

COLLABORATIVE ROLE OF COURTS IN PROMOTING OUTCOMES FOR STUDENTS: THE RELATIONSHIP BETWEEN ARRESTS, GRADUATION RATES AND SCHOOL SAFETY

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Schools throughout the United States have adopted zero tolerance strategies to address school discipline. These policies have resulted in a significant increase in suspensions and expulsions. The placement of police on campus has exacerbated the problem by adding arrests and referrals to juvenile court as a disciplinary tool. This article discusses the origin of zero tolerance and its negative effects on school safety and graduation rates. This article will examine three jurisdictions and their application of a collaborative model using judicial leadership to convene stakeholders resulting in written protocols to reduce school arrests and suspensions and developing alternatives that have produced better outcomes for students, the school and the community.

We are a nation in crisis when it comes to educating our children. On one hand we promulgate laws to promote the education and welfare of children and on the other we implement policies that effectively push them out-of-school, creating what has been coined the “School-to-Prison Pipeline.” These competing approaches create a dysfunctional paradox that harms children and the community. In an effort to address school discipline, educators have adopted a zero tolerance approach resulting in a dramatic increase in out-of-school suspensions (OSS) and expulsions. The introduction of police on school campuses exacerbated the problem by adding arrest and incarceration as another disciplinary tool.

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The widespread use of zero tolerance policies is probative of educator's belief that such "get tough" strategies have value in correcting behavior and removing disruptive students. No matter the reason, zero tolerance policies deny recent research on adolescent brain development concluding that "mischief is a foreseeable derivative of adolescence" (Teske, 2011). Other studies show that zero tolerance strategies in general are ineffective, harmful to students and fail to improve school safety.

An analysis of the zero tolerance problem using a systems model reveals that school systems lack the resources to effectively address disruptive behavior, creating an over-reliance on zero tolerance strategies (Teske, 2011). The systems model, however, tends to focus on individual agencies and although helpful in identifying deficiencies, is not always helpful in identifying solutions when the problem is grounded in inter-organizational issues. Finding solutions to reverse the negative effects of zero tolerance, other than legislative changes, must involve those who are part of and involved in the problem. This approach is summed up in Richard Kempe's problem-solving quote, "A solution, to be a solution, must share some of the problem's characteristics." Zero tolerance, in most localities, is a multi-system problem and requires a multi-system approach for a solution.

In this article, we first define zero tolerance and explore its origins and why it is a problem that demands serious attention. We then present the framework for solving the zero tolerance dilemma using a Multi-Integrated Systems Model (Teske, 2011). We conclude with a discussion of the model's application and outcomes in three jurisdictions.

ZERO TOLERANCE: ITS ORIGIN AND OUTCOMES

The term "zero tolerance" has its roots in the 1980s "war on drugs." The government's attack on drugs led to stiffer penalties for users as well as dealers and an aggressive use of forfeiture laws to confiscate the fruits of the drug transactions including personal and real property (Kochan, 1998).

In 1982, the "Broken Windows" theory to combat urban crime arguably led to the application of zero tolerance approaches to minor offenses (Wilson & Kelling, 1982). The theory argues that the proliferation of crime is analogous to broken windows in a building that go unrepaired and attract vagrants. The vagrants break more windows and become squatters, who soon set fires to the building causing damage. Thus, effective crime prevention begins with tough measures against minor offenders.

During the early 1990s, school systems began adopting this “get tough” approach for minor school infractions using OSS for up to ten days and expulsions. By widening the net of infractions, the use of OSS nearly doubled from 1.7 million in 1974 to 3.1 million in 2000 (Poe-Yamagata & Jones, 2000). The most contradictory application of OSS involves truant students. Suspending a truant student is indicative of the inherent problems with zero tolerance policies in a school setting. It confounds the mind that professionals trained and certified to teach our children are duped into believing that suspending a student who doesn’t want to be in school is an effective tool. It is not surprising that some have referred to zero tolerance as “zero intelligence” (Richardson, 2002).

Zero tolerance can be defined as a “philosophy or policy that mandates the application of predetermined consequences, most often severe and punitive in nature, that are intended to be applied regardless of the seriousness of behavior, mitigating circumstances, or situational context” (Skiba et al., 2006). The punitive nature of zero tolerance practices increased with the introduction of police on school campuses. What was typically handled in the principal’s office now involved a police officer with the power to arrest. In addition to suspension, students were handcuffed and transported to juvenile intake locations. The net for incarceration widened. The phenomenon is referred to as the “School-to-Prison Pipeline” (Wald & Losen, 2003).

School administrators apply zero tolerance practices believing that the removal of disruptive students will deter others from similar conduct, creating a safer classroom environment. This belief fails to take into consideration the growing body of research that zero tolerance is contrary to adolescent cognition and the role school plays as a protective buffer against delinquency.

The Surgeon General’s report on youth violence revealed that a child’s connection to school was a protective factor against risk factors for violence (U.S. Department of Health and Human Services, 2001). Other studies found that students’ belief that adults and peers in school care about them is related to lower levels of substance abuse, violence, suicide attempts, pregnancy and emotional distress (McNeely, Nonnemaker & Blum, 2002). Studies also reveal that this belief, referred to as school connectedness, is linked to school attendance, graduation rates and improved academics (Rosenfield, Richman & Bowman, 1998; Battin-Pearson et al., 2000).

Despite efforts by many juvenile judges to stop these minor school offenses from reaching their courtroom using informal intake diversion mechanisms, it still is not good enough. Research shows a strong link between school arrests and drop-out rates. One study found that a student arrested in school is twice as likely to drop out and four times as likely to drop out if

the student appears in court (Sweeten, 2006). Juvenile court judges should consider what steps can be taken to prevent unnecessary referral to the court.

Removing students from schools that serve as a buffer against delinquency is counterproductive to the goals of education, best practices in juvenile justice and community safety. Take for instance what we know about the importance of assessing the risk of juvenile offenders to determine the level of services needed to prevent re-offending. Studies show that recidivism is reduced among high risk youth if provided intensive interventions. Conversely, these same studies show that intensive interventions applied to low risk youth increase the risk of re-offending (Andrews, Bonta & Hoge, 1990). Applying these findings to zero tolerance strategies, the harsh treatment of students committing minor infractions increases the risk of anti-social and delinquent behaviors. Studies show that the use of OSS and arrests without consideration of the risk level of the student makes students' behavior worse (Andrews & Bonta, 1998; Mendez, 2003). Another study on the use of OSS of elementary and middle school students found that OSS is a predictor of future suspensions (Mendez, 2003). The study also found that OSS contributes to poor academic performance and failure to graduate. It should be common sense that keeping kids in school will increase graduation rates.

Zero tolerance as a philosophy and approach is contrary to the nature of adolescent cognition and disregards the research in adolescent brain development. The research using magnetic resonance imaging (MRI) found that the frontal lobe of the brain, which filters emotion into logical response, is not fully developed until about age 21 (Giedd et al., 1999). Adolescents are "biologically wired to exhibit risk-taking behaviors, impulsive responses, and exercise poor judgment" (Teske, 2011).

The implications of these studies within the context of zero tolerance approaches are important to show the negative impact on adolescents. The use of OSS and arrests for behavior that is neurologically normative for adolescents aggravates the existing challenges confronting youth. Neurologically speaking, youth are still under construction and require positive surroundings, including school (Giedd et al., 1999). Removing youth from school settings that serve as a protective buffer increases the probability of negative outcomes for the student, school and the community.

METHODOLOGY: MULTI-INTEGRATED SYSTEMS MODEL

A system is defined as “a set of interacting components, acting interdependently and sharing a common boundary separating the set of components from its environment” (Bozeman, 1979). As shown in Appendix Figure 1, the systems model analyzes organizations by taking into account their inputs in the form of demands and supports and their outputs (or desired outcomes) in the form of services or products. Obviously, it should be the objective of every system to maximize its desired outcomes, which can be achieved by identifying not only the best available resources but also the constraints on the system. This analytical model is called linear programming, which identifies “those values of x , the variables that maximize the linear objective z while simultaneously satisfying the imposed linear constraints and the non-negativity constraints” (Bozeman, 1979). In other words, identifying resources is not enough to realize the greatest outcome. It also requires identifying the factors that are working in opposition to the system or are non-supportive in order to act to minimize these constraints. The idea is to increase supports and decrease constraints.

Students bring to school their unique characteristics, some of which produce negative behaviors (Barber & Olsen, 1997). School systems have tremendous demands beyond the scope of classroom teaching. They must manage a population already difficult by nature of adolescence, but further compounded by mental health disorders demanding an Individual Education Plan (IEP). It is important to understand that there is a larger population of disruptive students with disorders that are not eligible for assessment and treatment under the Individuals with Disabilities Education Act (IDEA). The studies show that disruptive students are typically not assessed to determine the underlying reasons for the behavior (Mendez, 2003). This may not be for lack of want, but for lack of resources. School systems already operate with insufficient resources to assist those required by law for services, so how can we expect them to assess a larger population as to which they have no legal obligation?

It also begs another question: Do we really want school systems to be the sole proprietor of all services provided to students given the varying types of social, emotional and psychological needs students bring to school? Should the school system be a “Jack of all Trades?” Within a systems perspective, school systems are not designed to address these needs. On the contrary, most localities have established separate agencies, private and public, to assess and treat these needs including social services, mental health and private providers. With the advent of campus police programs, juvenile courts and juvenile

justice agencies are now drawn into this problem. These questions present an analytical framework problem when we focus only on the organization and not the problem. What should an organization do if the services needed are the primary outcome of other organizations?

The answer to this question brings us to a discussion of collaborative theory and the connecting of organizations to enhance desired outcomes of each participating organization. Applying a systems model to collaborative phenomena requires a shift from the organization to the problem domain (Wood & Gray, 1991). When this shift occurs, the nature of the questions also changes. A problem domain-focused as opposed to an organization-focused analysis drives the evaluator to understanding that each system sometimes works within a larger system with shared boundaries. Instead of asking how do we address disruptive students, which will lead to punitive measures given the shortfall of resources, the question becomes who else shares our problem and has resources to help us? We call this the Multi-Integrated Systems Model as shown in Appendix Figure 2. This model and integrates each system's outputs toward a single desired outcome.

A review of the literature reveals several definitions of collaboration, but we have chosen the following we believe encompasses all attributes of collective action:

Collaboration occurs when a group of autonomous stakeholders of a problem domain engage in an interactive process, using shared rules, norms, and structures, to act or decide on issues related to that domain (Wood & Gray, 1991).

This definition, however, does not identify how collaboration begins and by whom, which requires a discussion of leadership and other related factors that drive organizations to take collective action to solve a problem.

Generally, organizations that seek collaboration do so when influenced by any one or combination of factors that include consequential incentives, interdependence or uncertainty (Emerson, Nabatchi & Balogh, 2011). It is important to understand that these factors may be used by one organization to influence another to join a collaborative effort. For example, a juvenile court judge who recognizes a 1,248 percent increase in school referrals to the court—of which 92 percent are low level offenses including school fights, disorderly conduct, and disrupting public school, as was the case in Clayton County, Georgia—is burdened with an overwhelming docket. This becomes a consequential incentive to address the negative impact of zero tolerance.

It also becomes an opportunity to show police and the school system the negative impact of low level referrals, including a decline in graduation rates and little to no improvement in reducing drugs and weapons on campus. It is an opportunity to convince the other stakeholders that the problem is interdependent because no organization on its own can increase graduation rates, improve school safety and reduce the court docket. To act alone brings some uncertainty, but acting together reduces fear of the unknown through the “interactive process,” also coined “Principled Engagement” (Emerson, Nabatchi & Balogh, 2011).

There remains one other factor essential to driving collective action-leadership. There is usually an identified leader in a position to initiate the collaborate effort. Leadership typically takes the form of a convening role. A convener’s role is “to identify and bring all the legitimate stakeholders to the table” (Gray, 1989). The convener, in order to be effective, must possess the following characteristics:

- **Convening Power**—the ability to bring stakeholders to the table;
- **Legitimacy**—the stakeholders perceive the convener to have authority, formal or informal, within the problem domain;
- **Vision**—the convener understands the problem domain and related issues to process stakeholder concerns and needs; and
- **Stakeholder Knowledge**—the convener can identify the stakeholders and possesses knowledge of each stakeholder role in the problem domain (Gray, 1989).

Some literature includes neutrality as a convener characteristic, but from our experience in the three jurisdictions discussed below, neutrality is not necessary if the convener’s role is limited to bringing stakeholders together. It is difficult to be unbiased if the convener is also a stakeholder, and to exclude a stakeholder from convening a collaborative may be detrimental to initiating action. We recommend that a stakeholder convener identify a neutral facilitator to engage the stakeholders during the “interactive process.”

Within the problem domain of zero tolerance, we recommend the Judicial Leadership Model (JLM) to bring stakeholders together. The juvenile court is the one place where all agencies serving children and youth intersect. The juvenile court is the common denominator of all child service agencies (Teske, 2011). With the juvenile court situated at the crossroads of juvenile justice, the juvenile judge is placed in a unique role. (Teske & Huff, 2010). Juvenile judges are “incomparable agents for change within the juvenile justice system, and with the respect and authority accorded the bench, are

in a unique position to bring together system stakeholders” (Teske & Huff, 2010). Juvenile court judges possess all of the characteristics of an effective convener. Their authority on the bench translates into informal authority off the bench (Wood & Gray, 1991). Former National Council of Juvenile and Family Court Judges president Judge Leonard P. Edwards said it best: “This may be the most untraditional role for the juvenile court judge, but it may be the most important.”

The stakeholder must identify the stakeholders of the problem domain, but only after defining the problem. The problem informs us who must be at the table. When Clayton County began its stakeholder meetings, it began with a single objective to reduce school arrests. After the “interactive process,” it became evident that the problem was bigger than school arrests, which led to understanding that the solution was multi-faceted. A convener must understand that the stakeholder’s self interests and the problem domain’s collective interests are not always clear and distinct (Wood & Gray, 1991). Stakeholders come to the table with their own interests and these interests may or may not be shared, differing, or opposing (Wood & Gray, 1991). The facilitator must engage the stakeholders in a fair and open discourse that identifies all the interests. This “interactive process” may present new questions, issues and interests that in turn may lead to identifying other stakeholders who should be at the table.

THE COLLABORATIVE APPROACH

In 2003, the juvenile court judge in Clayton County, acting as convener, invited the School Superintendent and Chief of Police to meet and discuss the overwhelming increase of school referrals to the juvenile court and how this may be handled in other ways. Our meetings generated more questions as a result of each stakeholder’s self interest. What are school administrators to do with these disruptive students who no longer referred to the court? When should police intervene in school disruption matters? How do we identify the underlying problems causing the disruption? What do we do to address those problems given the limited capacity and resources of the schools? How do we ensure the safety of the schools? The collaborative process generated new and difficult questions that extended the time to develop a system to meet the goal. It also required more stakeholders at the table, including mental health, social services, private providers, parents, youth and the NAACP. The judge appointed a neutral person to facilitate the meetings. The judge participated in the discussions but limited his role to convener.

The judge convened the meetings twice a month. The facilitator assigned tasks to stakeholders between each meeting. The “interactive process” took nine months. The stakeholders agreed that two written agreements or Memoranda of Understanding (MOU) were necessary to address the interests of all stakeholders: 1) reduce suspensions, expulsions and arrests and 2) develop alternatives to suspension and arrests including assessment and treatment measures for chronically disruptive students. The first MOU, titled “School Referral Reduction Protocol,” identified misdemeanor offenses no longer eligible for referral to the juvenile court unless the student has exhausted a two tier process that includes: warning on the first offense to student and parent; referral to a conflict skills workshop on the second offense; and referral to the court on the third offense. The second MOU created a multidisciplinary panel to serve as a single point of entry for all child service agencies, including schools, when referring children, youth and families at risk for petition to the court.

The panel, called the Clayton County Collaborative Child Study Team (Quad C-ST), meets regularly to assess the needs of students at risk for court referral and recommends an integrated services action plan to address their disruptive behavior. The panel consists of a mental health professional, the student’s school social worker and counselor, a social services professional, juvenile court officer and approved child service providers, and is moderated by a trained facilitator provided by the court. The panel links the child and family to services in the community not available to the school system. The panel developed an array of evidence-based treatment programs such as Functional Family Therapy, Multisystemic Therapy, cognitive behavioral programming and wrap-around services.

OUTCOMES

When police were placed on middle and high school campuses in the mid-1990s, the number of referrals to the juvenile court by 2004 increased approximately 1,248 percent. Approximately 92 percent of the referrals were misdemeanor offenses involving school fights, disorderly conduct and disrupting public school--infractions traditionally handled in school using school code of conduct responses. In addition to school arrests, the rate of OSS increased and by 2003 graduation rates decreased to 58 percent (Clayton County Public School System, 2010).

Altogether, one-third of all delinquent referrals to the court were from the school system, and most were minor offenses (Clayton County Juvenile Court, 2010). These referrals contributed to a large increase in probation caseloads, averaging approximately 150 probationers involving minor offenses and kids not considered a high risk to re-offend or a public safety risk. These were kids who may make you mad, but in a juvenile justice context, did not scare you. The increased number of probationers, of which most were low risk to commit a delinquent act in the community, reduced the level of supervision and surveillance of the serious offenders. Resources were wasted on the youth who made us mad instead of concentrated on the youth who scared us. This resulted in high recidivist rates that compromised community safety.

By 2003, with referrals, probation caseloads, and recidivist rates increasing, and graduation rates decreasing, the system was under stress. It was time to evaluate how the system should respond to disruptive students in light of the research indicating that punishment alone, whether by suspension, expulsion or arrest, exacerbates the problem for the students, schools and the community. These findings demonstrate the importance of a dualistic approach in integrating community systems to reduce reliance on punitive measures while at the same time provide additional resources for school systems to assess and treat disruptive students.

Following the School Referral Reduction Protocol, referrals to the court were reduced by 67.4 percent. The school police had spent most of their time arresting students for low-level offenses. The implementation of the protocol produced a residual effect in the felony referral rate with a decrease of 30.8 percent. According to school police, the warning system was used for some felony offenses involving typical adolescent behavior. The decision by school police over time to extend their discretion to use the warning for certain offenses outside the scope of the protocol indicates a shift in cognition. When prohibited from making arrests, school police began to engage students and developed an understanding that discipline should be applied on a case-by-case basis. This resulted in even greater reductions in referrals.

After the protocol was implemented, the number of students detained on school offenses was reduced by 86 percent. The number of youth of color referred to the court on school offenses was reduced by 43 percent.

Another byproduct of the protocol was a 73 percent reduction in serious weapons on campus. These involve weapons outside the discretion of police and must be referred to the court by law. These results appear to refute the belief among school administrators that zero tolerance promotes school safety.

A survey of school police shows that the cessation of school arrests increased police presence on campus because they were no longer leaving campus to transport and file referrals. This in turn increased their knowledge of the student body. Their increased presence promoted friendly engagement of students. This positive engagement coupled with the student's perception that the police were there to help (because arrests drastically declined) produced sharing of information by students to police about concerns on campus. Consequently, students share information that leads to solving crimes in the community as well as crimes about to occur on campus. "Schools are a microcosm of the community" as stated by the supervisor of the school police unit (Richards, 2009). If one wants to know what is going on in the community, talk to the students. However, the students must want to talk to you. Therefore, the aim of school policing is to gather intelligence of student activity through positive student engagement.

The response by police to the change in the handling of disruptive students exemplifies human adaptation to systemic adjustments. Although the primary objective was the adjustment of system routines to reduce referrals in order to reduce court dockets, probation caseloads, and increase graduation rates, no one predicted such a considerable improvement in school safety. One study found that people within a system, whether they are police or school administrators, will modify their routines and practices to suit the new situation (Berkhout, Hertin & Gann, 2006). Confronted with greater time on campus and placed in a less confrontational role with students, police altered their law enforcement approach to gather information that can be used to prevent crimes on campus and in the community.

At the same time, the School Referral Reduction Protocol went into effect; the Quad C-ST began work to develop alternatives to OSS and connect the school system with other community providers. These alternatives resulted in an 8 percent decrease in middle school OSS (Clayton County Public School System, 2010).

After implementing these integrated systems, the school system observed an increase in graduation rates, resulting in a 24 percent increase by the end of the 2010 school year surpassing the statewide average. By 2004, the juvenile felony rate in Clayton County reached an all-time high, but declined 51 percent after creating the integrated systems.

Some of these results have been replicated in other jurisdictions including Birmingham, Alabama and Wichita, Kansas. The family court judge in Birmingham was the first to replicate this collaborate approach. During the 2007-08 school year, school police in Birmingham referred 513 students to court of which 99 percent were African American and 96 percent were for

petty misdemeanor offenses. The judge also brought stakeholders together and developed a written protocol similar to that of Clayton County. The referrals declined by 75 percent and detention rates fell by 72 percent between 2004 and 2011. Recently, the juvenile judge in Wichita convened stakeholders meetings and established a protocol resulting in a 50 percent decrease in school arrests.

CONCLUSION

The results from the collaborative efforts of three jurisdictions support the research that overuse of OSS and school arrests decrease graduation rates and is counter-productive in promoting school and community safety. The results in Clayton County reveal that a collaborative effort to assess and treat chronically disruptive students provides school systems with the additional resources needed to effectively address the behaviors. This approach relieves school systems from relying on the traditional punitive approach while simultaneously reducing court dockets and probation caseloads to improve the supervision of youth who scare the community. It also reveals a better method of policing that is grounded in improving human relations between police and students. The replication of outcomes in three different jurisdictions in different states shows the effectiveness of the collaborative approach using the Judicial Leadership Model.

Finally, the Multi-Integrated System Model is key to improving the education and safety of students because of the causal relationship between OSS, school arrests and graduation rates. Arguably, as more students graduate, fewer students drop-out and commit crimes. Unless stakeholders in the problem domain of zero tolerance collaborate to combine their knowledge and resources, suspensions and arrests will continue to push out students from a protective system into a delinquent system that is intended the fewer youth who seriously scare us.

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