problem with zero tolerance policies that has attracted considerable attention in recent years. Participants reported being behind on their classwork and unable to catch up due to being suspended from school. As one participant in the study who was identified as Troy stated,

I did so poorly in school and had to repeat a grade because I was ordered to leave the class for different issues. I would sit in the Dean's office with other students and socialize. Many of the other students were also Black males. I believe that my teachers should have covered my back; instead, they threw me under the bus. I was far behind with my schoolwork when I returned to class, and trying to catch up with the class work was an impossible task

(Caton 2012, pg. 1070).

Lastly, in the impact of exclusionary policies on student outcomes category, some responses highlighted the school-to-prison pipeline as it became evident in their secondary education experience. As a participant identified as Tom stated,

One day, I got into a fight with other students in the cafeteria, and I was suspended. When I returned from the suspension, I had other problems and then I was expelled. While I was out of school, I became friendly with the wrong people and got into trouble. I am now on probation, and I am trying to find a job. It is hard out here without a high school diploma and with a record.

The statements made by participants in this paper provide insight into the potential failures of zero tolerance policies and call for immediate investigation into the use of school removal tactics.

The effectiveness of zero tolerance policies

In its early development, the incorporation of zero tolerance policies in the school setting was conceptualized as an effective method to deter violence and gun possession. However, nationally, only 5 percent of expulsions lasting a week or longer were the result of weapon possession, while 43 percent were for subjective offenses such as insubordination. In states such as Maryland, less than 2 percent of suspension and expulsions were related to possession of a weapon. While the removal of students from school has been touted an effective method to promote school safety, there are no studies that conclude the use of school suspension and expulsion reduces disruption in the school setting and some studies actually propose the opposite (Skiba 2014). Considering the lack of evidence to support this practice, we must question the motives behind zero tolerance policies and whether the use of suspension and expulsion are in the best interest of our children.

Social science researchers Dr. Christopher Dunbar and Dr. Laura McNeal investigated the perceived effectiveness of zero tolerance by conducting face to face interviews with 90 students in grades 11 and 12. The sample consisted of students from five urban high schools in the Midwest and most of the participants were African American females. When asked questions regarding the effectiveness of zero tolerance policies, participants stated the policies were largely ineffective due to lapses in budget and personnel oversight. For example, a participant identified as Lanie stated,

The security guards care more about money than protecting us. I have seen trouble makers in our school give security guards money in the morning to let them walk around the outside of metal detectors so they can bring weapons into school

(McNeal and Dunbar 2010, pg. 302).

In response to the same line of questioning, a participant identified as Tiara stated,

One day this boy came to our school and walked through our metal detector with a weapon. The metal detectors did not go off. He was in class with the weapon, and he told the teacher if he doesn't give him a passing grade he would stab him

(McNeal and Dunbar 2010, pg. 302).

In addition to identifying critical issues pertaining to the perceived effectiveness of zero tolerance policies, participants also identified favoritism among school personnel as a serious problem. For example, when asked to discuss how school staff impact zero tolerance policies, a participant identified as Tamirra stated,

I don't think the policy is enforced fairly to everyone. Mostly because when students do something to break the zero policy rules, a staff member might let it slide because of the relationship the student and staff member have. But if another student breaks that same rule, the staff member would punish that student

(McNeal and Dunbar 2010, pg. 302).

Tamirra's statements are supported by prior research that documents inconsistencies in the school discipline referral process, which leads to the disproportionate representation of black students in school discipline. Considering the inconsistent and selective application of zero tolerance policies, it could be argued that these policies create more problems in the school environment than they solve.

In response to concerns regarding the effectiveness of zero tolerance policies, the American Psychological Association developed a task force to investigate zero tolerance practices and make recommendations. After conducting a thorough review, the task force concluded,

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 2014, p. 9).

Conclusion

While zero tolerance policies were intended to solve problems pertaining to violent crime, weapons possession, and narcotics trafficking it appears they have not accomplished this task. In light of research that argues zero tolerance policies may have caused more problems than they have solved, the absence of research supporting these policies mandates a thorough investigation into the appropriateness of school suspension, expulsion, and mass incarceration as methods of social control. Despite the overwhelming notion of failure pertaining to zero tolerance policies, it should be noted that school districts have been reluctant to abandon these policies. Ted Roelofs, writer for the Bridge Magazine, wrote an article on zero tolerance policies in Michigan stating,

Eighteen months after state education leaders urged reform to “zero-tolerance” discipline policies, an analysis of two large Michigan school districts found that they still impose disproportionate numbers of suspensions and expulsions on minority students

(Roelofs 2014).

Thus, while researchers and education leaders protest the use of zero tolerance policies, these policies continue to adversely impact African American students.

Future research on zero tolerance policies can be expected to continue documenting school discipline and incarceration patterns in an effort to encourage policy makers to abandon these tactics. In light of the seemingly over-reliance on quantitative research methodology to document this social problem, research that investigates African American perceptions of zero tolerance policies using qualitative methodology is needed. While the two qualitative studies cited in this paper highlight the counterintuitive nature of zero tolerance policies in the education system, African American perceptions of zero tolerance policies in the legal system have yet to be explored. In order to investigate African American perceptions of zero tolerance policies throughout the apparent school-to-prison pipeline, future research can be expected to employ a mixed-methods approach. By utilizing qualitative and quantitative methodology to investigate this social problem, researchers will be able to document school discipline and incarceration patterns, while simultaneously exploring how African Americans perceive zero tolerance policies throughout the school-to-prison pipeline.

In order to curb the use of school suspension and incarceration, future research should also explore the development of evidenced-based interventions for addressing school climate within the academic setting. It could be argued that addressing minor disciplinary infractions within the school setting would prove to be more cost-effective and would help curtail the school to prison pipeline. Ultimately, the goal of education is to have children in school and engaged in the academic environment. Therefore, it is imperative that all stakeholders pursue comprehensive reform in how we regulate social climate by employing tactics that promote academic and social inclusion rather than exclusion.

Short Biography

Charles Bell is a graduate of Detroit Public Schools and is currently pursuing his PhD in sociology at Wayne State University. He is the winner of the Wayne State University promotion of diversity scholarship and a recipient of the Initiative for Maximizing Student Development (IMSD) graduate assistantship. Charles is deeply interested in urban social issues such as zero tolerance policies, school personnel training efforts in child psychopharmacology, and community reform initiatives. In an effort to further his pursuit of solutions to Detroit’s social problems, Charles founded the Detroit Change organization which highlights the positive accomplishments of Detroiters and increases political activism in the Detroit community.

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