INTERPRETING AND IMPLEMENTING FEDERAL LAW AT THE STATE AND LOCAL LEVEL: THE RACIALIZATION OF DISCIPLINE

Brenda-Joyce Newman
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__________________________, Graduate Coordinator
James H. Cox, PhD.                  Date

Department of Government
Abstract

of

INTERPRETING AND IMPLEMENTING FEDERAL LAW AT THE STATE AND LOCAL LEVEL: THE RACIALIZATION OF DISCIPLINE

by

Brenda-Joyce Newman

This study seeks to examine, through the lens of Critical Race Theory, how high school administrators, teachers, community activists (leaders), and legislators interpret and implement suspension and expulsion policies often under the auspices of zero tolerance. A descriptive analysis of data supplied by an urban school district in northern California makes for a more robust study of the discipline gap between African American males and other ethnic groups. In an attempt to identify hegemonic practices in public education, a qualitative analysis of 18 respondents offers a narrative standpoint of the participants. A personal case study adds further insight into the complexity of the discipline gap and poses a challenge to traditional quantitative theoretical constructs by giving a voice to those marginalized by the ideology of zero tolerance. Findings from this study reveal that suspension and expulsion policies, especially when implemented under the philosophy of zero tolerance are disproportionately administered to African American adolescents in this northern California school district. This study also determined that the philosophy of zero tolerance originating from the Gun-Free Schools Act of 1994 is used beyond the scope of its’ intent.

_________________________________, Committee Chair
Robert Stanley Oden, PhD.

_________________________________
Date
DEDICATION

This thesis is dedicated in the memory of my longtime, loyal and faithful best friend Petra Newman. You were with me every step of the way in life’s journey. You understood me like no one else could, and you loved me unconditionally. You lifted me in the worst of times and celebrated with me in the best of times. You tried your best to hang in there until I finished, but I know that you were very ill and had to go. I miss your sweet, sweet spirit very much.

Love,
Mommie
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Chapter 1

INTRODUCTION

As media coverage of various incidences of school violence intensified in the 1990’s, the public’s concern with school safety also increased (Ricketts 2007, Furlong et al 2004). The influx of weapons onto public school campuses, and the increase in gang violence became a frightening reality for many parents. Increased public pressure compelled interest groups, legislators, and administrative policymakers to initiate stricter school policies to address the problem of school security and student safety.

In an effort to satisfy the public demand for safer learning environments, the federal government, primarily under the Reagan and Bush administrations, had set the tone for state and local agencies’ “get tough on crime” approach (Skiba 2000). These administrations supported stringent policies on crime at the domestic level. Policy makers followed suit at the state and municipal levels by beginning to adopt a zero tolerance philosophy for diverse acts of misbehavior.

The field of education began to apply this philosophy of zero tolerance as a means of behavior modification to address student misconduct. In an effort to avert widely publicized acts of school violence like Columbine in Littleton, Colorado, Decatur High School in Illinois, Richmond High School in Northern California, Olivehurst in Northern California and many others, school boards across the nation implemented zero tolerance policies to punish students who violated drug and weapons rules (Skiba 2000, Henault 2001, Astor 2009). Proponents of the policy such as school boards and
administrators perceived zero tolerance as a solution designed to create an environment of safety and security on school campuses free from the influx of gangs and drugs.

Opponents of the policy (community activists, parents, educators) perceived it to be a tool which negatively affected the academic achievement of some students, albeit unintentionally. According to Augustina Reyes, zero tolerance policies by design disproportionately remove ethnic minority students from schools and threaten a fundamental part of democracy (Reyes 2006). Reyes argues that zero tolerance policies conflict with the credo that it is the right and responsibility that all children be educated. Discriminatory disciplinary policies of this nature affect the numbers of African American and Latino students who do not graduate, have low API scores, and engage more often with law enforcement agencies thereby affecting the overall academic success for these groups.

Other advocates cite the inflexibility of zero tolerance and perceive it to be a policy that affected a wide range of student behavior that was not egregious in nature but minimally disruptive at best. In his book, *Zero Tolerance: Resisting the Drive for Punishment in our Schools*, William Ayers contends that most African American students receive out-of-school suspensions for non-violent offenses (Ayers et al 2001). Ayers concurred with research that showed students were being expelled and suspended for minor infractions such as giving a Midol to a friend or a student who loans her nail clipper to a friend because it had a nail file attached to it (Henault 2001, Skiba 2000, Skiba et al 1999).
Zero tolerance became a ‘cornerstone’ of suspension and expulsion policies as the discipline gap between African American and other student groups increased (Monroe 2005, Skiba 2000, Gordon 2000, Skiba et al 1997). As a result, Civil Rights activists, educators, child rights advocates, students and parents began to demand dialogue on the problem of the discipline gap. The outcome of these forums conclude that when state and local governments were given the discretion to interpret and implement a federal law governing weapons and drugs it was largely done beyond the intent of the federal mandate (Skiba 2000). The devolution or passing down of national authority to state and localities had allowed histrionics to reign instead of putting more methodical and systematic strategies into practice to address the problem of safe school environments.

The History of Zero Tolerance and the Gun-Free Schools Act

The origin of zero tolerance began in the 1980’s as a policy to impound seagoing vessels carrying drugs into the country (Verdugo 52). Developed by U. S. Attorney Peter Nunez, the objective of zero tolerance was to severely punish all drug violations no matter how minor the offense (Skiba 1999). During the late 80’s U.S. Attorney Edwin Meese authorized customs officials to use zero tolerance to prosecute in federal court any individual crossing the border with even trace amounts of drugs in their possession (Henault 2001, Skiba 1999). Viewed as a valuable tool for law enforcement, the policy became useful for a host of other issues such as environmental pollution, racial intolerance, homelessness, and sexual harassment (Skiba 1999).

As citizens began to protest the harshness of zero tolerance in the 1990’s, the policy became a popular tool for behavior modification in public schools (Skiba 1999).
Research shows that school districts nationwide began to implement zero tolerance policies to combat gang and drug activities. One of the most salient mandates passed governing school discipline at the national level was the Gun-Free School Zones Act of 1990. The focus of the law was to address the problem of guns on school campuses under the auspices of the Crime Control Act of 1990. Subsequently declared unconstitutional in United States vs. Lopez, the case challenged the scope of legislative power that Congress has under the Commerce clause.

During the Clinton Administration Democrats Senator Diane Feinstein and Byron Dorgan reintroduced the Gun-Free Schools Act of 1994 to Congress stating:

“Guns have no place in the hands of our children or in the hallways and classrooms of their schools. Children should be able to go to school without fearing for their safety. Indeed, our schools should be safe havens - places where children are able to escape the violence that engulfs so many of their lives. The time has come to remove guns from the schools of America.” (Senator Feinstein, August 10, 1994).

The Feinstein-Dorgan proposal promoted the idea of setting “zero tolerance” policies to keep schools gun free. The law required school districts that received federal funds to adopt a gun-free school policy and expel for one calendar year, students who carry a gun to school (20 U.S.C. Chapter 70 Sec. 8921, Ca. E.C. 48915©). In most states the policy was amended to include the recommended referral to law enforcement agencies (Skiba 1999, 20 U.S.C. Chapter 70. Sec. 8921).

Statement of the Problem

Since the initiation of zero tolerance, diverse areas of governance began to implement it as a standard in disciplinary action. For educational authorities, it was under the Guns Free Schools Act of 1994 that zero tolerance seemed to have had an arguable
impact on the influx of guns and school violence. However, an anomaly occurred with
the inception of the policy as research indicated racial, ethnic, and gender differences in
school discipline (Wallace 2008, Skiba et al 2002). In most major school systems, the
discipline rate for African American and Latino students surpassed their statistical
representation (Monroe 102, Wallace 48, Gregory et al 2008). This outcome labeled the
“discipline gap” appeared to have an adverse impact for this group especially when
administered under zero tolerance the ‘cornerstone’ of suspension and expulsion policies
(Skiba 2000).

In urban schools, ethnic minority and poor students expelled or suspended at
greater rates than students from non-urban schools made the discipline gap of particular
significance (Verdugo 51). According to researcher Russell Skiba, even more perplexing
are the studies that show the excessive use of zero-tolerance policies is utilized less
frequently for the types of serious behaviors for which they were intended (Skiba et al
1997). It is at this point that this study wishes to inquire: is zero tolerance used beyond
its’ intended scope. Even further, this study seeks to analyze whether/how behavior
modification policies such as suspension and expulsions affect African American
adolescents in Northern California.

This inquiry is of great importance, because the outcomes of such policy
implementation for African American and Latino students seems to exacerbate an already
significant achievement gap evidenced by low test scores, increased involvement in the
juvenile justice system, and a proliferation in dropout rates (Verdugo 2002, Skiba et al
2002, Monroe 2006). In California, the four-year high school dropout rate is higher for
Blacks at 22 percent than for whites at 8 percent (Legislative Black Caucus 2007). Is there an identifiable link/trend between the achievement gap and suspension and expulsion policies for African American youth? If so, what are some of the factors contributing to the discipline gap? Empirical inquiries have linked low socio-economic status, racism, neighborhood environment, and gender to the achievement and discipline gaps (Skiba et al 2002; Christle et al 2004; Paxton et al 2004).

An often-overlooked factor is punitive practices like suspension and expulsion exclude students from the educational process, provides a pipeline to detention, and often results in imprisonment (Skiba 2000). According to researchers Johanna Wald and Daniel Losen, the racial disparities among those most severely sanctioned by disciplinary policies are parallel to those found in student discipline data (Wald et al 2003). There is an increased risk of court involvement and incarceration for youth who are suspended and/or expelled (Christle et al 2008, Advancement Project 2000). When students are not in school and left at home without adult supervision they get into trouble. This often includes hanging with the wrong crowd or just being in the wrong place at the wrong time.

In addition, studies show disproportionate representation of ethnic minorities in teacher and administrator referrals to law enforcement agencies. In 1998, black youths with no prior criminal records were six times, and Latino youths three times, more likely to be incarcerated than whites for the same offenses (Poe-Yamagata et al 2000). Research by Poe-Yamagata indicated that African Americans represented two-thirds of all youths confined to detention and correctional placements, although they comprised only one-
third of the country’s adolescent population. According to the Justice Policy Institute, there were almost a third more African American men in prison and jail than in universities or colleges at the end of the twentieth century (Schiraldi et al. 2002).

In the last quarter century, scholarly research has identified that the achievement gap that exists between African American youth and other groups as one of the greatest impediments to a positive academic experience for this population. It is crucial to examine whether a link between the academic achievement gap and the discipline gap exists. This is monumental in that the outcomes affect future educational, income, and employment success for this group as a whole; and, should be of great political concern for government, since society should take a vested interest in the ability of its citizenry to effectively participate and have informed input into the decision making processes of its governance.

Purpose of the Study

Until recently there was less focus on the discipline gap between African American students and other groups in comparison to the achievement gap. It is because of the lack of empirical focus that this inquiry seeks to synthesize what data is available surrounding the effects of suspension and expulsions policies and how they may contribute to the discipline gap. The purpose of this study is to examine how the implementation and interpretation of a policy mandated at the national level affects African American high school students of an urban district in northern California. The focus will be on the racial and ethnic differences/similarities/patterns in the interpretation
and implementation of school discipline through a policy analysis framework of suspension and expulsions and their relationship if any to zero tolerance.

In a qualitative study of a diverse school district in Northern California, the principal researcher conducted interviews with four categories of respondents to access their interpretation, and in some case the implementation of zero tolerance as policy; and, the application of suspension and expulsions as a tool of behavior modification. Various studies have shown that administrators in some districts adhere to a strict application of the policy, punishing major and minor infractions equally; while others applied in a more graduated system with the infraction scaled according to the severity of the offense (Dunbar and Villarruel 2002). This inquiry seeks to determine what patterns develop in a Northern California urban school district chosen for this study.

Limitations of the Study

Although the school district selected is one of the largest and most diverse in Northern California, only a small sample of respondents are interviewed, one specific ethnic population analyzed, and one district in Northern California examined. Purposive sampling does not allow generalizing this study to the population at large. This cross-sectional study does not examine data on teacher or administrator discipline referrals from a quantitative perspective, but future inquiries might examine any relationships between the discipline gap and the types of referrals.

The principal researcher could not obtain data from the standpoint of parents and students because of district concerns with familial confidentiality. This is unfortunate since this group is the most affected by suspension and expulsion policies. However, a
personal case study examines the standpoint of a parent and child in a way that protects their anonymity thereby alleviating district concerns. Implications for future research are delineated in the hope that a more exhaustive empirical study can be conducted to determine whether any links between zero tolerance policies, academic achievement, and the discipline gap exist.
Chapter 2

THEORY

Studies document the disproportionate administration of suspension and expulsion policies happening to urban youth along racial, gender, and socio-economic lines in comparison to suburban and more affluent populations (Skiba et al 2002, Dunbar and Villarruel 2004). A nationwide study conducted by the Department of Education concluded that zero tolerance policies are more likely to exist in predominantly African-American and Latino school districts (U.S. Department of Education 2000).

Since national mandates like the Gun-Free Schools Act give discretionary authority to public school administrators, the Harvard Civil Rights Project concluded that administrators no longer rely on literal interpretations of state and district zero tolerance policies, but ardently promote their interpretations of the laws, using them to suspend and expel children based on relatively minor offenses (Advancement Project 2000). The study also found that students of color particularly African Americans and Latino males suspended and expelled at much higher rates than Whites within the same schools (Verdugo et al 2002, Ayers et al, 2001). Some academics and theorists posit that this is not only a predictable outcome of the inherent racism that is entrenched in American culture, but is a result of “a philosophy of zero tolerance” (Ayers et al xiii).

As race continues to be a salient factor intertwined within the fabric of American society, Critical Race Theory (CRT) is a useful paradigm for examining issues of social justice and equity. In politics, CRT is useful to understand race-based campaigning, voting behavior, etc. In education, CRT is useful to examine inequities in the
achievement gap, discipline gap, testing gap, etc. In this study, CRT will provide a constructive lens through which we can study how a law designed at the national level to improve a system of governance, implemented and interpreted at the state and local level has a disparate effect.

This study will also examine the discipline gap through the concept of Critical Race Theory. By focusing on a qualitative perspective rather than the traditional quantitative inquiry, a more comprehensive and conceptualized view will be achieved. It is the hope of this inquiry that a more objective analysis will give more insight to the perspective of those engaged with the philosophy of zero tolerance.

A critical analysis of the discipline gap has not been prepared through the lens of Critical Race Theory in northern California. The findings from this research will add to the literature presently available on the subject by revealing possible racist dynamics in a region that not examined before, a region that claims to be one of the most ethnically diverse districts in the state/nation. In addition, CRT gives an alternate voice to those often left out of traditional scholarly discourse, which can sometimes ignore historical and structural inequalities (e.g. racism, patriarchy). According to Sandra Harding, marginalized lives are better places from which to start asking causal/critical questions about the social order (Harding 2004).

Critical Race Theory derives from extensive race and ethnic literature based in law, sociology, history and education (Yosso et al 2004). It began as a legal concept in the mid-1970s “when a number of people in the legal profession (lawyers, activists, legal scholars) began to realize how slowly laws were changing to promote racial equality”
(Delgado, 4). Their chief concern was that many of the early legal victories of the civil rights movement were either eroding or obstructed (e.g. Brown vs. Board of Education, Delgado 2001). The basis of their opinions came from critiques of legal studies and certain philosophers and theorists as Antonio Gramsci, Jacques Derrida, as well as Cesar Chavez, Martin Luther King, Jr., the Black Power, Chicano, and Feminist movements” (Delgado 4).

It was upon this point that principal figures such as Derrick Bell, Alan Freeman, and Richard Delgado borrowed “the ideal of legal indeterminacy-that not every legal case has one correct outcome (Delgado 2001). Although the origin of CRT evolves from legal scholarship, the argument for its broader application to other disciplines suggests that in the United States where race is critical in disparities and society organized around property rights, the intersection of race and property creates an analytical tool for understanding inequities (Ladson-Billings et al 2001). This makes CRT useful in understanding the use of punitive policies such as suspension and expulsion, academic testing, or curriculum bias. Kimberlé Crenshaw, Mari Matsuda, Pedro Noguera, and others currently espouse this position in the educational realm.

Jessica DeCuir-Gunby describes five basic tenets of Critical Race Theory. The first tenet of CRT is the permanence of racism (DeCuir-Gunby 2007, Delgado 2001). Examining how the maintenance and reality of racism exists in society under the theory of color-blindness, Rita Cameron-Wedding argues that education as a primary tool of socialization reproduces knowledge based on the interests of those in charge (Cameron-Wedding et al 2004). To take the premise a step further, education not only determines
what information is worth producing, but it also dictates which policies are worth reproducing.

Some researchers hypothesize that the inequitable educational experiences of poor Latino and African American youth differ significantly from those of White middle class youth; and that these inequities are a logical and predictable result of a racialized society (Ladson-Billings et al 1995, Cameron-Wedding 2004). Policies like suspension, expulsion, and zero tolerance that push students out of the educational process impede a positive instructional experience by labeling them as defiant, maladjusted, and difficult to deal with (Noguera 2003). The internalization of such labels can lead to behavior(s) that match the stereotypes expected of them. Research also indicates that labeling and exclusionary practices can create a self-fulfilling prophecy and result in a cycle of antisocial behavior that can be difficult to break (Noguera 2003). Literature on suspension and expulsion is rich with findings that African American youth are disproportionately the recipients of suspension and expulsion policies, and that discourse on systemic racism continues to advance the racialized image of students of color as “others.”

The second tenet of CRT is whiteness as property. This concept address the value placed on being white from a purely legal standpoint. Whiteness can then be construed as capital on which the value of that whiteness is bankable as ‘white privilege.’ The historical privilege of whiteness has fervently protected the systemic, legal, and social constraints of the dominant race.
Third, is interest-convergence which considers how people of color advance only when whites can benefit. Derrick Bell, considered the intellectual father figure of the movement, explained why these inequities continue to exist in his concept of “interest convergence.” Explaining the Supreme courts’ decision in Brown vs. the Board of Education:

“…the court’s long-held position on those issues cannot be understood without some consideration of the decisions’ value to whites, not simply those concerned about the immorality of racial inequality, but also those whites in policymaking positions able to see the economic and political advances at home and abroad that would follow abandonment of segregation.” (Crenshaw, 1995).

Interest-convergence proposes that whites will support civil rights struggles and other racial equality issues only when it benefits them. Although zero tolerance did not start out as a mandate to achieve racial equality under the Guns-Free Schools Act, it did become a law that had the good intention of making school safety a priority, but had the unintended consequence of becoming a tool of inequity. The question then becomes who has a vested interest in maintaining a law shown to be so adversative.

In practice, suspension and expulsion policies particularly under zero tolerance are obscure policies that are not only racialized but also gendered. As a pipeline to prison African American and Latino males, make up largest segment of incarcerated individuals disproportionate to their representation in society (Christle 2005, Skiba 2004, Noguera 2003). The failure of policymakers to abandon or make obsolete policies administered under the rubric of zero tolerance despite its inequitable application makes one question the vested interest in keeping it around.
Arguably, the concept of interest-convergence may even show zero tolerance to be a tool to enhance the political standing of elected officials. This policy gives the semblance that legislators are doing something to promote a safe learning environment by advancing get tough on crime stances. In contrast, one study found that most youth crime occur after school and outside of school after the hours of 3 to 6 p.m. (Ayers, 2001). A better question is what stake does society have in keeping a policy despite the disparity?

Fourth is the critique of liberalism, which discusses the issues surrounding the slow progression of racial equality. According to leading moral and political philosopher John Rawls, the primacy of equality, cultural diversity, and the political concept of justice are essential to the concept of liberalism. Jonathan Kozol critically assesses the concept of liberalism in education pointing out the duality of America’s educational system as “apartheid” practices reinforcing particular behaviors evidenced in America’s public school system (Kozol, 2005). He sees the educational system as legally sanctioning policies, much like those enforced in a segregated south. According to Kozol, the lack of academic success for African American youth will continue when society ignores the impact of extraneous factors, like the dismal physical conditions of inner-city schools, and poor curriculum offerings (lack of AP courses). The unwillingness of society to acknowledge, or whether it chooses to ignore these outcomes demonstrates that race matters (West 2001).

For this reason, the inequitable administration of suspension and expulsion policies seems to leave little room for liberalist theory as defined by Rawls. Rawls introduced the “veil of ignorance” concept as a method of determining the morality of a
certain issue (e.g. slavery) based upon the principle that one might imagine societal roles were completely altered and redistributed, and from behind your “veil of ignorance” you do not know what role you will be reassigned (Rawls 2001). Rawls believed that it was only from behind this veil that one could truly access the morality of an issue.

This belief is comparable to a line from the film “A Time to Kill.” A White lawyer played by Matthew McConaughey defended a Black father accused of the murder of the men who brutally raped his young daughter. He asked the jurors to close their eyes and imagine the victim was White. Would their verdict for the perpetrators of the crime be the same? This characterization exemplifies Rawls concept of fairness in which “everyone is impartially situated as equals,” in order to determine principles of social justice in a democratic society (Rawls 1999). From the liberalist perspective of Rawls, a theoretical analysis through the lens of Critical Race Theory will give a more astute and comprehensive assessment of the discipline gap.

Fifth and most pertinent to this examination is the principle of counter-storytelling (narrative), which values the voices of people of color. The counter-storytelling perspective holds that because of their different histories and experience with oppression, Black, Indian, Latina/o, and Asian writers and thinkers may be able to communicate to their white counterpart matters that the whites are unlikely to know (Delgado et al 2001). The standpoint of marginalized people and other concerned actors is the primary basis of this methodology. Contemporary quantitative methods do not give much validity to this perspective.
The extensive contributions of legal scholars help identify the complex nature of race and the critique thereof as it applies to many aspects in society. As such, this analysis will rely on the tenets advanced by educational scholars such as Daniel Solorzano, which incorporates the CRT views professed by legal scholars as it applies to education (Delgado et al 2001). The basic model of CRT in education includes “the centrality of racism and their intersectionality with other forms of subordination in education, the challenge to dominant ideology around school failure, the commitment to social justice in education, the centrality of experiential knowledge, and the transdisciplinary perspective.” (Delgado 2001) This theoretical lens, through which this paper examines suspension and expulsion policies under zero tolerance, may reveal how bureaucratic and systemic structural failures to respond to the intersection of socially constructive factors may impact and even help exacerbate problematic behaviors, as well as promote entrenched disparities in education.

By analyzing, those engaged in the educational process, political policymakers, and community organizers, CRT is an untapped theoretical perspective ideal for this study. According to David Stovall, this theoretical approach allows an objective analysis in which to identify the reality of racism that serves to disadvantage people of color, as well as deconstruct notions of “color-blindness” perpetuated by ingrained policies that promote the disparate treatment of marginalized people. CRT advances the voice and narrative of people of color as sources of critique of dominant society, which devalues their input; identifies the inability of liberalism to expunge discriminatory socio-political relationships; and change and improve challenges to race-neutral and multicultural
movements in education, which have made white students behavior the norm (Stovall 2005).
Chapter 3

LITERATURE REVIEW

In response to public fears and concerns, efforts to address continual incidents of school violence often triggered controversial decisions regarding the safety of public schools. Current U.S. domestic policies in education reflect a conservative political climate. The shift has moved from the more socially liberal “nurturing” policies of the 60’s and 70’s, to a more rigid, conservative, and strict “get tough on crime” approach of the 80’s (Lakoff, 2002). Subsequently, a divisive zero tolerance philosophy in discipline was instituted.

In this chapter, I will synthesize from a plethora of literature the outcomes of zero tolerance policies. The paradox primarily lies within the interpretation of the policy and the subsequent failure of administrators to acknowledge the intersection of race, socio-economic status, gender, disability, and other ensuing results of its implementation. Research shows a relationship between policies such as suspension and expulsion, particularly when administered under the auspices of zero tolerance and outcomes such as low graduation rates, increased contact with law enforcement, disproportional teacher referrals, inequitable representation in special education classes, thereby affecting the overall academic achievement of African American students in high school (Skiba 2002, Patton 1998). This dynamic is increasing at the middle school level and a developing trend in elementary school.

Controlling for racial and ethnic differences in socio-demographic factors, researchers conducted a logistic regression analysis of students from diverse backgrounds
in order to determine current patterns and trends in racial, ethnic, and gender differences in school discipline from 1991 to 2005 (Wallace et al 2008). Findings revealed that Black, Latino, and American Indian youth are slightly more likely than White and Asian American youth to be sent to the principal's office and two to five times more likely to be suspended or expelled (Wallace et al 2008). Although school discipline rates decreased during the time frame for the other groups, the punitive rates for Black students increased. The findings also suggest that those differences in school discipline do not necessarily result from differences in socio-economic status.

Some researchers believe that socio-economic status (SES) may be an important predictor in disciplinary actions (Payne 2003). According to Dr. Payne socio-economics and poverty is the cause of the achievement gap. However, in this study one high level official pointed out that SES is important, but it is not the key.

“SES is secondary because when you see poor White kids in California outperforming middle-class African American children, I say whoa, wait a minute. If it were socio-economic, African American kids would outperform the poor White kids.”

Literature shows that the implementation of the policy of zero tolerance has generated a disciplinary gap between groups. The definition of the “discipline gap” is the frequent and severe sanction of African American students in comparison to their peers (Monroe 2005). According to Carla Monroe, data collected during the past thirty years show that in most major school systems African American students are disciplined at rates that far exceed their statistical representation, particularly on measures of suspension and expulsion.
To understand the importance of the discipline gap you first have to examine the origin of zero tolerance. Zero tolerance began as a policy to control the influx of drugs by marine vessels carrying drugs into the country (Verdugo 2002). Its application in education began as a federal mandate under the 1994 Gun-Free Schools Act. In general, the law compelled “all states receiving federal education money require local education agencies to expel, for not less than one school year any student found to have brought to, or possessed a firearm at school (Gray-Adams et al 2006).” Although the term “zero tolerance” does not appear in law, it does require that school districts pass they regarded as “zero tolerance policies” for firearms in order to remain eligible for funding (California Department of Education).

Zero tolerance is generally defined as “a school district policy that mandates predetermined consequences or punishment for specific offenses, regardless of the circumstances, disciplinary history, or age of the student involved” (Education Commission of the States 2002). Under the guidelines of the mandate the federal government gave states and local administrators discretionary authority to interpret the law. What became problematic was the variability in the way the law is interpreted and implemented. Instead of implementing the mandate as prescribed, school administrators have extended zero tolerance (a component of the law) as a sanctioning tool for minor infractions, used beyond the scope for which it was intended (Dohrn 2001, Skiba 1997).

Researcher, Russell Skiba found that African American students are sent to the office for more subjective reasons (e.g. disrespect and perceived threat), while White students were referred for more objective reasons-smoking, vandalism, and leaving
school without permission (Skiba et al 2002). The literal interpretation of state and
district zero tolerance policies is not applied, so that zero tolerance becomes a catch-all in
which students can be ingeniously punished for even the most minor of offenses
(Advancement Project 2000). The outcome is that students of color are disproportionately
suspended and expelled and often “pushed out” under terms such as “disrespect”,
“disturbing the school”, and “disobedience” (Advancement Project 2000).

Suspension and expulsion is defined as “a disciplinary action that is administered
as a consequence of a student’s inappropriate behavior, requiring that a student absent
him/herself from the classroom or from the school for a specified period of time,”
(Morrison et al 2001). However, the ambiguous administration of disciplinary measures
particularly under zero tolerance has a detrimental impact on the academic achievement
of some groups especially under the categories of race, gender, and special needs. Some
evidence exists that illustrates a relationship linking socio-economic status to academic
achievement and the practice of zero tolerance.

Research shows a link between zero tolerance “policies” and the high dropout
rates for African American and Latino youth. A study on the State of Black California
reported the four-year high school dropout rate is higher for blacks at 22 percent than for
whites at 8 percent. Students removed from mainstream educational opportunities fall
behind, are written off as difficult, drop out, and face other negative consequences such
as greater involvement with law enforcement agencies (Legislative Black Caucus 2007).

Suspension and expulsion policies make no allowances for the effects that
ecological factors (i.e. environmental conditions, psychological problems, or socio-
economic levels) may have on adolescent behavior. According to the Advancement Project, regardless of the cause it is the numbers of suspension and expulsion of students of color that should be disturbing. Equally troublesome is that “Title VI of the Civil Rights Act of 1964 prohibits intentional discrimination and policies that produce adverse impacts and are not justified educationally necessary” (Advancement Project 2000). Critical Race Theorists may identify the failure to enforce Title VI as entrenched disparity in its critique of liberalism.

*The Discipline Gap*

Literature shows that the discipline gap has had an adversative impact on students of color demonstrated by the over-representation of this population in the administration of suspension and expulsion. Examining the 2002-2003 suspension referral records of an urban high school, researchers Anne Gregory and Rhona Weinstein found the inequitable representation in the frequency of referrals for African American students disciplined for defiance (Gregory et al 2008, Monroe 2005). In comparison to the 55% referral rate for White students, African American youth accounted for 70% of all referrals issued for defiance (Gregory et al 460).

According to a study by John M. Wallace Jr., Black, Latino, and Native American students are slightly more likely than White and Asian American youth to be sent to the principals’ office (Wallace et al 2008). In a logistic regression analysis, the researchers administered questionnaires during school hours in order to determine any racial/ethnic differences/similarities in patterns and trends in school discipline (Wallace et al., 2008). The research concluded that there were significant racial and ethnic differences. The
authors documented the disparate use of minor and more severe disciplinary practices in schools in the United States. They found that Black students were more likely to experience school discipline than White students, and that students of color are two to five times more likely to have been suspended or expelled in comparison to White and Asian students (Wallace et al. 57).

Suspension and expulsion rates were overwhelming for African American boys 30% more likely than White boys to be sent to the office or detained, and are 330% (3.3 times) more likely to be suspended or expelled (Wallace et al 57). They also found the discipline gap even larger for African American girls being sent to the office or detained twice as much, and more than five times likely than White girls to be suspended or expelled (Wallace et al 57). The authors cited a study by Raffaele Mendez, which showed that Black youth comprised only 17% of the nation’s public school students, but accounted for 32% of the students suspended.

Carla Monroe argues that cultural conflict in the classroom is a foundation for the discipline gap (Monroe 2005). The standpoint of the student secondary as teachers from the dominant group are unaware that the culture of power exerted upon students of color is not acceptable as their norm. The importance of divergent cultural experiences is important to student perception of school climate and culture. Monroe suggests culturally responsive discipline, which emphasizing addressing student concerns by providing students with the tools needed to be successful in mainstream society, enabling them to gain access to the culture of power Monroe 323). Monroe suggests increasing student engagement by delineating student inventories to understand the cultural experiences of
students, adopt a more proactive attitude toward discipline (Ayers 2001), to make literacy a central part of classroom instruction, and to incorporate physical movement in classrooms (Monroe 106).

**Implementation**

In a compelling study, researchers examined the responses of school principals to zero tolerance in a predominantly African American urban school district in Michigan (Dunbar et al 2002). The researchers interviewed 36 school principals, examining whether there was any consistency in their responses to the comprehension, initiation, and interpretation of the policy (Dunbar et al 89). The authors’ policy analysis concluded interpretation to be inconsistent and varied, given that the students considered zero-tolerance in every act of behavior whether the school was in danger or not (Dunbar et al 92). The continuum spanned from a literal interpretation of the policy to a lack of awareness of guidelines and subsequent amendments (Dunbar et al 101).

The means by which the policy is interpreted and implemented affects school climate and culture. The authors argue that zero tolerance reinforces the disparate socially constructed image that African American and Latino youth are more prone to criminal and juvenile acts (Dunbar et al 94). The authors identified research which showed that for many students zero tolerance policies have exceeded their intended purpose and violated the civil rights of African American and Latino students because of its’ disproportional administration (Dunbar et al 2002, Ayers et al 2001). What the implementation of this policy has done in many cases is to promote an “us against them”
mentality further exacerbating reactive rather proactive responses to discipline, thereby affecting student and staff attitudes and outlook in a schools’ environment.

In another study, Dunbar and Villarruel conducted a conceptual policy analysis examining the effects of the disparate implementation of zero tolerance (Dunbar et al 2004). The researchers interviewed thirty-six principals in an urban school district, and eight principals from two rural districts to determine how administrators from economically and culturally distinct communities interpreted zero tolerance policies (Dunbar et al 2004). The authors concluded that the different administration of zero tolerance policies had adverse and disparate impacts on students of color in urban school districts as opposed to those in rural and suburban areas.

The authors found that principals in urban areas interpreted the meaning of zero tolerance differently than those in rural districts. Most of the rural principals knew the policy had to do with violent offenders or acts of violence, but were unclear about the specifics. In contrast, most of the urban principals understood the specifics of zero tolerance (Dunbar et al 354). The ambiguity of zero tolerance leads to the different interpretation and implementation of the policy. Rural administrators tended to be more willing to work with families rather than apply the zero tolerance policy, whereas urban administrators adhered to the policy more stringently (Dunbar et al 354).

Renowned Indiana educator/researcher, Russell Skiba conducted a survey of 325 principal’s attitudes towards discipline during the 2002-2003 academic year (Skiba et al 2004). The authors conducted a cluster analysis of the results and discovered three distinctly different attitudes about the purpose and practice of school discipline. The
study concluded that principals with a **preventive** perspective showed a significantly lower rate of out-of-school suspension and desired to keep students in school; because they were more willing to work with parents before suspension, felt discipline needed to be tailored to the needs of disadvantaged and disabled students, that the purpose of school discipline is to teach appropriate skills. Second, principals more **supportive** of zero tolerance had higher rates of out-of-school suspensions by advocating for the removal of repeat offenders, and did not implement or take advantage of preventive programs. Third **pragmatic** principals believed suspended students were less likely to misbehave in the future, and that teachers were competent in classroom behavior management (Skiba et al 3-4).

The classification of the three types of principals is crucial because it identifies the types of attitudes that administrators may hold when interpreting and implementing policies governing school discipline and safety. The study also demonstrated the type of response to disruption and misbehavior seems to depend in part upon gender. The authors documented that female principals were more likely to foster preventative characteristics, while their male counterparts fostered more pragmatic or strict approaches to discipline. There were no appreciable differences found for the ethnicity of the principal.

**Race as a factor**

Literature is rich with research that shows the use of suspension as a disciplinary tool is racially biased. In 2003, Education Trust reported that nationally African American youngsters account for 16.9% of the student population yet they constitute 33.4% of all suspensions (Day-Vines et al 2005). Researcher Russell Skiba conducted a
study that explored to what extent socio-economic, racial and gender overrepresentation in school disciplinary referrals were indicators of bias (Skiba et al 2002, Gregory 2006). After examining the disciplinary records of 11,001 students in 19 middle schools of a predominantly urban school district, the authors found racial and gender disparities in office referrals, suspensions, and expulsion more robust than the socio-economic indicator (free or reduced cost lunch).

While gender differences appeared to be explainable by the behavioral distinction between boys and girls, the substantial difference in the higher rate of office referrals and school suspension for African American students was not explainable by either socio-economic status or racial differences in behavior (Skiba 2002, Morris 2005). This study is of great significance, while African American students office referral were for more subjective reasons, it did not find that the higher rates of discipline were due to more serious or more disruptive behavior.

Researcher David Stader concurs with the Dunbar studies that the unintended consequences of zero tolerance policies are the adverse and disparate impact that they have on students of color because they are disproportionately suspended and/or expelled (Stader 2004). This is precisely what makes the use of zero tolerance out of the scope of its’ original intention.

In an insightful analysis researcher, Norman Day-Vines provides a compelling and thought-provoking narrative strengthened by integrated empirical research examining the reason of African American underachievement. The authors found that the increased use of punitive measures and zero tolerance policies result in harsher penalties for urban
African American males, than for other groups similarly situated in suburban communities (Day-Vines et al. 2004). Their study revealed that urban, African American male adolescents experience disproportionately higher rates of discipline referrals, suspension, and expulsion.

Differences attributed to numerous ecological factors, include cultural conflicts and misunderstandings between the student’s culture and school regulations. The findings suggest that counselors who understand the culture of students of color can positively affect the academic outcomes for urban students. They indicated that efforts to reduce discipline problems must recognize commonality that exists between cultural thought and the expression of certain behaviors.

**Ecological Factors**

Research shows that actors and other participants in the educational systems sometime fail to understand or ignore how external factors such as environment and cultural misunderstandings may affect the academic and/or behavioral success of students. In a 2005 study, researchers Norman Day-Vines and Beth Day-Hairston argue that urban African American male adolescents experience disproportionately higher rates of discipline referrals, suspension, and expulsion, which have been attributed to numerous ecological factors, including cultural conflicts and misunderstandings between the student's culture of origin and school (Day-Vines et al. 2005, Noguera 2003). The authors submit that in order for school counselors to change adversative disciplinary outcomes they need to develop culturally congruent strategies that bring an understanding of cultural values of African American youth and other adolescents of color.
In a regression analysis examining the relationship between community violence and psychological distress, Keisha Paxton conducted a survey of 77, ninth grade African American males from low-income families (Paxton et al. 2004). The study found that exposure to violence was significantly associated with psychological distress (depression and post-traumatic stress syndrome), and that social support systems did not have a substantial impact on the salience of this experience (Paxton et al. 2004). This observation may help to explain how certain behaviors result from extraneous conditions, and that school administrators might re-consider the need for professional and other tools of intervention, rather than implement traditional exclusionary policies that expel at-risk students out of the educational process.

A study conducted by Norman Day-Vines and others identify factors like congested urban schools, dilapidated facilities, lack of resources, the inability to acculturate into the dominant societies perception of an educational setting, inadequately prepared teachers for culturally diverse students, inconsistent school rules and regulations, poverty, crime and violence (environment) help impede the academic progress of students of color (Day-Vines 2005). Large unemployment rates, substandard housing, poor health care, family challenges, substance abuse are all contributing factors to the high dropout rates for these groups (Holcomb-McCoy, 1998; Kozol 1991).

According to the National Center for Education Statistics in the academic year 2005-2006, African American youth nationwide accounted for 6.1 percent of dropouts’ ages 16–24, in comparison to 2.7 percent for whites.
Fred Bemak and Rita Chi-Ying believe that school counselors should first acknowledge that cultural bias does exist. By incorporating a group counseling approach from a multicultural perspective, counselors can help decrease the dropout rates for at-risk youth (Bemak et al 2005). These researchers utilized the Empowerment Groups for Success (EGAS) paradigm to study seven 10th grade African American girls over a nine-month period that were in danger of academic failure (Bemak et al 2005). The EGAS model takes a group counseling interventional approach that addresses personal and interpersonal issues faced by students’ everyday (Bemak et al 2005). The researchers examined the effects of environmental, social, and psychological factors on this group from a multicultural perspective. They concluded that the EGAS model had a positive impact on the students’ overall academic achievement (Bemak 378).

This paradigm stressed the standpoint of the participants and focused on empowerment strategies. Findings revealed an over-all improvement in participants’ attendance rates, the development of more vigorous study habits, increased aspirations for the future, fewer disciplinary referrals, and improved grade performances (Bemak et al 2005). This outcome supported the authors’ hypothesis that issues of self-esteem (feelings of powerlessness and hopelessness) would fade through the implementation of EGAS. In contrast, traditional group approaches exclude students from the process and does not empower them to deal with complex and long-standing socio-economic, personal, and environmental problems that many urban youth face.

In a two-dimensional framework, encompassing both mentoring and group counseling, Cheryl Holcomb-McCoy concurs with the Bemak study in that educators
(teachers, counselors, and administrators) must develop interventions that address the issues that African American adolescents deal with on a daily basis (Holcomb et al 2008, Holcomb 2004, Cohen 1998). Problems facing this population include teen pregnancy, suicide, and depression. Of particular concern is the increase in criminal activity for adolescent females.

Mary Sinclair also agrees that there is a need for innovative approaches to help solve some of the educational problems unique to African American students. Sinclair has associated emotional and behavioral disabilities with the increased dropout rate among African American youth. In a five-year longitudinal study, Sinclair documented the effects of long-term intervention designed to promote school completion and reduce the dropout rate among urban high school students with emotional or behavioral disabilities (Sinclair 2005).

In check and connect model (treatment) the authors examined 144 ninth graders and subgroups randomly selected to a treatment or control group (Sinclair 2005). The check component refers to a continuous and systematic assessment of student levels of engagement with school (i.e. attendance, suspensions, grades, credits). The connect component refers to timely and individual intervention focused on student progress, check indicators, and a partnership between school personnel, family members, and community workers (Sinclair 2005). The authors hypothesized that participants in the program would be less likely to drop out of school, more diligent in attending school, remain on track and complete school, and would be more likely to have developed an
individualized education program (IEP) transition plan than their peers who received typical district services (Sinclair 2005).

Research confirmed that the check and connect model had a positive impact on African American students with behavioral and emotional disabilities. The treatment group demonstrated a significant increase in the level of student engagement relative to the control group; and the treatment group maintained a more persistent rate of attendance (Sinclair 2005). They were also more likely to remain in school, less likely to drop out, and have a current IEP transition plan in place (Sinclair 2005).

The authors also noted two contradictory findings relative to mobility and attendance patterns: male treatment students were less likely to remain in one school (Sinclair 2005). In contrast to a 2001 Skiba study, Sinclair found that African American treatment males were more likely to be disrupters compared to similar students in the control group (Sinclair 2005). Relative to gender, they found that females had a more finished transitional plan than their male counterparts did.

Professor Eric Bruns et al conducted a comparative study that examined whether the presence of school-based mental health personnel was associated with reduced out-of-school suspension rates (Bruns 2005). The authors did a regression analysis of forty-one elementary schools with expanded school mental health (ESMH) programs, compared to forty-one schools without. They found no significant differences between ESMH and non-ESMH schools on suspension outcomes, suggesting that the presence of ESMH personnel would not necessarily impact suspension rates in an elementary school (Bruns 2005). The authors stated that their analysis at the elementary level was more effective
because it provided the most abundant student clinician ratio. This study is relevant because the same dynamic exists at the middle and high school level.

The authors concluded that more targeted and innovative programs that focus on behaviors that lead to suspension, and educational disciplinary policies that provide alternatives to suspensions, would probably be more effective in decreasing escalating dropout rates. Marginalizing certain groups under the umbrella of zero tolerance does not correct perceived behavior problems, but only exacerbates the problems experienced by particular groups.

**Suspensions**

In 1999, several community organizations conducted an investigation to determine how their local schools measured up in terms of racial justice (Gordon, 2000). The study found it evident that gross inequalities and inequity existed in terms of suspension and expulsion rates disproportionately higher for students of color than whites, students of color were more likely to drop or be pushed out of school and less likely to graduate, and had less access to advanced classes or those for gifted students. Rebecca Gordon et al of the Applied Research Center in Oakland compiled this report and suggest that schools must use quantifiable measures to determine their level of racial equity, institute racial equity plans with goals and timetables to correct inequities, and keep the public informed of their progress.

In a qualitative study interviewing teachers, researcher Anne Gregory wanted to determine their understanding of the causes of discipline problems and how they chose to handle them. She identified adolescent development, low achievement, community and
culture deficits, school organization and school culture, and teacher beliefs and practices as theories that teachers felt contributed to discipline problems (Gregory et al. 2008, Gregory et al. 2004). The researchers concluded that the teachers thought in general could not account for the relative racialized discipline gap (Gregory et al. 2004). The authors concluded that participants paid little attention to why certain groups were underrepresented in discipline referrals.

The disproportional representation of African American students suspended correlates with a higher rate of office referrals (Skiba 2002). The study examined a year of discipline data from an urban school district and found that the differences in Black and White students rates of suspension and expulsion are due in large part to disproportionate office referrals, with African American males being affected the most. The significant finding in this study was African American students are more likely to be referred to the office for more subjective reasons, rather than more serious or more disruptive behavior (Skiba 2002).

In a compelling longitudinal study of a large urban school district, Emily Arica contends that the use of suspension as a disciplinary measure has a detrimental impact on the academic dropout rate (Arica 2006). In the study of a large high school district, the researcher compared students suspended to those not suspended. The study found higher suspension rates for low achievers in comparison to high achievers, and determined a strong relationship between suspensions and dropout rates (Arcia 2006). There was also a correlation between the number of suspensions, socio-economic status, and test scores. In
addition, Arcia’s research also concluded that suspensions rose substantially in middle school grades and continued to increase into senior high.

A quantitative and qualitative study conducted by Christina Christle, examined the suspension rates of 161 junior high schools in Kentucky (Christle et al 2004). They conducted a comparative study measuring 20 schools with high suspension rates to 20 schools with low suspension rates, with four schools from each group chosen as case studies (Christle et al 2004). Data collection in a multi-stage process, compiled administrator surveys, staff interviews, and on-site observations, to determine the characteristics associated with suspension rates (Christle et al 2004).

The study found that the higher the suspension rate, the lower the percentage of European American students. Research found a positive relationship between the number of student law violations, retention rates (length of time a student is in a particular grade) and suspensions. Corroborating other research, Christle also found a negative relationship between attendance rates, academic achievement and suspension rates. Significant to this study is the finding that the annual amount of spending per student related to suspension rates. From 2000-2002, student suspension cost the state of Kentucky approximately 3.5 million dollars (Christle 2004). Accordingly, the object of future inquiry should be, why use a disciplinary measure that costs so much money, yet it does not yield positive results? (Christle 2004).

A Justice Policy Institute brief found only a small amount of highly publicized school shootings, and that schools remain one of the safest places for students to be (Schiraldi et al 2001). The researchers report that 99% of youths killed occur off school
A nationwide comparative analysis of school assaults, suspension, and expulsion rates conducted from 1974 to 1998 found that school assaults remained stable while suspension and expulsion rates substantially increased (Schiraldi 4). Analysis supported current literature findings that show punitive policies (e.g., suspension or expulsion) disproportionately affect African American and Latino students more often than their white counterparts, leave students lacking in formal education, more likely to drop out of school and engage in criminal behavior (fight, use drugs/alcohol).

**Pipeline to Prison**

In 2003, the Justice Policy Institute reported that half of African American male dropouts and 1 in 10 white male dropouts have prison records (Schiraldi 2002). Researcher Christine Christle argues that exclusionary disciplinary practices (i.e., suspension and expulsion) are key components in the “school to prison pipeline (Christle et al 2008, Christle et al 2005, Schiraldi et al 2002).” Investigating school characteristics related to suspension rates the researchers found that the majority of court involved youth has experienced academic failure, school exclusion, and dropout (Christle 2005, Noguera 2003, Wald et al 2003 Skiba et al 2002).

In a comparative analysis of high performing and low performing schools in Kentucky, the researchers collected data through staff interviews and personal observation. Researchers examined three school characteristics related to delinquency: academic failure, suspension, and dropout in grades K-12, and concurred with other literature when they concluded that school-based policies and practices might exacerbate
the risk for court involvement among youth (Christle et al 2005). The researchers concluded that the majority of court involvement youth have experienced is a school characteristic indicated by academic failure, school exclusion, and dropout rather than a student characteristic (Christle 2005).

The Justice Policy Institute reported that 52% of African American males who departed prematurely from school had prison records by their thirties (Justice Policy Institute 2007). According to a 2002 study conducted by the Institute, researches found that the racial patterns in high school discipline and achievement a significant indicator of the number of African American men incarcerated, compared to those enrolled in colleges or universities. Advocating for more counselor intervention, Norman Day-Vines, et al recommended that more “culturally congruent” strategies to help decrease the dropout rate among African American students (Day-Vines 236). The authors endorse a coalition of counselors who can work collaboratively with members of the African American community such as the church, and other social and civic organizations to help coordinate mentoring programs (Day-Vines 2005).

**Conclusion**

According to literature the intersection of race, gender, and ecological environment is important when it is determined who is or is not the recipient of disciplinary measures. Studies show that African American males are the disproportionate recipients of suspension and expulsion policies. Second, there seems to be a collective failure on the part of administrators to acknowledge or understand how ecological factors may impact the expected systemic transformation urban adolescents
are expected to make as they transition from one culture to another. Third, there is a lack of understanding or acknowledgement of the impact that the precipitous involvement of law enforcement brings to the equation.

While ample literature from a Critical Race theoretical perspective on the academic gap exists, only a small amount of research exists examining the discipline gap from this viewpoint. Understanding the empirical outcomes in the intersectionality of race, gender, and socio-economic status is critical to comprehending the complexity of this crisis. This theoretical analysis of suspension and expulsion policies through the lens of Critical Race Theory seeks to fill in the empirical gaps that a solely quantitative analysis would not include. A more focused qualitative study through Critical Race Theory places emphasis on analysis from the affected groups’ perspective.

As the salience of race subsists, Critical Race Theory is a useful paradigm in which to examine how a law designed for a good purpose becomes bad policy when implemented, to the point of being a bastion of inequity. In the article, *Toward a Critical Race Theory in Education*, the authors posit that the unjust educational experiences of poor Latino and African American youth differ significantly from those of white middle class youth (Ladson-Billings 2001). The school shootings that generated “zero tolerance” policies involved white students at predominantly white schools, yet students of color are suspended and expelled at higher rates than white students (Ladson-Billings 2001). These inequities are a logical and predictable result of a racialized society in which discourse on racism has become muted and trivialized.
A politically conservative “get tough” stance has led to the extensive use of zero tolerance discipline policies in the educational system. Since interpretation and implementation is left to district administrators, the meaning of zero tolerance becomes blurred and ambiguous, used to cover a wide range of adolescent misconduct. Punitive measures (i.e. suspension/expulsion) subjectively implemented under the umbrella of zero tolerance, is beyond the scope of its original intent. Despite findings, which demonstrate that zero tolerance has evolved from being a component of a federal mandate to an exclusionary tool for minor disciplinary infractions, district policymakers have been reluctant to make any substantial even when the outcomes show it to be disparate (Skiba et al 1997). Joan Goodman argues that school disciplinary policies are ineffective instruments, because they obscure moral (violence, vandalism) and conventional (attendance, dress) violations (Goodman 2006). David Stader’s study supports Goodman in that he surmised that the benefits and liabilities of zero tolerance has not met it objective to reduce acts deemed harmful to oneself or others (Stader 2004).

Administrators’ refusal to change this trend disproportionately affects students who are male, from low socio-economic families, of a minority ethnic background, and identified as having a disability or low academic competence (Skiba et al 1997, Christle 2004). Research for the most part has concluded that instead of correcting behavior, suspension, expulsion, and zero tolerance policies exacerbate the problem of academic failure, particularly among African American and Latino youth. According to the Civil Rights Project, these policies send “push-out” messages to students, and culminate in increased dropout and incarceration rates for this population (Advancement Project
Christine Christle concurs and delineates that the majority of court-involved youth have experienced academic failure, school exclusion, and/or dropout (Christle 2005).

These policies conflict with the fundamental civil right that each child has to an education. Educational administrators need to re-evaluate the implications of the educational disciplinary policies in their district, and advance more alternative disciplinary measures that are more culturally diverse and equitable. This does not mean that disciplinary policies need to be racially divisive (European Americans, African-American, Latinos), or not promote a safe learning environment for students, but administrators need to consider proven theoretical alternatives that may be more culturally amenable behavior modification strategies. The one thing that scholars and researchers seem to agree on is that the traditional methods are not working.

Zero tolerance has become a widespread tool for administering discipline that further marginalizes an already segregated population. Jonathan Kozol contends that the educational system has restored America’s public schools to a state of apartheid, because efforts at school reform has only succeeded in further isolating African American and Latino youth, effectively removing them from academic instruction (Kozol 2005, Maguin 1996). The kick-out practices under zero tolerance perpetuates a cycle of failure, students fall behind academically, and receive fewer opportunities to learn. Zero tolerance measures particularly in conjunction with suspension and expulsion policies should be of great concern for America, because of the tremendous loss in human capital, underdeveloped, and unused talent impacting our communities and nation as a whole (Ayers 2001).
Chapter 4

METHODOLOGY

The outcomes in this particular study of the discipline gap will be determined from multiple sources. The primary source will be a qualitative analysis of narratives from respondent interviews. The second method performed will be a descriptive analysis of information obtained from a school district in northern California. The last means of analyzing the issue of discipline is from personal ‘case’ experience with the punitive policy of expulsion. This case study will give a voice to those the most impacted by this disciplinary measure—the family.

The area studied is a large urban and predominantly European American community. On the basis of the “one race” category in the 2000 census this district is comprised of a total populace of 407,018, approximately 48.3% of whom were reported to be non-Hispanic White Americans and 15.5% Black or African American. There are approximately 123,258 children under the age of 18, of which 9.4% live with a single female head of household, and another 37.5% of the households with grandparents as guardians.

Data provided by the school district documented approximately 48,155 students who attend 80 traditional public schools and 5 other schools, including alternative, Adult Learning, Skill Center, and Charter Schools. The student racial composition comprises 21% African American, 21.2% non-Hispanic White, 32.8% Hispanic, 20% Asian and approximately 4.2% divided Native American/Alaska Native-Filipino-Pacific Islander students. Sixty five percent of the enrolled students received free-reduced meals an
indicator of household income. A students’ household income must be below a certain amount to qualify.

Many of the schools in the school district are located in areas devastated by urban blight. The district is comprised of 13 high schools, 10 middle schools, and 60 elementary schools including some charter, special education, and some k-8. This district was a good choice because of its’ Ethnic Diversity Index (EDI) number. According to the California Department of Education (CDE) the index number is indicative of how much “diversity,” “variety,” or how evenly distributed, these students are among the seven ethnic categories reported to the CDE. The closer the number is to 100 the more evenly distributed the groups are. The EDI for this school district is 66. This number is well above the nearest similarly situated district.

Another reason is that community leaders are motivated by parental concern regarding the alarming dropout rate of African American students in their respective communities. Second, parents and community leaders concerned by their students contact with law enforcement agencies due to suspensions and expulsions caused immense consternation. Third, displeased by the inaction and/or lack of response by school boards, parents and activists began to mount grass-root efforts initiating forums in community centers, churches, to address the issue. Despite the increased presence of on campus security, African American students continued to be the target of suspension and expulsion policies.

This particular district provides code of conduct handbooks to each student at the beginning of the semester. These handbooks outline the standards of student behavior
delineating the consequences of code violations. It also describes student and parental rights. The district requests that students and parents return the signature page to confirm receipt of the handbook. According to some of the respondents I interviewed students fail to return the handbooks. As a solution, some administrators make sure that the book is visibly available in the office. A great portion of this handbook deals with school safety so it was incumbent upon the primary interviewer to try to glean not only the administrators’ interpretation and implementation of zero tolerance but other respondents as well.

Respondents

Since this study is primarily qualitative, the principal researcher conducted in-depth interviews with four categories of respondents from the region: administrators, teachers, legislators, and community leaders/activists. Respondents answered questions from an interview guide, which focused on the subjects’ understanding and/or experiences with suspension and expulsion policies. Respondents were also required to sign confidentiality form giving me permission to conduct the research (see Appendix A).

Purposive sampling was the method used to recruit the eighteen participants. After interviewing a friend who was an administrator, the respondent referred others she thought might potential participants. Snowball sampling completed the process of obtaining interviewees, as the principal researcher later attended numerous forums, town hall meetings, and other mediums for community dialogues to begin networking with numerous community activists and others concerned about the failure of African American students to achieve academically. The amount of respondents began to
snowball because of networking during various community events and forums on the academic issues of African American students.

Out of the twenty-three high school and middle school principals contacted, only four principals agreed to participate in the study: one middle school, one elementary, a vice principal, and a former high school principal. Other respondents included one parent/child, three legislators, one teacher/activist, eight community leaders/activists (four of whom are Pastor/Ministers), and one high-level government official. One of the respondents is European American, five of the respondents are African American women, one respondent is Latino, and the remainder of respondents is African American males.

As requested by the district the principal researcher could not interview parents and students because of confidentiality protocol. However, the standpoint of one parent and child was included, because of the personal involvement experienced in the matter. Since this situation occurred before this inquiry came about, the issue of confidentiality was a mute point.

Respondents interviewed at a variety of venues in which they felt comfortable. The choice of venue was at the discretion of the participants. The consent form addressed the issues that placing some interviewees in a compromising position might pose if they interviewed at their job sites. However, some respondents found it more convenient and were at ease interviewing at their place of employment.

Since the people do not have an equal or known probability of selection, this non-probability sampling gives adequate means to gather data for a qualitative study such as
this one. These groups of respondents were excellent candidates because of their interaction with suspension and/or expulsion policies on a regular basis and they are visible participants in the community on these policies. Note the limitations of this study, since non-probability samples do not involve equal chances of selection do not generalize to the broader population.

The school district provided descriptive data of violations categorized by school, sex, and ethnicity for the years 2005-2009. This data was comprised of suspension information only. Although public information of data documenting the number of expulsions under the categories of violence/drug violations and totally persistently dangerous expulsions is available, the district feared the anonymity of the group would be at risk if these figures were analyzed. For this reason the study can only reflect trends and patterns regarding suspensions in this district.
Chapter 5

FINDINGS

In this chapter, I will describe some national data on discipline for comparison, analyze the descriptive data provided by the district, discuss the responses to the interview questions, and provide a personal case study to describe the impact of zero tolerance policies.

The rule under the Gun-Free Schools Act of 1994 dictates that any student who brings a weapon to school must be expelled for not less than one year (20 U.S.C. Chapter 70. Sec. 8921). The law allows each state to give discretionary authority to the chief administering officer of a local educational agency the means to modify the one-year expulsion requirement on a case-by-case basis. A 2007-2008 survey conducted by the National Center for Education Statistics examining public schools that took serious disciplinary action by the type of offense, documented larger percentages for violations not covered by the mandate. The study found the following disciplinary actions taken: physical attacks or fights (31%), insubordination (21%), distribution/possession/or use of alcohol (10%), and distribution/possession/or use of illegal drugs (19%), use or possession of a firearm or explosive device (3%), and the use or possession of weapon other than a firearm or explosive device (15%), (NCES 2008).

The survey shows that the greatest percentage of discipline is for offenses not covered by the mandate. The zero tolerance part of the mandate allows administrators the discretionary authority to pursue relentlessly other violations beyond the scope of the laws’ intention. In contrast, the law seems to have certainly worked for its purpose as
revealed by the disciplinary percentage of weapon and drug violations. Most states have amended the original mandate to include drugs, sexual crimes, and explosives on a state-by-state basis.

According to a 2002 nationwide survey conducted by the Office for Civil Rights (OCR) examining enrollment vs. disciplinary actions, African American adolescents in elementary and secondary schools comprised only 17% of public school enrollment, yet represented 33% of the suspensions that removed them from school (Office for Civil Rights 2002). Research shows that students of color are most often referred and suspended for non-violent conduct such as “disrespect of authority,” “defiance of authority,” and “disobedience” (Skiba et al 2000).

The OCR also reported the following statewide trend for California’s disciplinary actions: African American students represent 8% of California public school enrollment, but 19% of suspensions that removed them from school; Latino students represent 46% of the public school student enrollment, but account for 47% state expulsions, and 45% of suspensions that removed them from school (NCES 2002).

One respondent interviewed stated,

“…because we were suspending more African American students in proportion to their numbers in the total population, we now have to make a plan every year to let them know what it is we are going to do to try to keep from suspending African Americans.” ‘Them’ is the Office of Civil Rights through the Safe Schools plan. The book is humongous but it tells you what to do in certain cases. We have drills every month or so in K-12 and as part of that we have to make out this monthly or quarterly report that ells every time you do suspensions, how many African Americans you’ve suspended and what percentage this is of the total population. They do for all the students now, but the OCR monitors the African Americans because they were suspending so many.”
In 2004, the California Department of Education found that many California expulsions have nothing to do with school safety: “Disruption of school activities,” or “willfully defying the authority of school personnel” ranked as the number one offense resulting in expulsion (California Department of Education 2004).

**Descriptive Statistics**

The principal researcher analyzed descriptive data compiled by the district based on race, ethnicity and gender to determine whether any trends or patterns developed in disciplinary actions for suspensions. In this particular district, 23 basic offenses explain student behavior and the consequences for said violations. There is one category for mandatory expulsions and another for mandatory recommendation for expulsion. The district did not share data on expulsions because of confidentiality issues.

An analysis was conducted examining data recording the number of monthly violations by school, sex, and ethnicity during the academic years 2005-2009. Statistical analysis concluded that for each academic year African American high school students were the disproportionate recipients of suspension in all categories of offenses (see Table 1-List of Tables). There were more African American males suspended than any other ethnic group in all categories. This dynamic remains constant for African American females when compared to other ethnicities except Latino males regardless of gender. This trend holds true for Middle school students during the same time frame.

Next, the principal researcher conducted an analysis to determine whether any relationship(s) between the variables and particular code violations existed. The code which African American students male and female received the most suspensions for was
“willful defiance or disruption of school activities” (see Table 2-List of Tables). This finding concurred with most literature covered in this study (Skiba 2000, 1997; Monroe 2006). District officials did caution that this category was a ‘catch-all’ so the numbers would be higher. This means the category is broad enough to cover a multitude of actions. In the case of my own personal case study, this code was seemingly added to give more leverage and legitimacy to the charges lodged against the defendant. As one community activist put it:

“…in an attempt to remedy a problem in public education without actually trying to figure out why the problem occurs, it just simply says we are going to remove these kids, take them over here, and drop them over in another setting, and that takes care of it, and for arbitrary reasons so it does not matter what the reason.”

An interesting anomaly showed that the suspension rate for African American females to be higher than the total (female and male) for all other ethnic groups with the exception of Latino males.

The second most reported code under which African American males received suspension was “acts of violence.” This definition is “cause, attempted to cause, or threatened to cause physical injury to another person.” Although this code states that alternatives to suspension may be considered, African American student’s out-of-school suspension rates surpass those of other groups. Only in the academic year, 2008-2009 did Latino males and as a group received more violations than African American students. African American females reportedly received more violations for this code than Latina females.

In the academic year, 2005-2006 African American adolescents as a group were the disproportional recipients under the category “acts of violence.” However, Latino
males were suspended more often than African American males. In middle schools, African Americans were the disproportionate recipients of suspension in this category regardless of gender.

The third and final code under which African American males received suspensions more often than other students was “willfully used force or violence upon another person, except in self-defense.” Although this category expresses that alternatives to suspension may be considered, African American students continued to be the disproportionate recipients of suspensions under this policy. This offense also recommends contact with law enforcement.

The significance of these findings is that they concur with other research. African American students particularly males are disproportionately the recipients of suspension policies that identify them as violent and defiant (Noguera 2003, Monroe 2006). African American males are more often than any other group to receive code violations that recommend contact with law enforcement. When preconceived notions and biases become a part of school culture and climate then cultural misunderstandings and adversative practices can develop.

Qualitative Data/Interviews/Narratives

This section of the research is qualitative and from a more narrative perspective and standpoint of the participants. Data is gathered based on a 2004 policy analysis framework of Christopher Dunbar and Francisco. Although the questions constructed by the principal interviewer for this study are very simplistic and rudimentary, they were designed to allow participants ample time for open and unfettered dialogue. This
approach would entertain a more unencumbered conceptual perspective regarding respondent comprehension, initiation, interpretation, and implementation of zero tolerance policies as they relate to suspension and expulsion. Some subjects were succinct in their responses and took as little as twenty minutes. However, some interviewed for the entire three hours allotted.

Replicating the Dunbar policy analysis framework, the design for this study encompasses the four stages first conceived by L.W. Downey (1988):

“According to Downey Stage 1 is concerned with the general knowledge of the zero-tolerance policy held by respondents (comprehension), and understanding of zero-tolerance policies; Stage 2: seeks to determine the need for the zero-tolerance policies (initiation), the application of zero-tolerance policies, revisiting and modifying zero-tolerance policies; Stage 3 examines how the policy is understood (interpretation). What does the policy mean, and what are the parameters that dictate its subsequent implementation? What is the perception of respondents? Stage 4: the installation of the policy according to the legislative intent (implementation). This pertains to whether the policy is understood and administered equally across the board, noncompliance among principals, and knowledge of amended policy” (Dunbar et al 2002).

What became apparent in this inquiry is the complexity of the discipline gap. The issues of initiation, interpretation and implementation are not readily divergent, but in some instances simultaneously addressed.

The Meaning of Zero Tolerance

Most respondents understood the legal parameters of zero tolerance as it stems from the Gun-Free Schools Act: that there was zero tolerance for bringing guns to school. All respondents understood that various states amended the law to include drugs, or violent acts that produce bodily harm, etc. according to the discretion of that jurisdiction.
Most respondents agreed that there is a place for zero tolerance but it should not be so authoritarian. As one administrator put it:

“Zero Tolerance is strict and unwaiving policy enforcement. I would only enforce zero tolerance if a student brought a dangerous weapon to school.”

One community activist and high-level official determined that:

“Zero Tolerance is a control mechanism. Of course we understand that some things require swift immediate action, but for students of color that falls under “talking too loud”…go to the office.”

Succinctly put, respondents generally agreed that zero tolerance is an unwaivering policy used to administer suspensions and expulsions beyond the scope of its intention.

Legislators that were interviewed advised that they do not explore the merits of zero tolerance as a particular issue, but all emphasized they were aware of it and its disparities. They also unanimously agreed that there was a need to tailor its use.

“We look at the big picture, and zero tolerance would be framed under the umbrella of higher education and the community colleges, even for Education Committee members. We know about it, we are aware of it, and know it is disproportionately administered to students of color.”

**Interpretation and uniform implementation**

Addressing the use of zero tolerance as a suspension and expulsion mechanism, the original interview question became “Is there a practice of “zero tolerance’ for behaviors or practices that administrators find offensive in the region, even if there is no stated board policy of “zero tolerance? The initial question sought to determine uniformity and discretion in the initiation of zero tolerance. The consequent dialogue revealed that the term “zero tolerance” does not appear in law, the federal Gun-Free Schools Act (20 USC 7151) only requires that a district expel for one year a student who
brings a firearm to school. This can be interpreted to mean that there is zero tolerance for weapons on campus. California’s Education Code 48915 (c) amended the original law and requires the mandatory suspension and recommendation for expulsion of students who possess, sell or furnish a firearm, brandish a knife, sell a controlled substance, commit or attempt to commit a sexual assault or sexual batter, or possess an explosive. All schools are required to adhere to federal law and the state education code.

What is disturbing for one administrator is,

“this urban district has not adopted ‘zero tolerance’ policy language in its board policy 5144.1 or administrative regulation 5144.1. The district does, however, suspend and expel students in a racially disproportionate manner. The data is clear that African American and Latino students are disproportionately suspended and expelled. The most common descriptor used for the suspension of these students is ‘defiance’.”

One high level official made the observation that,

“children of color tend to get caught up in a lot of these polices and rules so that it gets them warehoused into programs like zero tolerance, disproportionality, special education, the achievement gap. So no, I do not think it’s distributed fairly.”

A White inner city educator and activist argued,

“They can all say we have zero tolerance policy around whatever, and all of a sudden it becomes any kind of negative behavior. Say for instance gang related behavior, which could be hanging around with three other kids who look like you or it could be writing your name in graffiti style on a wall and all of a sudden that’s gang related behavior. If interpreted as such that is grounds for automatic dismissal. In my mind, it is like a federal justification that’s used at the local level to kick Brown and Black kids out and are almost entirely administered and framed around gang behavior, violent behavior, I mean it’s so arbitrary.”

Another aspect that was apparent for administrators is that the process of disciplining students begins in the classroom. For some the issue was one of classroom management. For others the matter was one of school culture and climate. Yet for others
it was the lack of cultural understanding on the part of teachers. Whatever the case may be the disciplinary process begins in the classroom. One administrator agreed that the process begins in the classroom through teacher referral and describes her problem with the use of zero tolerance:

“the teacher will send a child out of class for ‘disruption.’ You (the teacher) had better put what they did. I do not understand what disrupted the class means. Were they cursing, throwing objects, fighting? When you look at that, you can determine appropriate consequences. But if you don’t ask the teacher to be specific, and just act on disrupted class because it is listed on the suspension form, well talking out loud, is different than throwing a sponge hitting the teacher in the back of the head with it, that is different. You can’t let a kid hit a teacher and not suspend them.”

The general feeling seemed to be that administrators and individual educators who want to kick out African American and Latino students essentially use zero tolerance as a way to do so. In another nearby school district one teacher said, “We don’t use the term zero tolerance anymore, it doesn’t exist.” Whatever the case may be even if the terminology changes, it does not obscure the fact that a discipline gap exists because of the ambiguous administration of suspension and expulsion.

*Effectiveness of suspensions and expulsions*

The next area of inquiry examined whether suspension/expulsion is even effectual in improving student behavior. Two basic problems stood out from this inquiry: the design of educational curriculum and systemic institutional racism. Professor Russell Skiba, a professor of educational psychology whose research focuses on race and discipline issues in public schools, has reported that African American children are punished more severely for the same offenses committed by their White counter parts. Not only is this treatment disparate, the outcome is unequal. When students are not in
school, they often do not receive the work that their fellow classmates are working on, so they are even further behind when they return to school.

One educator activist felt that out-of-school suspension exacerbated student behavior problems.

“If someone’s disengaged from school, why would you kick them out? That’s actually kind of giving them a benefit. For instance, in terms of a drug addiction, if I am addicted to a drug and the only ones who notice and recognize it is my educators, and I am at school, and they punish me for it, at least they are recognizing it. I’m like there’s something there that I think is valuable. But, if the only formal response is I get punished for doing that, it’s ridiculous, because you are punishing someone for being addicted, and it’s not giving them support for not being addicted anymore. If the only punishment that I’m really given is a break from school, when no one else notices that I’m high, nobody’s home, you’re actually giving me a benefit, a reward so I can stay at home and with my Play Station or X-Box and just be high the whole five days that I got, thank you very much. Are you kidding me?”

A task force member felt that out-of-school suspension and expulsion hurt students of color because it is a way to get the “bad seed” out of the system and out of your hair. This means that ultimately at-risk youth will not be educated, which means that bad seed becomes part of the gap (achievement and discipline), which means they become a part of the system, if things were to play out as they typically do according to research. This is the trajectory of the pipeline to prison theory (see Fig. 1-List of Figures).

For the most part, respondents saw most discipline issues that arise in school are the result of poorly trained teachers. It is much easier for an unskilled teacher to kick a student out of school than to address the discipline problem or prevent the discipline issue from occurring. One activist pointed out that approximately 72% of teachers are white females, teaching students of color, and that zero tolerance is their control mechanism.

An activist and former administrator argued,
“the teachers have not taught, so the children have not learned; and, children are introduced to new concepts that they have no foundation for, and then act out to avoid embarrassment. This is what happens in most cases. Most discipline issues would go away if teachers knew how to teach African American children.”

Another advocate stated,

“Let me flip the script on you. If we have 75% African American males teaching 70% kids who are White and those kids are failing; California would be in an uproar. They would say, “wait a minute, you have 75% African American males teaching 70% kids that are White and the kids are failing, they must not be looking at all the teachers. That is the take as I see it.”

Most of the respondents felt that teachers were not culturally competent, that they come into an urban environment with preconceived ideas (conscious or unconscious), preconceived biases, preconceived racism, preconceived notions of what they get from TV and other areas. So when these teachers come into the classroom they already have some expectations of how the kids are going to be. For instance, one teacher responded that “they may see a kid slap and dap each other (a form of handshake greeting), and if they aren’t familiar with it they probably think it could be crazy or bad, and it is this type of disconnect that helps create something called zero tolerance.”

A former inner city teacher said that it is unfeasible to train someone to be a teacher in three months. The present day teacher model is a “get them in, get them out, as soon as possible approach.

“You don’t train folks in three months! Especially if it’s a person not from the community, so they have no understanding about the cultural and historical context of the racism of that community, like gentrification. They don’t know any of that kind of conversation, much less connect it to education, because all that impacts how a student will be in class. You take a twenty-three year old White person from the suburbs, though they are well intentioned, they mean good, they have no idea that every student I work with has been shot at, or pass by where someone has been shot and/or died.”
This same teacher spoke about how he brought a group of inner city kids to a major college in Washington. He questioned the techniques of the directors of the Teacher Education Program in a predominately African American area in Washington. This teacher questioned the fact that the instructors were training teachers to teach in the area, but none of them had even been to the neighborhood. A visibly shaken white director met the group of kids. It was clear to them that she thought they were going to jump her, rob her, or do something. The teacher stated,

“Some peoples’ fear is so deeply embedded, that as a shaper of teachers, the directors’ fears would be played out through her teachers.”

Subsequently the kids recognized her fear and asked him why did he bring them there, and why did he bring her on campus,

“You know she’s scared. I was like, I brought her here…she needs to know.”

The principals and teacher interviewed for this study were more likely to believe that suspension and expulsion are unnecessary to promote a positive school climate. These educators felt that the purpose of school discipline is to teach appropriate skills regardless of the seriousness of the behavior (with the exception of mandatory expulsion offenses). Their perspective was that the objective should be to keep all students in school. Most administrators believed that alternatives such as in-house suspensions help reduce the need for exclusionary policies (e.g. out-of-school need for suspension and expulsion) and limit student contact with law enforcement.

“These are the same kids that’s going to be sitting at home robbing our homes or stealing our cars. What else are they going to do?” I do everything not to suspend these kids. I’ll give them chores to do around the school, or make them do their
homework under supervision. Most of them appreciate it. These students want to be in school and not at home alone. I often have them ask me whenever they get in trouble if they can do something at school and not be sent home.”

The majority of principals felt that teachers should be able to handle most classroom disturbances. They also felt that their teacher training programs did not provide enough training on classroom management. Most of the educators/administrators expressed a greater need to increase teacher-training efforts in the district. They felt that the implications for more extensive multi-cultural training would be immense, and go a long way to create a better school climate and culture for students and faculty alike.

The last question examined the impact of zero tolerance policies on students, parents, and communities. The general feeling was that society is in a decline, because school systems are churning out generations of unskilled and poorly trained human beings. Whether in policy or general practice, kicking multitudes of children out of school only increases societal ills. Students drop out, welfare rolls increase, unemployment rises, crime increases, and the social fabric of society suffers, because human beings have not been given the opportunity to reach their potential. Ironically, in California the bureau of prisons projects prison construction on the test data of California 4th graders (africanamericanimages.com).

As one administrator put it,

“you have got to connect, immediacy is the key. You have to connect the discipline. When a student gets busted for whatever reason, whether it is elementary, middle, or high school, you do not go through the administrative
stuff, you do not get the cops, you do not get suspended, you hook up with a counselor immediately.”

This administrator said that re-offending goes down when you couple the administrative process with the counseling process. In turn, this gives an offender the opportunity to remain in the mainstream process rather than opt out into a continuous cycle of defeat.

All participants agreed that there is a need for zero tolerance when it comes to acts that are heinous. They support expulsions for brandishing weapons, sexual assaults and the like. In cases of fighting and drugs, it was suggested that the principal, teacher(s), counselor, guardians, and combatants should come together to decide punitive actions to be taken. The decision may involve contact with social agencies. In this manner, all parties immediately participate in a more proactive rather than reactive resolution process.

*Personal Case Study*

This personal observation should be included in this study, because it is an example of what can and often happens to children who violate student behavior guidelines. I came to know Grace as teenage dancer in a group I formerly directed at a church. A typical teen that loved to talk, chew gum, and tease her sisters, she was no different than any other child. Grace is a nice young person, kind, respectful, and a good student.

One day her mother called me extremely upset and asked if I would speak on Grace’s behalf because she had gotten into some trouble at school. I told her mother of course I would. When we went before the district, I asked for the charges against Grace,
because they wanted to expel her from school. It seemed that in the midst of a fight with another teen girl Grace had accidentally hit a female teacher who tried to break it up. Once the teacher told Grace she hit her, Grace immediately apologized. Teachers took both young women to the office and then sent home. About an hour later the police pulled up to Grace’s home and her father was startled and upset that they were there to take his daughter to jail for assault. Both parents went downtown to bring her home after adjudication.

Once the particulars of the case came out, I asked what the charges against Grace were. She was charged with violating Education Code (E.C.) 48900 (a2)-the willful use of force or violence upon another person, except in self-defense, E.C. 48915 (a5)-assault or battery upon a school employee, and E.C. 48900 (k)-willful defiance or disruption of school activities. The more serious offense was E.C. 48915, because it was a mandatory recommendation for expulsion. There was not an alternative to suspension, it called for “shall suspend”/”shall expel”, as well as contact with law enforcement. The E.C. 48900’s may offer an alternative to suspension, both may suspend/expel, and a2 called for contact with law enforcement.

The vice principal representing the high school was seeking expulsion. The vice principal stated that the teacher told him that Grace had purposely hit her. He also produced a letter from another of Grace’s instructors’ stating that she was afraid to have Grace remain in her class because she feared for her life! Now Grace never posed a disciplinary problem for this instructor for any reason nor had she received any kind of complaint from this instructor. In fact, she was maintaining a B average in her class! This
instructor was perpetuating the controlling image (stereotype) of large sized Black girls being violent.

Once reviewing the documents and charges against Grace, I noticed that in her deposition the allegedly assaulted teacher stated that the hit was accidental. She also stated that Grace immediately apologized when told she had struck the teacher. The vice principal insisted that she told him differently. Therefore, I suggested that we adjourn the meeting and get the teacher down to testify why this was not in her deposition. The facilitator agreed, but then suggested that she and the vice principal meet in another room before making that decision. Upon his return the vice principal stated that he had made some mistakes in his life and that someone gave him a second chance. Therefore, I asked him why he could not do likewise with Grace, because she was a good girl, a good student, and her school records reflected that. The vice principal did not have a response to that.

Once the facilitator returned she asked what decision had the vice principal made, and he responded that the suspension would be enough. The moral of this story is that Grace’s parents decided to put her in another school where she had to take two buses to get to every morning. Grace is graduating this year and will be entering the U. S Army! This begs the question of how many students have been lost because they had no one to advocate for them or at the very least someone who knew how to defend them. This could have turned out very different for Grace had her mother not fought for her daughter. Incidentally the vice principal was Latino, the teachers both White women, and the combatants both Black female teenagers.
Results of this cross-sectional analysis conclude that the philosophy of zero
tolerance goes beyond the scope of the original intent of the law. Other findings
identified include:

- The policy of zero tolerance is antiquated, ambiguous, and disparately
  administered as a punitive measure to student conduct which is minimally disruptive
- Suspension and expulsions are disproportionately administered to students
  of color, particularly African American males
- The perception of school culture and climate by students and faculty is a
  major reason for conflicts and misunderstandings
- An expressed need for multi-culturally conscious instructors and counselors
- More emphasis should be placed on mentorship programs
- Increase the use of in-house suspensions whenever possible as opposed to
  out-of school suspensions
- Decreased involvement with law enforcement agencies
- Intervention and agreement to share information among agencies without
  the systematic red tape
- It will take a coalition of community, family, and administrators to address
  the disproportionate impact of the policy of suspension and expulsion

Through the lens of Critical Race Theory, we can conclude from this research that
race continues to be a salient and determinant factor in the administration of discipline in
an urban school district in northern California. The historical legacy of a racialized society continues when the intersection of race and other forms of subordination (e.g. gender, economics) in education prevail (Morris 2005). To continue to ignore the reality of racism in terms of legitimacy and fairness in public schools is unjustifiable and indefensible.

The resultant impact of the discipline gap challenges the dominant ideology around school failure and the commitment to social justice in education. When we consider the perspective of the players (respondents) that suspension and expulsion
policies particularly under the umbrella of zero tolerance are ambiguously implemented and inequitable, power and legitimacy is given to that voice (e.g. Arcia study). By advancing the narratives of marginalized people of color, as legitimate sources of critique of the dominant society allows the notion of color-blindness to be dismantled so that the entrenched policies that promote the disparate treatment of people of color can be rectified.
Chapter 6

CONCLUSION

Zero tolerance is a school district policy that mandates predetermined consequences or punishment for specific offenses, regardless of the circumstances, disciplinary history, or age of the student involved (Education Commission of the States 2002). It seems that zero tolerance has evolved into an archaic form of punitive policy, which only exacerbates existing issues of low academic achievement for students of color. The lack of funding contributes to the deficient utilization of established resources (e.g. counseling, social agency intervention) in order to maintain the more innovative methods in which to accomplish on-site student retention. One legislator responded, “In difficult times of budgetary cuts issues of diversity and equity get squashed.” This is detrimental to the academic success of youths of color.

In today’s society, many children live in one-parent homes or two-parent homes where the guardian(s) have to work. Research indicates that when parents are involved, adverse behaviors change in a positive way. California officials recognized that “in order to raise student achievement, effective parent involvement must be encouraged and increased,” so legislators passed the Family/School Partnership Act (AB 2590 Easton). This bill requires employers of 25 or more employees to allow parents to use earned time off to visit their children’s school. This is a step in the right direction because it encourages familial accountability that many of the respondents promoted. However, there needs to be more legislative involvement for those families that do not have earned
time provided by their employers. Most of these individuals are in low-wage jobs or part-
time jobs that do not provide for vacation, sick time, etc. in their contracts.

Church leaders in the area have programs that promote mentorship and make it
apparent that parental and student accountability is crucial to successful outcomes. One
Pastor emphasized parental responsibility and that guardians cannot expect others to take
the sole role of raising their kids. However, when there is breakdown in the family
structure for whatever reason, he expressed the need for the church to take back the youth
by more mentorship programs and tutorial programs. His belief is that the church can
influence and help young men discourage societal assumptions by changing the signals
that youth transmit (e.g. dress, mannerisms). This Pastor’s belief is that there are just
some that do not know any better. The consensus among community leaders, legislators,
administrators, and others is that there must be responsibility and accountability on all
parts. When the family life of a child fails because of ecological factors, the community
must step in to be part of the solution and not exacerbate the problem. Activists agreed
that,

“Schools need effective and equitable disciplinary systems to respond when
student behavior is incompatible with a climate that is conducive to learning”.

It is incumbent that the intervention comes from a coalition of resources institutional as
well as communal.

This study is consistent with other studies, which conclude that in the midst of so-
called diversity racist dynamics exist within the educational system. As the case study
and literature demonstrate the intersectionality of ethnicity, race, and gender are
important indicators of who is likely to experience disciplinary actions. The arbitrary
administration of discipline (suspension and expulsion) particularly under the rubric of zero tolerance has a disparate impact on African American students in Northern California.

One high level official stated that California State Superintendent of Public Instruction Jack O’Connell set forth the primacy of race. This opinion helped to influence a study conducted by the California P-16 Council. Mr. O’Connell stated that the achievement gap that exists between students who are African American and Latino in comparison to their peers who are White or Asian threatens their competiveness in the global economy. With rapidly changing technology, workforce demands that our schools need to keep up in order to prepare our youth to compete in the 21st century; otherwise, they just cannot and will not be able to compete.

The California P-16 handbook compiled from a diverse list of researchers recommended ways to help California schools become more adept and proficient at closing the achievement gap. Titled “Closing the Achievement Gap” one of the most profound recommendations was a better strategy for the understanding of school climate and culture. This is an attitude that encompasses how students, parents, and staff feel about their school, and why the way they feel is a result of the values and belief systems that have evolved over time (O’Connell 2008). According to these findings, districts need culturally relevant professional development for all school personnel statewide and should conduct climate surveys. Despite the conclusions of PS-16, it was disconcerting to note that none of the recommendations addressed the impact of the discipline gap, with the exception of maybe school climate. Although these are excellent places to start
improvement in the educational system the focus remains with the achievement gap, rather than attacking the root problem, which is the discipline gap.

Recent studies like those by Norman Day-Vines also conclude that urban, African American male students disproportionately receive more office referrals, suspension, and expulsion, which the researchers attributed to culturally conflicts and misunderstandings with school officials (Day-Vines et al 2005). It is crucial that school counselors embrace a multi-cultural self-efficacy paradigm designed for improving the efficacy of school counselors in counseling students of color from a multi-cultural perspective (Holcomb-McCoy 2008). Day-Vines and some educators also recommend more culturally congruent pedagogy in order to lessen teacher referrals that lead to suspension.

At a Congressional Black Caucus dinner, President Barack Obama stressed, “the proper role of government is to help improve education, the importance of grant and aid programs, rewarding successful teachers and penalizing those who aren’t, and rebuilding a crumbling school system. Government alone cannot get our children to the promised land, and parents need to do the tough legwork in helping their children achieve. There should be no excuses for mediocrity. If they come home with a “B,” don't tell them that’s great -- I know some of you do that -- tell them to work harder and get an A.”

Future research might also investigate the impact of Charter Schools, as it relates to subgroup differences in discipline. In this study, a teacher-activist pointed out that Charter Schools is a great idea in theory. However, the reality is that, “public schools get all carved up by all these charter schools. The idea of having innovative, excited, energetic, and generally young people, with a particular focus sounds great. The problem is the vast majority of these folks are again, not from the community. We have the same issues as before. Some of them are from
the community, but most are not, and if they do not want a student to come to their school, they don’t. Therefore, the student(s) get put back to where they can go…the public school. In my mind the drop-out rate is increasing because of the push-out rates. It’s like you’re targeting college prep students because that is what’s going to make the charter school look good. But the students who are not college prep material, you have got to get rid of and you put them back in their original public school, with fewer resources now, because they get less money, since they have fewer students. In addition, some of the better teachers leave to go work at the charter school because they are easier to work for.”

The discipline gap has to be acknowledged if America is to maximize the human potential of all of it’s’ students. In an interview with Jet magazine, President Barack Obama said that education is the most important issue for the African American community. “If we close the achievement gap, then a big chunk of economic inequality in this society is diminished. Therefore, we’ve got to get our kids up to speed. Now how do we do that? Better teachers, greater accountability, more resources combined with more reform (Jet 2009).”

In addition to President Obama’s comments, California’s legislative proposals identify the need for more counselors and student interaction, as well as better high school and junior high school tracking of students. The district is also addressing the issue of “bullying” which makes some kids afraid to come to school. The consensus is that there needs to be more coalition building. There needs to be better dialogue between agencies to get youth help that they need to compete at the same level whether in the urban area or suburbs. Finally, as one legislative member put it: “we have to transcend communities. There needs to be a “Tri-Caucus.” This means that communities of color…African American, Latino, and Asian (Hmong, Cambodians, Vietnamese)/Pacific Islanders need to transcend cultural boundaries since the issues of the discipline gap
affect these groups more adversely than others. There needs to be more mentorship programs throughout the community, and churches have to be an integral part of that process.

As this study illustrates the discipline gap is real. Suspension and expulsion policies continue to be disparate for African American students when used as a disciplinary tool in Northern California. Zero tolerance the foundation for the administration of these policies excludes persons from the educational process for minor infraction beyond the scope of its’ intention. It is an ambiguous and unyielding policy of exclusion. Without intervention, this policy will continue to have an adverse affect on the ability of this group to compete on the global front, and to be productive citizens making informed and intelligent choices in community governance.

Respondents in this study suggest that it will take community effort to implement effective parental engagement strategies, work closely with schools to initiate positive changes in the school system, and hold school board members accountable. It will take a partnership between community stakeholders such as students, parents, social service agencies, school administrators, and law enforcement to realize a positive change in the school system. Activist Marian Wright Edelman said, “The question is not whether we can afford to invest in every child, it is whether we can afford not to.” It is definitely more cost-effective to invest in the education of children as opposed to incarceration. In the long-term society benefits by opposing the potentially damaging effects of zero tolerance policies that lead to increased contact with law enforcement and the juvenile justice system. There is a strong body of evidence that preventing and treating school
failure are more cost effective than doing nothing, paying welfare, and prison costs incurred by undereducated and marginalized youth (Furlong 2004). The findings of this study can be of immense assistance in the decision making process of policymakers, for educators, students, and parents alike.
Fig. 1 Pipeline to Prison

Recreated Source: “What School Administrators Don’t Want You to Know About the Race/Class/Gender Discipline Gap”
Jane Hood and Nancy Lopez, University of New Mexico
Table 1

YEARLY CODE VIOLATIONS

<table>
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<th>Ethnicity</th>
<th>Total Code Violations</th>
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<tr>
<td>Am.In.Al.Na.</td>
<td>05--06</td>
</tr>
<tr>
<td>Asian/Pac.</td>
<td>06--07</td>
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<tr>
<td>Black</td>
<td>07--08</td>
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<tr>
<td>Latino</td>
<td>08--09</td>
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<tr>
<td>White</td>
<td>Declined</td>
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The diagram shows the yearly code violations for different ethnicities from 2005-2006 to 2008-2009.
Table 2

Yearly Violations for K by Ethnicity

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APPENDIX A

Interview Questions

Administrators/Teachers
1.) What is your definition of zero tolerance?

2.) Under what circumstances would you implement zero tolerance as part of the disciplinary process?

3.) Is zero tolerance uniformly applied district? Who has the discretion on how it is applied?

4.) In your opinion, does disciplinary measures such as out-of-school suspension and expulsions improve student behavior?

5.) Are there more innovative disciplinary measures that can be/or are used, that would also maintain a safe learning environment, as well as, keep students in school?

6.) What has been the impact of zero tolerance policies? (On students, parents, communities)

Legislators
1.) What is your definition of zero tolerance?

2.) Is zero tolerance issues a part of the legislative agenda?

3.) When do you think zero tolerance, should be used as a disciplinary measure?

4.) Do you think that zero tolerance policies disproportionately affect certain student populations? If so, which ones?

5.) In your opinion, does disciplinary measures such as out-of-school suspension and expulsions improve student behavior?

6.) What are you doing to effect change in educational/disciplinary policies? (Current legislation)

7.) Do your colleagues support your bill? Where do you find the most support (Democrats, Republicans, Liberals, Moderates, Conservatives, Senate, Assembly, Non-partisan)?
8.) What solutions do you suggest, to resolve the issue of the low academic achievement success of African American students?

Community Leaders/Activists

1.) What is your definition of zero tolerance?

2.) Is the policy of zero tolerance uniform within the schools in this school district?

3.) In your opinion, do punitive/disciplinary measures such as out-of-school suspension and expulsions improve student behavior?

4.) What has been the impact of zero tolerance policies? (On students, parents, communities)

5.) What are you doing to affect change in punitive/disciplinary policies?

6.) What solutions do you suggest, to resolve the issue of the low academic achievement of African American students?

7.) Should school districts practice zero tolerance as part of it’s’ administration of discipline?
APPENDIX B

Human Subjects Consent Form

Appendix B-3
“Minimal Risk” Consent Form

Consent to Participate in Research

You are being asked to participate in a research project conducted by Brenda-Joyce Newman, a graduate student in government, at California State University, Sacramento. The study will investigate the effects of “zero tolerance” policies on African American high school students in a northern California school district.

This is an important study, because the academic success of African American students is in a crisis. It is a serious public policy concern, which can be analyzed and remedied, by identifying important factors that contribute to the decreased academic success for this population. Information gathered in this study will be of significant interest to policy makers, academics, parents, and students alike.

I (Brenda-Joyce Newman) will conduct an interview that is anticipated to last 1-3 hours, at a location that is convenient for you, such as a restaurant, coffeehouse, or your home. To protect your privacy, interviews will not be conducted at your workplace. You will not personally benefit from your participation in this research, so there will not be any compensation or inducements offered for your time or travel expenses.

One of the risks in this study may involve some psychological discomfort for parents and/or students recalling experiences with “zero tolerance policies.” I will make the greatest effort to minimize these risks by assuring confidentiality through the use of pseudonyms, broad departmental affiliations (e.g. Mark, public education employee), and the proper securing of data. Your identity will not be linked to the data collected. Your real name, names of people that you may discuss during the interview, and/or departmental affiliation, will not be disclosed. To further assure anonymity, all audiotapes will be assigned code numbers. All data will be stored in a locked file cabinet in my home. All tapes will be destroyed after transcription, or no later than one year after they are made.

You understand that participation in this study is purely voluntary, and that Ms. Newman may use that the information provided in the interview, in any publications or presentations. You are not required to be tape-recorded, answer any questions you do not want to answer, and you may discontinue participation in this study at any time without fear of reprisal. You have had a chance to ask questions about this study and
acknowledge that you have received a copy of this form and the researchers contact information should you have further questions.

If any undue stress or discomfort occurs as a result of this interview, please seek the advice of your healthcare provider. Any questions or concerns about this research project can be directed to Ms. Newman or her committee chair, Dr. Stan Oden, PhD., Government Department, (916) 278-6202.

________________________________  _____________________________
Interviewee      Printed Name

________________________________           _____________________________
Researcher, Brenda-Joyce Newman   Date
(916) 344-3467, petragal@hotmail.com
REFERENCES


