

DE JURE NEXUS LAW JOURNAL

Author:

Rahul Chachan

Amity Law School, Kolkata

4th Year, B.com, LL.B. (Hons.)**ZERO TOLERANCE POLICY****INTRODUCTION**

This study will employ a quantitative approach using a quasi-experimental design to determine the degree of association that exists between quantifiable variables and their degree of association. As demonstrated by McMillan & Schumacher, found that “the purpose of summative evaluation is to determine the merits of a fully operational program and possibly compare it with a competing program.” An essential element in this context is to the use of the summative evaluation methodology to provide the answers to questions regarding the effectiveness of the program that is being evaluated.

It is required that reasons for conducting an evaluation must not only be clarified, but also an evaluation model must be selected, the stakeholders must be identified, and decisions must be made as to what may merit evaluation. This process also entails the development of an evaluation design, time line, data collection and analysis, and identifying research questions as well as reporting of results of the evaluation.

The purpose of this applied dissertation proposal will be to evaluate the current Zero Tolerance Policy and teen violence at the high school and to identify performance gaps that are hindering the high school from functioning effectively as an high school free from violence, crimes, and intimidation by potential and deliberate violators of the code of conduct. Interventions to close these gaps will be applied. Based on the assessment of data, the summative evaluation methodology will be used in this study.

This methodology will include the subjects, instrumentation, and the procedures for obtaining data, data analysis, and design limitations. By the same token, the survey will be cross-

sectional with the collection of data over a period of time. As suggested by Dillman the social change concept is a guide to improving the response rate of subjects. Suffice it to say, the opinion of people will also warrant measurement and, as such, the study will identify the survey methods as well as the subjects in the population of interest as students, school principals, teachers, and guardian counsellors.

Creswell defined “independent variables that probably cause, influence, or affect outcomes [and dependent variables as] “variables that depend on the independent variables; they are the outcomes or results of the influence of the independent variables.” In order to arrive at the result of this process, the two variables were evaluated and tested, and the SPSS findings presented a ratio known as the correlation coefficient, represented by the letter r.

Babbie (as cited in Creswell, argued, “This purpose is to generalize from a sample to a population so that inferences can be made about some characteristics, attitude, or behaviour of this population.”

Literature review

The purpose of this review of the literature is to explore the effectiveness of the safe school policy at the high school. This policy has never been evaluated since its inception that made it mandatory for the Zero Tolerance policy to be incorporated into the rules governing public safety at the high school. This policy is predicated upon Virginia Zero Tolerance Law. Creswell suggested that “the data collection steps include setting boundaries for the study, collecting information through unstructured or (semi-structural observation for observations and interviews, documents, and visual materials as well as establishing the protocol for recording information.”. Certain Sources reported that “many school districts expanded the scope of Zero Tolerance policies even further to include various non-violent acts; in addition they also broadened the definition of weapons and drugs to include such things as nail files, plastic knives, and aspirin.”

This study organized a review of the literature for a quantitative study, and, moreover, the model for delimiting the literature to reflect the variables of the study was a critical instrument. According to Creswell, independent variables have been defined as “variables that probably cause influence or affect outcomes. Dependent variables are outcomes or results of the influence of independent variables.”

The following mission statement is “to provide students with competencies to achieve academic and personal success through the [Expletive] County Public Schools’ core values within a safe and orderly environment.” This mission statement explicates the need for students to learn under only acceptable circumstances. Those conditions under the mission statement guidelines should never be compromised or else the full force of stringent disciplinary measures will be employed for the safety of the high school and all those who reside within its premises.

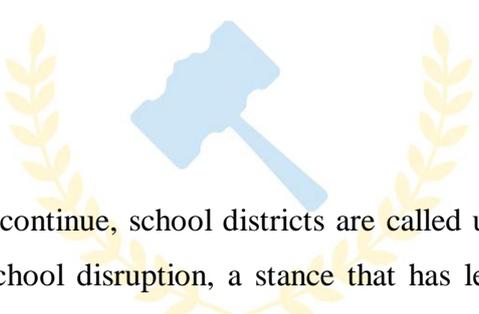
Traditionally, summative and formative evaluations are needed to evaluate the effectiveness of a program. Fitzpatrick, et al. found that, “when the decision to be made is summative--whether to continue, expand, or drop a program--an external evaluator (also known as a third-party evaluator, independent evaluator, evaluation consultant, or evaluation contractor) may be preferable to an internal evaluator” In this context, summative and formative evaluations will be conducted by the summative and formative committees in collaboration with the researcher.

It is also equally clear that, although an internal evaluation needs assessment is an essential element to be considered on the basis that the evaluators may possess prior knowledge of the program under evaluation, but, from a broad-based perspective, the assessment of immediate outcomes may significantly be used in the context of formative purposes.

An extensive review of the literature discovered five measures to prevent criminal behaviour at the high school. A student may be held culpable for breaching any of these guidelines. In a concerted effort to contain Zero Tolerance and promoting safe schools in the communities, a new resource officer program has been established by the Chesterfield County Police Department where this study was conducted; the policy of this new program declares that there will be no exception to the practice of reporting violations to the law. [Expletive] County places of zero tolerance for weapons, drugs, or abuse of any kind. School resource officers and administrators shall take measures to prevent and address all incidents involving

1. Assaults against students or school personnel.
2. Threats against school personnel.
3. Involvement with drugs or alcohol.
4. The possession of contraband or any suspicious substances which may be illegal.

5. The possession of weapons.



Hypothesis

As tragedies in the schools continue, school districts are called upon to impose more severe penalties for any kind of school disruption, a stance that has led to a common prevention method known as, zero tolerance. A “zero tolerance policy” is defined as a school or district policy that mandates predetermined consequences or punishments for specific offenses.

Zero tolerance policies, those school policies that mandate predetermined consequences or punishments for specific offenses, have become a popular disciplinary choice. According to a recent government study, more than three-quarters of all schools reported having such policies (National Centre for Education Statistics, 1998).

The “zero tolerance policy” is a fairly recent addition to the array of school violence prevention techniques. According to the Western Governors’ Association (1999), the zero tolerance policy was initially endorsed in the early 1990’s. There are still some concerns about whether this is an appropriate resolution to the problem of violence. However, there are some that believe it is successful because the behaviours that are and are not considered acceptable are clearly outlined, as are the consequences.

One particular prevention strategy of interest is the “zero tolerance policy.” Since the introduction of zero tolerance policies to the schools in the 1990’s (Western Governors’ Association, 1999), significant controversy regarding their efficacy has been generated. A zero tolerance policy is defined as a school or district policy that mandates predetermined consequences or punishments for specific offenses (U.S. Department of Education, 1998). The purpose of a zero tolerance policy is to create a safe and secure environment for learning.

Zero tolerance policies have generated significant controversy regarding their appropriateness and effectiveness. Some believe the policy is too strict that there should be leniency for actions that may appear to be something they are not. Additionally, the policy does not accommodate less threatening situations. Others see zero tolerance as being too broad based. They feel there are not enough guidelines for disciplining violent acts and for determining which actions receive which disciplinary responses. As a result of these concerns, the zero tolerance policy is considered inappropriate or ineffective in preventing school violence. Despite the many concerns associated with zero tolerance policies in the schools, there are some educators who believe this is a much-needed policy. They recognize that there could be some flaws; they argue, however, most policies have room for improvement. Supporters of zero tolerance believe it is appropriate if it is imposed with common sense. They also contend that it is not intended to be a solution in itself. At the same time, supporters of the zero tolerance policy acknowledge that its effectiveness is yet to be determined. Due to a lack of much needed research, there is no evidence supporting the efficacy of the zero tolerance policy (Skiba & Peterson, 1999). The research proposed in this paper will attempt to fill that void.

There are currently a variety of opinions about which types of preventative measures are effective and which ones are not. Studies reveal conflicting opinions about the zero tolerance policy. Zero tolerance policies in the schools have not been around long enough to be extensively researched. However, with the recent perception of increased violence in the schools, research needs to be done to determine its effectiveness and appropriateness. Once that is determined, preventative methods towards school violence can be readily determined.

According to the National School Safety Centre (2001), 9 of 10 principals who participated in a poll said that tough discipline policies, including zero tolerance, were absolutely essential for keeping schools safe, even though they resulted in an increase in student suspensions. Several colleagues (1999) found that when school personnel fail to confront student misbehaviour, students infer permission to continue inappropriate behaviour. The researchers believe that a zero tolerance policy may serve to establish a standard of behaviour for students. These findings suggest that, at least intuitively, zero tolerance policies are good for students and schools.

Morris and Wells (2000) report that after the Baltimore (Maryland) school board adopted a zero tolerance policy, school-related arrests dropped 67 percent and school crime decreased

31 percent. These researchers could not conclude, however, that the implementation of the new policy was responsible for the decline in arrests and criminal incidents. They did conclude that not all school systems that have adopted zero tolerance policies achieve such results. Further, they assert that policies that rely solely on suspending and expelling students do not remedy student misbehaviour.

Barton, Coley (1998) found that schools with less strict discipline policies experienced higher levels of serious offenses. To reduce these levels, such schools needed to adopt stricter policies. Further, they found that the consequence of student disorder is not merely more disorder, but the erosion of an effective learning environment for all students, as indicated by lower student achievement gains. Thus, student achievement is closely tied to school order.

According to the National Centre for Education Statistics (1998), schools with no reported crime were less likely to have a zero tolerance policy than schools that reported incidents of serious crime. This might not sound surprising because safe schools would presumably be less likely to resort to such drastic measures as a zero tolerance policy. The study found, however, that even after schools with zero tolerance policies had implemented them for more than four years, those schools were still less safe than schools without such policies (National Centre for Education Statistics, 1998)

A **zero-tolerance** policy is one which imposes a punishment for every infraction of a stated rule. Zero-tolerance policies forbid people in positions of authority from exercising discretion or changing punishments to fit the circumstances subjectively; they are required to impose a pre-determined punishment regardless of individual culpability, extenuating circumstances, or history. This pre-determined punishment, whether mild or severe, is always meted out.

Zero-tolerance policies are studied in criminology and are common in formal and informal policing systems around the world. The policies also appear in informal situations where there may be sexual harassment or Internet misuse in educational and workplace environments. In 2014, the mass incarceration in the United States based upon minor offenses has resulted in an outcry on the use of zero tolerance in schools and communities.

Little evidence supports the claimed effectiveness of zero-tolerance policies. One underlying problem is that there are a great many reasons why people hesitate to intervene, or to report

behavior they find to be unacceptable or unlawful. Zero-tolerance policies address, at best, only a few of these reasons.

According to the *Online Etymology Dictionary*, the first recorded use of the term "zero tolerance" was in 1972. It was originally used in politics in the United States.

An earlier use of the term came in the mid-1960s, in reference to an absolute ban of the pesticide heptachlor by the United States Food and Drug Administration; for example, in an article that appeared in the June 1963 issue of *Popular Mechanics*, it is stated that "Heptachlor, though, is even more toxic and has been given a 'zero tolerance' by the FDA; that is, not even the slightest trace of heptachlor is permitted on food.



According to scholars, zero tolerance is the concept of giving *carte blanche* to the police for the inflexible repression of minor offenses, homeless people, and the disorders associated with them. A well-known criticism to this approach is that it redefines social problems in terms of security, it considers the poor as criminals, and it reduces crimes to only "street crimes", those committed by lower social classes, excluding white-collar crimes.

On the historical examples of the application of *zero tolerance* kind of policies, nearly all the scientific studies conclude that it didn't play a leading role in the reduction of crimes, a role which is claimed by its advocates. On the other hand, large majorities of people who are living in communities in which zero tolerance policing has been followed believe that in fact it has played a key, leading role in reducing crime in their communities. It has been alleged that in New York City, the decline of crimes rate started well before Rudy Giuliani came to power in 1993, and none of the decreasing processes had particular inflection under him and that in the same period, the decrease in crime was the same in the other major US cities, even those with an opposite security policy. But the experience of the vast majority of New Yorkers led them to precisely the opposite conclusion and allowed a Republican to win and retain the Mayor's office for the first time in decades in large part because of the perception that zero tolerance policing was key to the improving crime situation in New York City. On the other hand, some argue that in the years 1984–1987 New York already experienced a policy similar to Giuliani's one, but it faced a crime increase instead.

Two American specialists, Edward Maguire, a Professor at American University, and John Eck from the University of Cincinnati, rigorously evaluated all the scientific work designed to test the effectiveness of the police in the fight against crime. They concluded that "neither

the number of policemen engaged in the battle, or internal changes and organizational culture of law enforcement agencies (such as the introduction of community policing) have by themselves any impact on the evolution of offenses." They argue that crime decrease was due not to the work of the police and judiciary, but to economic and demographic factors. The main ones were an unprecedented economic growth with jobs for millions of young people, and a shift from the use of crack towards other drugs.

Zero tolerance refers to school discipline policies and practices that mandate predetermined consequences, typically severe, punitive and exclusionary (e.g., out of school suspension and expulsion), in response to specific types of student misbehavior—regardless of the context or rationale for the behavior. The term originated during the Reagan era during which the federal Anti-Drug Abuse Act of 1986 was signed into law as a response to the War on Drugs. The law imposed new mandatory minimum sentences for drug offenders changing a rehabilitative system into a punitive system. Congress passed the Gun-Free Schools Act of 1994, requiring states to expel students who bring firearms to school. Although originally intended as a response to serious offenses (e.g., selling drugs or engaging in gang-related fights on school grounds) to ensure safe and healthy schools, in recent years zero tolerance policies have been applied broadly to include minor offenses (e.g., talking back to school personnel, bringing over the counter or prescription drugs on school grounds without a doctor's note, and coming to school out of uniform) (NEA, 2008). Like the Anti-Drug Abuse Act of 1986, school zero tolerance policies typically do not specify rehabilitative or supportive services to help students change their behavior in positive ways. Research has demonstrated that zero tolerance policies can lead to harmful effects of individuals, lead to higher rates of exclusionary disciplinary action and are not associated with improved school safety and academics (APA, 2008).

Bullying in the workplace

Various institutions have undertaken zero-tolerance policies, for example, in the military, in the workplace, and in schools, in an effort to eliminate various kinds of illegal behavior, such as harassment. Proponents hope that such policies will underscore the commitment of administrators to prevent such behavior. Others raise a concern about this use of zero-tolerance policies, a concern which derives from analysis of errors of omission versus errors of commission. Here is the reasoning: Failure to proscribe unacceptable behavior may lead to

errors of omission—too little will be done. But zero tolerance may be seen as a kind of ruthless management, which may lead to a perception of "too much being done". If people fear that their co-workers or fellow students may be fired, terminated, or expelled, they may not come forward at all when they see behavior deemed unacceptable. (This is a classic example of Type I and type II errors.) The Type Two error, where it occurs with respect to zero tolerance, leads to the situation where too stringent a policy may actually reduce reports of illegal behavior.

Narcotics

In the United States, zero tolerance, as an approach against drugs, was originally designed as a part of the War on Drugs under Ronald Reagan and George H.W. Bush, ostensibly to curb the transfer of drugs at US borders. Law-enforcement was to target the drug users rather than the transporters or suppliers under the assumptions that harsh sentences and strict enforcement of personal use would reduce demand and, therefore, strike at root cause of the drug problem. The policy did not require additional laws; instead existing law was enacted with less leniency. Similar concepts in other countries, such as Sweden, Italy, Japan, Singapore China, India, and Russia have since been labelled zero tolerance.

A consistence of zero tolerance is the absolute dichotomy between the legality of any use and no use, equating all illicit drugs and any form of use as undesirable and harmful to society. This is contrasting to viewpoints of those who stress the disparity in harmfulness among drugs, and would like to distinguish between occasional drug use and problem drug use. Although some harm reductionists also see drug use as generally undesirable, they hold that the resources would do more good if they were allocated toward helping problem drug users instead of combating all drug users. As an example, research findings from Switzerland indicate that emphasis on problem drug users "seems to have contributed to the image of heroin as unattractive for young people.

On a more general level, zero-tolerance advocates holds the aim at ridding the society of all illicit drug use and that criminal justice has an important role in that endeavour. The Swedish parliament for example set the vision *a drug-free society* as the official goal for the drug policy in 1978. These visions were to prompt new practices inspired by Nils Bejerot, practices later labeled as Zero tolerance. In 1980 the Swedish attorney general finally dropped the practice of giving waivers for possession of drugs for personal use after years of lowering the thresholds. The same year, police began to prioritize drug users and street-level

drug crimes over drug distributors. In 1988 all non medically prescribed usage became illegal and in 1993 the enforcement of personal use were eased by permitting the police to take blood or urine samples from suspects. This unrelenting approach towards drug users, together with generous treatment opportunities, have won UNODC's approval, and is cited by the UN as one of the main reasons for Sweden's relatively low drug prevalence rates. However, that interpretation of the statistics and the more general success of Sweden's drug policies are highly questioned.

Driving

The term is used in the context of driving under the influence of alcohol, referring to a lower illegal blood alcohol content for drivers under the age of 21. In the US, the legal limit in all states is now .08%, but for drivers under 21, the prohibited level in most states is .01% or .02%. This is also true in Puerto Rico despite a drinking age of 18.

In Europe, Belgium, Finland, France, Germany, and Sweden have zero-tolerance laws for drugs and driving, as opposed to the other main legal approach where laws forbidding impaired driving is enacted instead. The legislation among countries that practice zero tolerance on drug use for drivers varies. Only a limited set of (common) drugs are included in the zero-tolerance legislation in Germany and Belgium, where in Finland and Sweden, all controlled substances fall into the scope of zero tolerance, if they are not covered by a prescription.

In Argentina, the Cordoba State Highway Patrol enforces a zero-tolerance policy.

In Asia, Japan also practices zero-tolerance for DUI. In that country, people will receive a fine and can be fired for DUI. They can even get these consequences the next morning if there are still traces of alcohol in their system. Foreigners may even be deported.

In schools

Zero-tolerance policies have been adopted in schools and other education venues around the world. These policies are usually promoted as preventing drug abuse, violence, and gang activity in schools. In schools, common zero-tolerance policies concern possession or use of drugs or weapons. Students and, sometimes staff, parents, and other visitors, who possess a banned item or perform any prohibited action for any reason are automatically punished. School administrators are barred from using their judgment, reducing severe punishments to be proportional to minor offenses, or considering extenuating circumstances. For example, the policies treat possession of a knife identically, regardless of whether the

knife is a blunt table knife being used to eat a meal, a craft knife used in an art class, or switchblade with no reasonable practical or educational value. Consequently, these policies are sometimes derided as "zero-intelligence policies".

There is no credible evidence that zero tolerance reduces violence or drug abuse by students.

The unintended negative consequences are clearly documented and sometimes severe: school suspension and expulsion result in a number of negative outcomes for both schools and students. Although the policies are "facially neutral", minority children are the most likely to suffer the negative consequences of zero tolerance.

These policies have also resulted in embarrassing publicity for schools and have been struck down by the courts and by Departments of Education, and they have been weakened by legislatures.



Zero Tolerance Laws: State and Federal

The vast majority of criminal laws that use the framework of zero tolerance are written regarding driving a vehicle under the influence of alcohol and/or drugs. In some states, these laws have been applied or written to include non-motorized vehicles, such as golf carts and bicycles.

Other terms that may be used and that vary by state for these crimes are:

- DUI: Driving Under the Influence
- DWI: Driving While Intoxicated
- OWI: Operating (a motor vehicle) While Intoxicated
- OUI: Operating (a motor vehicle) Under the Influence

In contrast, most federal zero tolerance laws are in relation to the possession, sale, transport, or theft of guns and rifles. If a convicted felon is found to have a firearm, it is considered a serious crime, particularly if the crimes the individual was convicted of are violent crimes. These crimes generally warrant a minimum sentence of ten years imprisonment or more in some cases.

Zero tolerance in schools

A **zero-tolerance policy in schools** is a strict enforcement of regulations and bans against behaviors or the possession of items deemed undesirable by said schools. Public criticism against such policies has arisen due to the sometimes negative consequences of its enforcement when acts deemed intolerable are done in ignorance, by accident, or under extenuating circumstances. In schools, common zero-tolerance policies concern possession or use of illicit drugs or weapons. Students, and sometimes staff, parents, and other visitors, who possess a banned item for any reason are always (if the policy is followed) to be punished.

In the United States and Canada, zero-tolerance policies have been adopted in various schools and other education venues. Zero-tolerance policies in the United States became widespread in 1994, after federal legislation required states to expel for one year any student who brought a firearm to school, or lose all federal funding.

These policies are promoted as preventing drug abuse and violence in schools. Critics say zero tolerance policies in schools have resulted in punishments which have been criticised as egregiously unfair against students and teachers, especially in schools with poorly written policies. Consequently, critics describe these policies as "zero-logic policies" because they treat juveniles the way that adults would be treated— or more harshly, given that children are seldom granted full permission to speak up in their own defense to adults with authority over them. Many people have been critical of zero tolerance policies, claiming that they are Draconian, provide little if any benefit to anyone, contribute to overcrowding of the criminal justice system, and/or disproportionately target people of colour, particularly people of African-American and Hispanic descent.

There is no credible evidence that zero tolerance reduces violence or drug abuse by students. Furthermore, school suspension and expulsion result in a number of negative outcomes for both schools and students. The American Bar Association finds that the evidence indicates that minority children are the most likely to suffer the negative consequences of zero tolerance policies. Analysis of the suspension rate of students show that black females and other racial minorities are suspended at a greater rate. The American Psychological Association concluded that the available evidence does not support the use of zero tolerance policies as defined and implemented, that there is a clear need to modify such policies, and that the policies create a number of unintended negative consequences, including making schools "less safe".

In 2014, a study of school discipline figures was conducted. It was found that suspensions and expulsions as a result of zero tolerance policies have not reduced school disruptions. The study's author stated that "zero tolerance approaches to school discipline are not the best way to create a safe climate for learning". Zero tolerance policies are sometimes viewed as a quick fix solution for student problems. While this seems like a simple action-reaction type of situation, it often leaves out the mitigating circumstances that are often the important details in student incidents. Even civilian judges consider mitigating circumstances before passing judgement or sentencing. If zero tolerance policies were applied in adult courtroom scenarios, they would be fundamentally unjust and unconstitutional due to neglecting the laws involving due process, along with cruel and unusual punishments.



Support for Zero Tolerance Policies

Proponents say zero tolerance reduces favoritism because there isn't room for subjectivity. Just because a student is smart or has parents who are involved with the school, there won't be any room for leniency when the rules are broken.

Some critics have argued that "zero tolerance" policing violates the Law Enforcement Code of Conduct passed by the International Association of Chiefs of Police, which says in part: "The fundamental duties of a police officer include serving the community, safeguarding lives and property, protecting the innocent, keeping the peace and ensuring the rights of all to liberty, equality and justice" (cited in Robinson, 2002). This code requires that police behave in a courteous and fair manner, that they treat all citizens in a respectable and decent manner, and that they never use unnecessary force. As Robinson (2002: 206) explains:

Zero-tolerance policing runs counter to community policing and logical crime prevention efforts. To whatever degree street sweeps are viewed by citizens as brutal, suspect, militaristic, or the biased efforts of "outsiders," citizens will be discouraged from taking active roles in community building activities and crime prevention initiatives in conjunction with the police. Perhaps this is why the communities that most need neighborhood watch programs are least likely to be populated by residents who take active roles in them.

Critics say that zero-tolerance policing will fail because its practice destroys several important requisites for successful community policing, namely police accountability, openness to the public, and community cooperation (Cox and Wade 1998: 106).

Zero tolerance policies violate principles of health and human services, and standards of the education and healthy growth of children, families and communities. Even traditional community service providers in the 1970s aimed for "services for all" (e.g., zero reject) instead of 100% societal exclusion (zero tolerance). Public administration and disability has supported principles which include education, employment, housing, transportation, recreation and political participation in the community. which zero tolerance groups claim are not a right in the US.

Opponents of zero tolerance believe that such a policy neglects investigation on a case-by-case basis and may lead to unreasonably harsh penalties for crimes that may not warrant such penalties in reality. Another criticism of zero-tolerance policies is that it gives officers and the legal system little discretion in dealing with offenders. Zero-tolerance policies may prohibit their enforcers from making the punishment fit the crime.

It also may cause offenders to go all out, knowing if the punishment is the same for a little or a lot. This phenomenon of human nature is described in an adage that dates back to at least the 17th century, "might as well be hanged for a sheep as a lamb": until 1820, the English law prescribed hanging for stealing anything worth more than one shilling, whether that was a low-value lamb or a whole flock of sheep.

In the Kids for cash scandal, judge Mark Ciavarella, who promoted a platform of zero tolerance, received kickbacks for constructing a private prison that housed juvenile offenders, and then proceeded to fill the prison by sentencing children to extended stays in juvenile detention for offenses as minimal as mocking a principal on Myspace, scuffles in hallways, trespassing in a vacant building, and shoplifting DVDs from Walmart. Critics of zero-tolerance policies argue that harsh punishments for minor offences are normalized. The documentary Kids for Cash interviews experts on adolescent behaviour, who argue that the zero tolerance model has become a dominant approach to policing juvenile offences after the Columbine shooting.

Recently, argumentation theorists (especially Sheldon Wein) have suggested that, frequently, when people advocate adopting a zero tolerance policy, they commit what he has called the "zero tolerance fallacy". Subsequently, Wein has proposed standards which arguments for zero tolerance policies must meet in order to avoid such fallacious inferences.

Zero tolerance, as enforced in too many schools today, is a policy that punishes the innocent for the crimes of the guilty. It treats children as adult offenders without the presumption of innocence, disrupts the lives and educations of good students nearly as often as it does those of troubled students, and treats all covered offenses and all students equally, regardless of age, intent, past behavior, or magnitude of the offense. It has to stop.

Research Link / The Dilemma of Zero Tolerance

Zero tolerance policies, those school policies that mandate predetermined consequences or punishments for specific offenses, have become a popular disciplinary choice. According to a recent government study, more than three-quarters of all schools reported having such policies (National Center for Education Statistics, 1998).

According to the National School Safety Center (2001), 9 of 10 principals who participated in a poll said that tough discipline policies, including zero tolerance, were absolutely essential for keeping schools safe, even though they resulted in an increase in student suspensions. Echelbarger and colleagues (1999) found that when school personnel fail to confront student misbehavior, students infer permission to continue inappropriate behavior. The researchers believe that a zero tolerance policy may serve to establish a standard of behavior for students. These findings suggest that, at least intuitively, zero tolerance policies are good for students and schools. But are these opinions supported by research?

Morris and Wells (2000) report that after the Baltimore (Maryland) school board adopted a zero tolerance policy, school-related arrests dropped 67 percent and school crime decreased 31 percent. These researchers could not conclude, however, that the implementation of the new policy was responsible for the decline in arrests and criminal incidents. They did conclude that not all school systems that have adopted zero tolerance policies achieve such results. Further, they assert that policies that rely solely on suspending and expelling students do not remedy student misbehavior.

Barton, Coley, and Wenglinsky (1998) found that schools with less strict discipline policies experienced higher levels of serious offenses. To reduce these levels, such schools needed to adopt stricter policies. Further, they found that the consequence of student disorder is not merely more disorder, but the erosion of an effective learning environment for all students, as indicated by lower student achievement gains. Thus, student achievement is closely tied to school order.

The researchers stopped short of advocating zero tolerance policies, however. Their findings failed to support the notion that such policies reduce school disorder and, consequently,

improve student academic performance. Ironically, their research indicates that levels of student delinquency in schools with zero tolerance policies did not differ significantly from delinquency levels in schools without such policies. Moreover, in some schools with zero tolerance policies, evidence existed of higher levels of delinquency.



De Jure Nexus

LAW JOURNAL