

Zero Tolerance = Zero Results

[James R. Marsh](http://www.childlaw.us/author/jamesmarsh/)

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A recently published research brief by [Child Trends \(http://childtrends.org/\)](http://childtrends.org/), *Multiple Responses, Promising Results: Evidence-Based, Nonpunitive Alternatives To Zero Tolerance*, suggests that zero tolerance school discipline policies have not been proven effective by research and may have negative effects, making students more likely to drop out and less likely to graduate on time. Instead, the brief recommends the use of nonpunitive disciplinary action, such as behavior interventions, social skills classes, and character education.

Unfortunately, no one told law student Jason Fuller who just wrote a [law review article \(https://www.uakron.edu/dotAsset/1820605.pdf\)](https://www.uakron.edu/dotAsset/1820605.pdf) in the Akron Law Review entitled *Corporal Punishment and Child Development* which argues that “lawmakers and child welfare workers should pay more attention to the research suggesting that physical discipline can be helpful.”

Fuller links everything from the “rise in juvenile assaults and youth homicides” and the oft bemoaned “problems and inadequacies in today’s kids” to the “tremendous decrease of spanking during the past fifty years.”

Fuller’s article is apparently what passes for “scholarship” at an institution which was recently [ranked \(http://grad-schools.usnews.rankingsandreviews.com/best-graduate-schools/top-law-schools/law-rankings/page+6\)](http://grad-schools.usnews.rankingsandreviews.com/best-graduate-schools/top-law-schools/law-rankings/page+6) 127 out of 143 law schools. (As a University of Michigan alum I also note that he’s an Ohio State grad which [more than anything \(https://en.wikipedia.org/wiki/Michigan_%E2%80%93Ohio_State_football_rivalry\)](https://en.wikipedia.org/wiki/Michigan_%E2%80%93Ohio_State_football_rivalry) probably explains most of this article).

Fuller goes on to posit that although “spanking is a primitive discipline method. . . a child’s mind is also primitive. . . kids learn from the tangible to the intangible—from the concrete to the abstract. It is during the tangible, concrete stages when physical discipline seems to be the most helpful.”

He concludes:

In this light, perhaps it makes sense why youth dysfunction is increasing at the same time that corporal punishment is decreasing. To function in society, people must learn to control themselves enough to not break the law or harm other people. While not every child learns this the same way, a number of them seem to learn it through at least some corporal discipline—a tangible tool that can complement their primitive learning stages.

Fuller’s polemic takes on everyone from the Swedes (who banned corporeal punishment in 1928) to the “so-called treaty” known as the U.N. Convention on the Rights of the Child and the American Academy of Pediatrics warning ominously that “it’s happening in America too.”

That “it” is the apparently permissive attitude which has led to the outlawing of corporal discipline in “schools, foster homes, public institutions and daycare facilities through the country.” Worst of all, “social workers are even being trained to condemn it when on private home visits.”!!

Bemoaning the fact that America looks more like Sweden than Singapore where “schoolteachers corporally punish unruly students, parents cane their children, and the government whips adults as criminal punishment,” Fuller explains “it is not a question of whether a parent spansks, but how she spansks. Families with the worst outcomes tend to spank inconsistently or in frustration. Families with the best outcomes (Authoritative families) tend to spank constructively, when necessary to enforce their high demands.”

He concludes

All children have a right to learn in a way they can understand. But if we ban spanking, we risk robbing some of them of the fundamental human right to learn and mature normally.

Given the dearth of law jobs out there, Mr. Fuller is perhaps best suited for employment in a [public school system](http://www.childlaw.us/2010/05/sexting-student-sues-school.html) (<http://www.childlaw.us/2010/05/sexting-student-sues-school.html>) in the Commonwealth of Pennsylvania. Either that or District Attorney of [Wyoming County](http://www.childlaw.us/2009/03/sexting-students-strike-back.html) (<http://www.childlaw.us/2009/03/sexting-students-strike-back.html>) or a judge in [Luzerne County](http://www.childlaw.us/2010/08/a-lawyers-guide-to-luzerne-cou.html) (<http://www.childlaw.us/2010/08/a-lawyers-guide-to-luzerne-cou.html>).

In other words, Go East Young Man and Grow Up with the Country.

Read the full ChildTrends report [here](http://www.childtrends.org/Files/Child_Trends-2011_03_01_RB_AltToZeroTolerance.pdf) (http://www.childtrends.org/Files/Child_Trends-2011_03_01_RB_AltToZeroTolerance.pdf).

Fuller's screed can be found [here](https://www.uakron.edu/dotAsset/1820605.pdf) (<https://www.uakron.edu/dotAsset/1820605.pdf>).

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5 Replies to "Zero Tolerance = Zero Results"

wayward May 3, 2011 (11:38 pm)

What bothered me the most about the Fuller article wasn't his opinions on spanking. The big problem was that he repeatedly misrepresented the research he cited. This is considered academic misconduct. In his case, it may have been due to ignorance or reading comprehension problems rather than deliberate dishonesty. But it's worrisome that someone can get a law degree, even from a low-ranked school, without understanding that this is unacceptable.

On page 35, he says, "Interestingly, when Dr. Straus studied physical and mental punishments—grounding, privilege removal, allowance removal, and sending kids to their room—spanking performed just as well as, or better than, the mental punishments."

Let's look at the citation that supports his assertion that Straus found that spanking performed as well or better than "the mental punishments" (a phrase that Fuller uses repeatedly).

187. Compare Murray A. Straus, D.B. Sugarman & J. Giles-Sims, Spanking by Parents and Subsequent Antisocial Behavior of Children, 151 ARCHIVES PEDIATRICS & ADOLESCENT MED., 761-67 (1997) (researching spanking, grounding, privilege removal, allowance removal, and sending children to their room), with Larzelere, Meta-Analysis, supra note 20, at 32.

Huh? He's talking about something that *Straus* supposedly said, and he's got this bizarre citation telling the reader to compare Straus's work with Larzelere's.

He also brings up conduct disorder. On page 62, he claims "Today, more and more adolescents are in the same position: self-control is a foreign concept to them." His citation for his claim about what is going on "today" is a textbook published in 1988 – more than 20 years ago. Spanking kids was still pretty common in the 70s and 80s. For his next sentence ("Youth dysfunction is now rampant and longer lasting;"), he takes a flying leap into the future and cites a book that's a mere 12 years old to inform us about the current state of affairs. He then goes on to say, "Over half of them admit to theft, 35% admit to assault, and 45% admit to destroying property." Who is "them?" He never really fills us in, but since he's referring to a 1987 book on conduct disorder, we could assume that he's specifically talking about children diagnosed with conduct disorder, rather than children in general.

Conduct disorder is indeed a big problem, since it may develop into antisocial personality disorder when the child becomes an adult. Here's the American Academy of Child & Adolescent Psychiatry's page on it:

http://www.aacap.org/cs/root/facts_for_families/conduct_disorder
(http://www.aacap.org/cs/root/facts_for_families/conduct_disorder). What are the possible causes? It says, "Many factors may contribute to a child developing conduct disorder, including brain damage, child abuse, genetic vulnerability, school failure, and traumatic life experiences." Treatment may involve behavior therapy, psychotherapy, special education, special management plans at home and school, and medication.

Not too surprisingly, Fuller has a simpler suggestion. On page 64, he claims that mental health professionals have overlooked "the various studies that document how spanking interventions have helped kids with this very type of problem." Does this guy really believe that most kids with conduct disorder come from well-off families that are too politically correct to try spanking? But hey, let's check out the "various studies" that he cites. We get this odd citation:

"373. Compare, e.g., id. (never once citing studies where spanking has been used as an effective intervention), with supra note 20."

Note 20 is a long list of studies related to spanking and other forms of punishment, but none of them specifically studied children with conduct disorder. If there really have been any studies establishing that spanking is an effective approach to treating conduct disorder, Fuller hasn't found it.

If school employees administered “Spankings” or “Paddling” to schoolchildren in public by hitting them with wooden boards, they would be arrested for assault like anyone else, a Police Officer, Lawmaker or U.S. Supreme Court Justice!

Schoolchildren are the ONLY GROUP OF PEOPLE in the U.S. legally subjected to Physical Pain as Punishment, already illegal in Schools in 31 states, over half our nation, qualifying it as Cruel and Unusual Punishment!

Federal Law prohibits corporal/physical punishment of convicted felons in U.S. Prisons.

Paddling injuries put school districts at risk of lawsuits.

Get the Facts, search “A Violent Education”. Please add your voice at Unlimited Justice dot com, National Campaign to End School Paddling of Children.

Judi Speir-Crawford (<http://JudiSocialWorker>) May 5, 2011 (3:43 pm)

We were spanked quite liberally as children, pants off with a razor strop. My brothers reacted by increasing their acting out behavior and rage against our parents. They had school problems, not due to lack of intelligence, substance abuse, problems with the law, and were violent in the home, school and community. The nuns also abused my brother with a very thick yard stick before kicking him out of Catholic school. So much for corporal punishment. By the way, my mother died alone; none of us would see her or take care of her in her old age. We all hated her! Our father died early. I did not shed a tear. Also we girls had serious problems, but acted in, not out and both sibs had substance abuse problems. Additionally, I have seen so much abuse and spanking, especially of young black boys when the parents mistakenly try to get them to act like “little men” or to follow the Bible and not spare the rod. This follows 40 years of working with this population as a teacher, guidance counselor, and a Director of programs for abused and neglected youth, and finally as a child psychotherapist, that most people could not even begin to believe the rage and sadness that these children and adolescents carry. Of course other populations also abuse their children to, but I feel that I must speak what I have seen, as unpopular as it might be.

Vinnie Mpsuj August 10, 2011 (5:37 pm)

While I empathize with the folks above and their estimable points, I think we need to tip our collective hat to Mr. Fuller. He has tried to give us an entirely different view. Kinda like the Wright brothers and lots of others with the force of conviction to do their best to try to advance something we perhaps have overlooked.

With the last part of the initial quote Fuller sets the tone: “Isn’t time that we SERIOUSLY ask ourselves the question whether we no longer really understands the needs of children? And that we should stop believing only the answers that confirm us as adults”

I myself might even be so bold as to toss in Matthew 18:4 here.

Anyway, Mr. Fuller has tried to give us some insight about how children’s stages of growth, may just make quite a difference as to what punishment might be effective. He also makes a pretty good analysis as to the efficacy of a half dozen parenting styles, which indeed may have some sort of involvement or growth – or blending- as well. E.g.:see the chart on page 42.

Now I do not advocate harm — at all. But there ARE certainly times when a few swats can be just what the doctor ordered. I would agree that it almost seems paradoxical that the youngest are the best candidates for a little palm to keister action – and the attendant sensory PAIN. And yet there may be at least a modicum of justification – especially when we are perhaps willing to align with Fuller’s key “one-two punch” of the best parents being demanding AND responsive, and simply recognize that some PAIN CAN TEACH ! See punishment methods on pg 52.

Mr Fuller struck me as reasonable. I am in accord with his position that “few children are as easily traumatized as psychologists imagine; most THRIVE on challenges and are motivated by a DRIVE for competence.[but] Even in a highly responsive family the PRUDENT use of punishment seems to be a ‘necessary tool’ to promote the child’s development. And indeed, in STUDY AFTER STUDY, no matter the context, kids have been shown to develop best with Authoritative parents – parents who gave them a high level of responsiveness AND demands; a lower level of either tends to be LESS beneficial.” See pg 39.

Fuller explains responsive thusly: “Responsive means the parents’intentionally FOSTER individuality and self assertion, by being attuned, supportive, and acquiescent to children’s needs AND demands. Demanding means the parents MAKE their children become INTEGRATED into the community by their maturity expectations, supervision, disciplinary efforts, and

willingness to confront a disputative child. Demanding parents supervise and monitor their children's activities by directly confronting rather than subtly manipulating them and, thus may engage in open conflict with their children at points of disagreement." See pg 37.

Give Mr. Fuller credit. I hope he has opened a few eyes.

As Fuller says in ending: "All children have the right to learn in a way they can understand. But if we ban spanking, we RISK robbing them of the fundamental human right to learn and mature normally."

As to the persons who'd wish to judge a writer by the school s/he attends, well, back in the day such wholesale disrespect might have demanded a swift spanking, eliciting attitude of appropriate future respectful responsiveness which can make a parent smile broadly !! (knowing that their timely "discipline intervention" indeed helped ensure some vital LEARNING point and facilitate a maturation thrust.

Consider the effect on Richard Parsons: "I felt it". See pg 47. He was speaking of love from his parents. Good for him !

So why was Mr. Fullers article in the law review? I would assume to help affect thinking on public policy, insofar as: "we should not leave [children] to learn at the hand of the criminal justice system". Pg 66. That system obviously can be very, VERY damaging.

Yeah, lets consider the value of prudently nipping things in the bud, as parents who naturally love our children, and wish to truly meet their developmental needs.

Vinnie Mpsuj.

p.s. I'm a fellow who was only spanked once by my father, and who got a light strapping once as well by my mother, some 4 decades ago. Even my former spouse who had employment with CSB thought that a one-time use of a strap could help curb behavior; although - in that case - I did not concur with the idea of magnifying power with an implement. It did not strike me at the time as being prudent. However she - within her rights - opined to the contrary.

JD November 5, 2011 (12:08 am)

I came across this blog looking for a counterpoint to Mr. Fuller's article.

I found personal attacks and nit-picking, but nobody addressed his simple points about the balance between concrete vs. abstract repercussions for primitive mental development.

I did enjoy the thought that nothing good comes out of Ohio (been saying that to my Buckeye wife for 10 years), but it's a shame you didn't actually address anything of consequence.

Guess I'll keep googling around and hopefully come across an intelligent response elsewhere.
