

# Tolerating Zero Tolerance?



By Brian N. Moore, RSBS

It all starts with good enough intent. Who could argue when a politician takes a hard line and says into the camera, “We will have zero tolerance when it comes to drugs or guns in our schools.” This is almost always followed by a rousing round of cheers and applause.

Keeping kids safe is always the way to go, right? But what if you are the parent of an adorable third grader who is suspended because zero tolerance to drugs includes over-the-counter cough drops? This is just one example of the many intricate traps of zero tolerance that has led to debate after debate over the years.

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## Back to the Beginning

The concept of zero tolerance dates back to the mid-1990s when New Jersey was creating laws to address nuisance crimes in communities. The main goal of these neighborhood crime policies was to have zero tolerance for petty crime such as graffiti or littering so as to keep more serious crimes from occurring. The media commended this same ideology when New York City Mayor Rudy Giuliani took to cleaning up Times Square by fighting the nuisance crimes in the largest tourist spot in New York.

Next came the war on drugs. In federal law, zero tolerance became a seizure tool that allowed federal agencies to seize vehicles, planes, and boats used to transport even the smallest amount of drugs into the country. Again, not a bad idea if one is fighting a major influx of drugs.

States began to follow suit with laws such as mandatory sentencing when guns were used during a felony. Zero tolerance became a standard for adding jail time for such offenses.

## Students would follow the rules because they knew exactly what would happen if they didn't.

In the 1990s, opponents of zero tolerance began to question how a court could possibly make the punishment fit the crime if the circumstances of the crime were not allowed to enter into the equation. This would soon become a sticking point as the policy made its way from the courtroom into the classroom, from the state house all the way down to the school house.

As zero tolerance policies were enacted, many districts believed they would create a status quo for school climate. By taking away the administrator's ability to determine punishment for each case, they would eliminate issues such as favoritism and would force schools to comply with pre-determined disciplinary consequences. Students would follow the rules because they knew exactly what would happen if they didn't.

## Fighting Back the Fears

After the shootings at Columbine High School in 1999, guns in schools became a major element of what could now be called the zero tolerance culture. If you brought a gun to school you would be expelled automatically.

Again, many experts and parent groups applauded these types of hard-line stances on protecting our children. Soon the states were establishing the same initiatives surrounding drugs in school. But soon questions arose about the definition of a drug. Districts

struggled to understand what the legislature meant by "no drugs in schools."

"No guns" slowly changed to "no weapons" and again the terminology opened itself up to interpretation. One person's idea of a weapon did not coincide with another person's idea and challenges started to crop up in court.

Still, the legislatures and school boards around the country were fighting the public battle to stop violence and drug abuse in schools, so taking a hard line was a popular position.

Scant data was made public about the success of these early initiatives in the traditional law enforcement community. Public opinion supported these approaches and applauded their use in making a community safe. It was hard, according to researchers, to develop data based upon what the crime rates might have been if the laws had not been enforced using zero tolerance policies.

What did become clear, however, was that correctional institutions were beginning to burst at the seams based on the mandatory sentences passed down under zero tolerance. While prison overcrowding became an issue for the penal system, high drop out rates and suspension and expulsion rates began to have an effect on education. How could a school district strike a balance between taking a hard line on crime in school yet still meet its constitutional role of educating a child?

## Zero Tolerance Today

During the past few years, many school districts have become embroiled in bitter media battles over zero tolerance policies.

One school district received national attention when it suspended a student for bringing a cake knife to school to cut a birthday cake, although the student never actually handled the knife. That same district was criticized for putting a six year old in an alternative education setting for bringing a Cub Scout knife to school to use while eating his lunch.

Is the issue here a question of zero tolerance policy or does it center on a building administrator's definition of the term "weapon"?

Sometimes the issues that surround zero tolerance are not about enforcement, but rather about the initial assessment and decision (usually by a school administrator) to take action under the auspices of zero tolerance.

Robin Case is the Delaware Department of Education associate for school climate and discipline. She checks every case of reported crimes that occur in schools. When there is an issue, Case notes, it is often in the way an administrator at the school level defines the offense.

"It can be a real challenge to find a way to share a consistent view of what is a crime and what is not," Case says. These judgment calls can be made in haste by sometimes inexperienced and often overwhelmed school

administrators. The end results can be difficult for districts and the public to reconcile.

“In the end you simply cannot legislate good old fashioned common sense and experience,” Case says.

### Organizations Speak Out

The American Bar Association weighed in on the topic of zero tolerance in 2000. In a report to their members, a committee on zero tolerance noted, “zero tolerance is a perverse version of mandatory sentencing, first, because it takes no account of what we know about child and adolescent development, and second, because at least in the criminal justice system (despite ABA policy) when mandatory sentences exist, there are different mandatory sentences for offenses of different seriousness.”

The report noted that the entire educational process is supposed to recognize the growth and learning of each student—something that can easily be lost under zero tolerance.

## How could a school district strike a balance between taking a hard line on crime in school yet still meet its constitutional role of educating a child?

Experts who work in the field of juvenile justice tend to agree. Detective Nick Terranova of the Delaware State Police Youth Aide Division is charged with investigating crimes that involve school students.

“Zero tolerance in its original form was meant to serve as a deterrent against drug crime,” Terranova says, “but in its current form it can sometimes hinder both the schools and our own ability to look at the circumstances behind the crime.”

In one case he investigated, a student brought a weapon into the school for the purpose of committing suicide. “My heart truly went out to this student and his family,” Terranova says. “He wasn’t a criminal but rather someone in desperate need of help and support.”

In 2008, the American Psychological Association released a report that highlighted the fact that what little data exists regarding zero tolerance in schools may actu-

ally point to the fact that these policies have a negative effect on school climate.

The report, published in the December 2008 issue of *American Psychologist* magazine, notes that students with high suspension and expulsion rates, such as minority students, suffer even greater rates of disciplinary action under these policies. The report highlights the fact that disciplinary actions in these schools are even higher, which would lead to the question: how much of a “deterrent” is zero tolerance?

### Now What?

If your district has a standing zero tolerance policy, remember that education is the key. Make sure all staff members share the same definition of what offenses meet the requirements to fall into a zero tolerance issue. If they are not sure, have them check with a district office person who has a clear understanding of the law or policy your district uses. Make sure those definitions for what constitutes a weapon or drugs are clearly defined in your policy. Review your old policies to make sure they are still applicable today.

The most difficult issue is not simply the definition of what each offense represents, but what your organization believes is its responsibility to educate and its stance on school climate.

In the community that your district serves, is marijuana use so common in the community that a zero tolerance policy toward a small amount would lead to a significant number of students not being able to receive educational services? Again, these are decisions that have to be made locally and based on what your community may need or desire.

Everyone wants schools to be safe and crime free. But when do we stop serving as an educational institution and start serving as part of the criminal justice system? Today’s educators are challenged to decide where to draw the line between tolerance and zero tolerance.

Yes, you need discipline in your school so you can educate your students, but you also need understanding and compassion. Take the lead in your district by really looking at your zero tolerance policy and asking yourself if it truly serves a purpose as it is written. If not, step up to the plate and recommend changes.

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**Brian N. Moore, RSBS**, is supervisor of public safety for Red Clay School District in Wilmington, Delaware, vice chair of the ASBO’s School Facilities Committee, and a member of the ASBO Editorial Advisory Committee. Email: [brian.moore@redclay.k12.de.us](mailto:brian.moore@redclay.k12.de.us)

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