

Zero Tolerance: The war on our children's rights

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You're talking to your friends when suddenly police enter the hall, guns drawn telling everyone to get on the ground and place your hands on your head, everything you own is upended and searched for drugs, with K-9 units barking in their face. Sound like something you'd see in prison, right? No, this was a random drug sweep, enacted by the Stratford High School principal in cooperation with local law enforcement in South Carolina in November of 2003. 107 high school students were subjected to a warrantless search of their private property and detained without just cause. All as the result of out of control zero tolerance drug and alcohol policies. The dictionary definition of zero tolerance is a policy of handing out the most severe punishment possible to every person who commits a crime or breaks a rule. This sounds like a criminal justice policy, not something you would see in your neighborhood grade school. But zero tolerance policies are common in public schools today, requiring administrators and school boards to hand down specific and consistent punishment for certain behaviors that occur on campus. The consequences to students are usually harsh, involving either suspension or expulsion, and it can sometimes be for misconduct issues that are relatively minor. It is an outcome that applies regardless of the circumstances or the reasons for the behavior, including actions taken in self-defense. Not a recipe for a commonsense approach to teaching discipline to children. How did we get here? We will explain the history and reasoning behind this approach. Then we will delve into the consequences intended and otherwise to the children it applies to and the school systems it's been used in.

The first zero tolerance policies were developed in the 1990s in the United States as a response to school shooting incidents that occurred. Laws like the Gun-Free Schools Act, which passed in 1994, require schools to expel any student who brings a gun to campus. Around the same time, the "broken windows" theory of law enforcement became popular. The idea was that cracking down on minor violations prevented serious crimes. Under similar thinking, schools started enacting disciplinary policies that went further than the federal law. The rules varied from school to school, but they commonly required suspending or expelling students for a wide range of conduct, such as:

1. bringing any "weapon" to school, including seemingly innocent items like nail clippers and toy swords
2. having any alcohol or drugs on campus, including tobacco and over-the-counter medications like aspirin or Midol
3. fighting, including minor scuffles

4. threatening other students or teachers or saying anything that could be perceived as a threat.
5. insubordination, which could include talking back to a teacher or swearing in the principal's office, and any behavior considered disruptive, like cutting in a lunch line.

In Milwaukee, for example, where, in 1998, between one-half and one-third of all middle- and high school students were suspended at least once, 97 percent of infractions involved no actual weapons, drugs or alcohol. ("The War on Kids"). Even more shocking according to the Department of Education Statistics, one out of five students will be suspended each year and another 3.4 percent will be expelled. ("Status and Trends in the Education of Racial and Ethnic Minorities") Why the list of disciplined, suspended, and expelled kids is so high is not a mystery. About 75 percent of schools ("Resources & Podcasts") have zero-tolerance policies for everything from bringing guns on campus to sharing cough drops to having a bad attitude toward teachers. Kids have been bounced temporarily or permanently for bringing mouthwash to school, using paper or plastic sword in Halloween costumes ("Zero-Tolerance Policies Lack Flexibility") writing violent short stories, and having a pen knife with a two-inch blade in a survival kit locked away in a car parked on school grounds. These examples point toward a simple truth: the ridiculous cases flooding the newspapers of kids chewing breakfast into gun-shaped pastries or giving an aspirin to a friend are not the exception, but the rule. In practice zero-tolerance policies are aimed at all sorts of petty annoyances that get under the skin of individual administrators. Further, the zero-tolerance rabbit hole that schools have implemented have not made schools safer, it just made them rougher on boys and minorities. A study of Texas middle and high school found that white males were twice as likely to get in trouble than white females and that black and Hispanic males were about 50 percent more likely to get in trouble than their white classmates. ("Breaking School Rules")

Now, you may be saying to yourself this only happens in troubled school districts, in places like LA or New York. That something like that would never happen to my child. Nothing could be further from the truth. I never paid attention to the kind of zero tolerance policies Virginia Beach schools implemented until my 11-year-old son became a victim of the authoritarian policies turning school children into the enemy. Policies implemented by the very people charged with educating and protecting the children in their care. My son was in the first half of his 6th grade year at Great Neck Middle School, while I was on my second deployment and my wife got a call to come to the school. Once there, the school security guard and the principal relayed that my son had been caught with a firecracker on the bus and that this was a serious offense. When my wife questioned our son and his teacher, she found out that someone had given it to him on the bus and that he had turned it over to without being asked to the bus driver before reaching school. Neither the principal nor the teacher ever mentioned this violated the school's standing zero tolerance policy, or that a simple firecracker was deemed in the same class of explosive device as a pipe bomb. They merely told her that the school would render a suspension decision and let her know the outcome. Two weeks later I got a call from my wife tearfully telling me our son had been suspended from school for a year and had been sent to a school facility in Norfolk, with barred window, metal detectors and kids who had committed criminal offenses; selling drugs, assaulting teachers, etc. I was shocked, not once in my entire

life had I ever considered things had become this authoritarian. So, what do you do when your child is facing disciplinary action by a school? Dig into the process and find out what their rights are. The U.S. Supreme Court has held that students are entitled to due process when they are barred from public school “for more than a trivial period” (Goss v. Lopez, 419 U.S. 565 (1975)). Essentially, this means they have the right to defend themselves in a fair hearing. Further, the High Court spelled out minimum due process requirements. The student is entitled to receive at least:

- 1, Notice of the specific charges and the proposed punishment.
- 2, An explanation of the evidence against the student, and an opportunity to challenge the charges in front of an objective person, usually in an informal conference or hearing.
- 3, Even the right to a lawyer if paid for by their parents.

Finally, School officials can still immediately suspend a student who poses a danger, but they must schedule a hearing as soon as possible afterwards.

Two years to the day after this first incident, I got a call from the school principal stating my son had, with another child, brought an explosive device to school. I was at his school within 15 minutes and the sight that greeted me at the door was the other child being led away in handcuffs by police. I walked into the principal’s office and found out the “explosive” device had been dry ice that the other boy brought to school. My son’s involvement allegedly was that he had given the other boy money to buy it. After a few minutes of bluster from the principal and security guard about the seriousness and mention of the school’s zero tolerance policies and his previous suspension. I used three important words in reply: Due process, lawyer, and lawsuit in that order. We never heard anything else about the subject in his time remaining there and my interactions with the school administration after that were cordial but cautious on their part.

What I learned from this experience is this: public schools today are not deserving of the blind trust that parents put in them. Parents need to be armed with the knowledge of their children’s due process rights that do not arbitrarily end at the school door. And they should be forewarned of the track record of administrators and school boards that use zero tolerance in place of common-sense disciplinary procedures. It is time to remind schools and school administrators that our children are not the enemy.

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