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Corporal Punishment in U.S. Public Schools Legal Precedents, Current Practices, and Future Policy

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Corporal Punishment in U.S. Public Schools

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and Future Policy

 Springer

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Foreword

In this notable brief, Gershoff and colleagues bring to the attention of readers a little known practice in the United States, *Corporal Punishment in Public Schools*. As of this writing, 19 states allow corporal punishment in schools. Behavior that is not considered legal of parents or juvenile detention guards is considered acceptable of school personnel to control student behavior. Somewhat surprisingly, corporal punishment is delivered for minor infractions such as poor school performance and talking in class. Disturbingly, there are significant differences in who is the recipient of corporal punishment including males, African Americans, and students with disabilities.

Professional organizations including the American Psychological Association, American Academy of Pediatrics, American Bar Associations, American Medical Association, and National Association of Social Workers to name a few have called for a ban on corporal punishment in U.S. public schools. This brief provides compelling evidence on why such a ban is necessary. The brief presents not only the historical and legal precedent of corporal punishment in schools but provides a policy analysis at the state level. The state level analysis indicates that over time, states that ban corporal punishment do not see an increase in juvenile offenses. Gershoff and colleagues reason that if corporal punishment is used to manage uncontrollable behavior that places a child at risk for potentially unruly behavior then the elimination of corporal punishment should result in an increase in juvenile offenses. These numbers alone may not provide advocates with the evidence they need to call for a ban on corporal punishment in schools. Rather it is the entire context of corporal punishment that Gershoff and colleagues present that arms advocates with a call for change. The legal precedence, discriminatory practices, and insubstantial evidence that punishment leads to positive behavior change confirm the call to action made by so many professional and scientific organizations.

The brief closes with 11 summary statements and a briefing sheet. These summaries are intended to be used in educational and advocacy settings to inform decision makers and stakeholders who would like to know more about the prevalence and precedence of corporal punishment in U.S. schools and the potential for change at the local and federal level.

Barbara H. Fiese
Editor in Chief, *Advances in Child and Family Policy and Practice*

Preface

Over 200,000 U.S. children were subject to school corporal punishment in the 2009–2010 school year. Although permitted by the Supreme Court and by the legislatures of 19 states, a majority of Americans disapprove of school corporal punishment and a large number of professional organizations condemn it. This monograph discusses the past, present, and future of school corporal punishment in the U.S. We first summarize current and historical prevalence of corporal punishment and attitudes about it, as well as disparities in its use by gender, race, and disability. We next present what is known about the impacts of school corporal punishment on children and present results from a policy analysis that examines the effect of state-level school corporal punishment bans on trends in juvenile crime. We then review the legal basis for school corporal punishment and end by discussing potential legal, policy, education, and advocacy avenues for reduction and potential abolition of school corporal punishment at local, state, or federal levels.

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Executive Summary

Corporal Punishment in U.S. Public Schools

Schools are one of the last public institutions in the U.S. in which corporal punishment is still legal. School corporal punishment typically involves striking a child on the behind with a wooden paddle. There are many reasons to be concerned about the continued use of corporal punishment in schools and to recommend that it be banned.

Whom Does the Issue Affect?

School children from preschool through senior year of high school can be legally subject to corporal punishment in 19 states: Alabama, Arizona, Arkansas, Colorado, Florida, Georgia, Idaho, Indiana, Kansas, Kentucky, Louisiana, Mississippi, Missouri, North Carolina, South Carolina, Oklahoma, Tennessee, Texas, and Wyoming. Corporal punishment in schools is permitted by a 1977 Supreme Court decision (*Ingraham v. Wright*). In the years since that decision, 31 states have banned corporal punishment from schools along with many school districts within the 19 states where the practice is still legal.

What Is the Extent of the Problem?

In the 2009-2010 school year, a total of 218,466 students were disciplined with corporal punishment, a rate of 5 out of every 1,000 students nationally. Among states that allow school corporal punishment, Mississippi corporally punishes the highest proportion of students at nearly 8 out of every 100 students.

There is clear evidence of disparities by gender, race, and disability status in who is subject to corporal punishment. Boys, Black students, and disabled students are significantly more likely to experience corporal punishment in schools than their counterparts. These disparities are in contravention of three federal laws that prohibit discrimination by race, gender, or disability status, namely Title VI of the Civil Rights Act of 1964, Title IX of the Education Amendments of 1972, and Section 504 of the Rehabilitation Act of 1973.

What Are the Facts?

There is no empirical evidence showing school corporal punishment to be effective at or necessary for reducing student misbehavior. Rather, there is a large body of empirical evidence demonstrating that corporal punishment is linked with a range of unintended negative side effects, including aggression, delinquency, and mental health problems. States that allow school corporal punishment have lower achievement than states that do not. States that banned corporal punishment from public schools have not experienced increases in juvenile delinquency.

Corporal punishment in schools often leads to physical injuries of children, in large part because a typical paddle used to administer corporal punishment is a 2 foot long by 4 inch wide by ½ inch thick wooden board. The Society for Adolescent Medicine (2003) has estimated that between 10,000 and 20,000 students require medical attention as a result of school corporal punishment each year.

The U.S. is one of the last countries to allow corporal punishment in public schools. A total of 122 countries around the world have banned school corporal punishment. The United Nations has declared that corporal punishment violates children's human rights as guaranteed by the Convention on the Rights of the Child, and inter-governmental organizations such as the Council of Europe and the Inter-American Commission on Human Rights have called for the abolition of corporal punishment in schools and in all contexts.

What Can Be Done?

School districts that currently allow corporal punishment can work to reduce and eventually eliminate the practice by educating teachers and administrators about the ineffectiveness and harmfulness of corporal punishment and about the proven effectiveness of other disciplinary and prevention methods, such as school-wide positive behavior interventions and supports and social emotional learning programs.

More permanent bans on school corporal punishment could take place at several levels. School districts could develop regulations that ban corporal punishment. State legislatures could pass bans on school corporal punishment. The U.S. Congress could prohibit corporal punishment as a condition of receiving federal education funding through a bill such as one introduced by Rep. Carolyn McCarthy in 2014 (H.R. 5005: *Ending Corporal Punishment Act of 2014*). A case illustrating the harm of school corporal punishment could be brought before the Supreme Court to force it to revisit its 1977 *Ingraham v. Wright* decision.

The American public is largely opposed to corporal punishment by school personnel, with 77 % of adults in a 2005 national poll agreeing that teachers should not be allowed to spank students. Bans on school corporal punishment have been called for by a range of prominent professional organizations in the U.S., including the American Academy of Pediatrics, the American Bar Association, the American Medical Association, the American Psychological Association, the National Association for State Boards of Education, National Association of Elementary School Principals, and the National Association of Social Workers. In addition, the Unitarian Universalist Association of Congregations, the United Methodist Church, and the General Assembly of the Presbyterian Church, USA, have each passed resolutions calling for an end to corporal punishment in schools.

Conclusion

School corporal punishment is ineffective at reducing student misbehavior and puts children at risk for physical injury as well as for negative unintended consequences such as increased aggression. Corporal punishment is opposed by a majority of Americans and by many professional groups. It is time for states and school districts to move away from corporal punishment in favor of non-punitive preventive approaches.

Reference

Gershoff, E. T., Purtell, K. M., & Holas, I. (2014). Corporal punishment in U.S. public schools: Current practices, legal precedents, and future policy. *Advances in Child and Family Policy and Practice*.

Contents

1	Introduction	1
1.1	Defining School Corporal Punishment	2
1.2	Goals of This Monograph	4
	References.	6
2	Prevalence of and Attitudes About School Corporal Punishment in the U.S.	9
2.1	Prevalence of School Corporal Punishment in Public Schools	9
2.2	A Note About the CRDC Data	12
2.3	Misbehaviors that Elicit Corporal Punishment in Schools.	12
2.4	State Characteristics Are Associated with School Corporal Punishment.	13
2.5	Attitudes About School Corporal Punishment in the U.S..	17
2.5.1	Public Opinion	18
2.5.2	Educator Opinion	20
2.6	Summary	21
	References.	22
3	Gender, Race, and Disability Disparities in Who Is Subject to School Corporal Punishment.	25
3.1	Disparities by Gender	25
3.2	Disparities by Race and Ethnicity	29
3.3	Disparities by Disability Status	31
3.4	Summary	33
	References.	34
4	School Corporal Punishment Effects on Children	37
4.1	What Can Be Learned from Research on Corporal Punishment by Parents	40

- 4.1.1 Corporal Punishment Is Linked with Increases in Child Aggression 40
- 4.1.2 Corporal Punishment Does Not Increase Desirable Behavior 41
- 4.1.3 Corporal Punishment Is Associated with a Range of Unintended Adverse Side Effects 42
- 4.2 Why Is Corporal Punishment Ineffective? 43
- 4.3 Summary 43
- References. 44

- 5 Policy Analysis: School Corporal Punishment Bans and Juvenile Crime. 47**
- 5.1 Impacts of State School Corporal Punishment Bans on Juvenile Crime. 48
- 5.2 Method 49
 - 5.2.1 Variables and Data Sources 49
- 5.3 Results 54
 - 5.3.1 Base Model—Short Term Effect. 54
 - 5.3.2 Lagged Model—Long Term Effects 55
 - 5.3.3 Robustness Check #1—Lead Models. 55
 - 5.3.4 Robustness Check #2—Adult Crime Rates. 56
- 5.4 Summary 56
- References. 58

- 6 The Legal Basis for School Corporal Punishment. 61**
- 6.1 In Loco Parentis 64
- 6.2 The Supreme Court’s *Ingraham v. Wright* Decision 65
- 6.3 State Laws 66
- 6.4 Summary 67
- References. 67

- 7 Legal and Public Policy Strategies to Reduce or Ban School Corporal Punishment 69**
- 7.1 Legal Remedies 69
 - 7.1.1 International Law and Human Rights 69
 - 7.1.2 The Supreme Court. 71
 - 7.1.3 Lower Court Litigation 74
- 7.2 Changes to Public Policy. 77
 - 7.2.1 Federal Law. 78
 - 7.2.2 State Law 79
- 7.3 School District Policies 83
- 7.4 Summary 83
- References. 83

8 Education and Advocacy Efforts to Reduce School Corporal Punishment 87

8.1 Educational Campaigns 87

8.2 Promotion of Effective Alternatives to Corporal Punishment 89

 8.2.1 School-Wide Positive Behavioral Interventions and Supports 90

 8.2.2 Social Emotional Learning Approaches 91

8.3 Advocacy 91

8.4 Summary 95

References. 96

9 Conclusion 99

9.1 Key Facts that Support Banning Corporal Punishment from U.S. Schools. 100

 9.1.1 Schools Are One of the Last Public Institutions Where Corporal Punishment Is Still Legal 100

 9.1.2 There Is Clear Evidence of Discrimination by Gender, Race, and Disability Status in Who Is Subject to School Corporal Punishment 100

 9.1.3 There Is No Empirical Evidence Showing School Corporal Punishment to Be Effective at or Necessary for Reducing Student Misbehavior, and There Instead Exists a Large Body of Empirical Evidence Demonstrating that Corporal Punishment Is Linked with a Range of Unintended Negative Side Effects 100

 9.1.4 School Corporal Punishment Meets Definitions of Violence and Assault. 101

 9.1.5 School Corporal Punishment Results in Severe Physical Harm and Injury to Children 101

 9.1.6 U.S. States that Have Banned School Corporal Punishment Have Not Seen a Subsequent Increase in Juvenile Crime 102

 9.1.7 Corporal Punishment Undermines Schools’ Efforts to Create a Violence-Free Environment 102

 9.1.8 There Are Effective Alternative Disciplinary Methods 102

 9.1.9 A “Discernible Trend Toward Elimination” of Corporal Punishment Now Exists and Would Support a Case Brought Before the Supreme Court 103

- 9.1.10 Prominent Professional Organizations
and Religious Denominations Have Called
for an End to Corporal Punishment in Schools 103
- 9.1.11 The International Human Rights Community
Has Condemned School Corporal Punishment
as a Violation of Children’s Human Rights,
and a Total of 122 Countries Around the World
Have Banned School Corporal Punishment 103
- 9.2 The Future of School Corporal Punishment in the U.S. 104
- References. 105
- Index 107**

Figures

Fig. 1.1	The 19 states that currently allow corporal punishment in public schools	2
Fig. 1.2	Number of states allowing corporal punishment in public schools by year	5
Fig. 2.1	National prevalence of school corporal punishment among public school students (K to 12) by year of the OCR’s Civil Rights Data Collection from 1976 to 2006.	11
Fig. 2.2	Americans’ approval of school corporal punishment in national polls, 1968–2005.	19
Fig. 3.1	National prevalence of school corporal punishment among public school students (K to 12) by gender for each year of the OCR’s Civil Rights Data Collection from 1976 to 2006	26
Fig. 3.2	National prevalence of school corporal punishment among public school students (K to 12) by race and ethnicity for each year of the OCR’s Civil Rights Data Collection from 1976 to 2006	29
Fig. 5.1	Average rate of observed juvenile offenses from 1980 to 1999 for states that did or did not have a public school corporal punishment ban before 2000	57

Tables

Table 2.1	Prevalence of school corporal punishment in the 2005–2006 school year by state	10
Table 2.2	State-level characteristics predicting whether school corporal punishment is legal in a state as of 2014 (<i>N</i> = 51)	15
Table 2.3	State-level characteristics predicting number of children who received school corporal punishment in the 2005–2006 school year among states where it was legal (<i>N</i> = 21)	16
Table 3.1	National disparities in school corporal punishment of non-disabled students: Odds ratios by gender, race, and ethnicity	27
Table 3.2	Prevalence of and disparities in school corporal punishment by gender and race/ethnicity in the 2005–2006 school year within states in which school corporal punishment was permitted	28
Table 3.3	Prevalence of school corporal punishment by disability status in the 2005–2006 school year by state	32
Table 5.1	Descriptive statistics for variables included in the policy analysis of bans on school corporal punishment	50
Table 5.2	Correlations among variables in the policy analysis of bans on school corporal punishment	51
Table 5.3	Offenses by category from the FBI UCR data used in the policy analysis of bans on school corporal punishment	52
Table 5.4	List of the states that have banned corporal punishment in public schools in order of year of the ban	53
Table 5.5	Results from base, lag and lead models predicting juvenile offenses from presence and timing of school corporal punishment bans	55

Table 6.1	Prohibitions of corporal punishment in five child educational, care, or supervisory settings across all 50 states and the district of Columbia	62
Table 7.1	Countries that have banned all corporal punishment of children, including in homes and schools, with year of ban	72
Table 7.2	Proposed amendment to Subpart 4 of part C of the General Education Provisions Act (20 U.S.C. 1232f et seq.) included in H.R. 5005, <i>Ending Corporal Punishment in Schools Act of</i> (2014), introduced June 26, 2014, by Representative Carolyn McCarthy	80
Table 8.1	List of national organizations opposed to school corporal punishment	94

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Chapter 1

Introduction

Violence in schools has long been a primary concern of school administrators, parents, and students themselves. While school-shootings are the most publicized type of school violence, low level violence that occurs between students in the form of bullying or physical fights in schools is much more common. Three quarters of public schools report that they had experienced one or more violent crimes in the 2009–2010 school year, and 5 % of all students report that they were victimized in schools (Robers et al. 2013). Schools throughout the country have implemented violence prevention initiatives, such as bullying prevention programs, to reduce student-to-student violence.

However, there is one particular form of violence that occurs regularly in schools but is not included in school violence statistics because it is in fact legal in states throughout the country. It is also distinct from bullying and most forms of violence in schools because it involves adults hitting children. This legally accepted form of hitting in schools is corporal punishment of students by school personnel.

Although many Americans may assume it went the way of the one-room schoolhouse, corporal punishment persists as a disciplinary practice in schools throughout the U.S. A majority of states (31) have banned the practice, yet corporal punishment in public schools remains legal in 19 states: Alabama, Arizona, Arkansas, Colorado, Florida, Georgia, Idaho, Indiana, Kansas, Kentucky, Louisiana, Mississippi, Missouri, North Carolina, South Carolina, Oklahoma, Tennessee, Texas, and Wyoming (Center for Effective Discipline 2014; see map of these states in Fig. 1.1). While there has been a running debate in both the academic and public spheres regarding the acceptability and advisability of corporal punishment by parents (Gershoff 2013), school corporal punishment has not received the same scrutiny. The goal of this monograph is to shed light on this disciplinary practice by reviewing what is known about school corporal punishment in the U.S., including how often it is used, what disparities there are in its use, what effects it has on children, and what are the legal bases for its continued use.

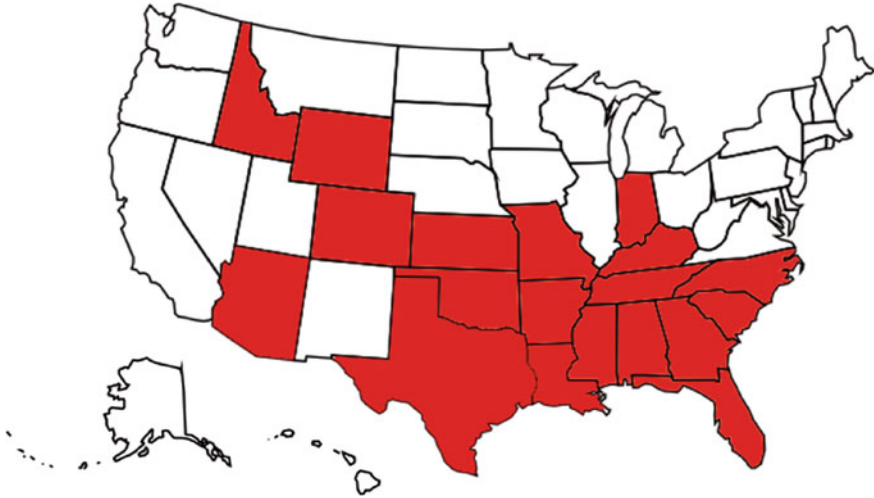


Fig. 1.1 The 19 states that currently allow corporal punishment in public schools (shown in red).
Source Center for Effective Discipline (2014)

1.1 Defining School Corporal Punishment

Corporal punishment is defined generally as the use of physical force with the intention of causing a child to experience pain so as to punish or correct their behavior (Gershoff and Bitensky 2007; Straus 2001; U.N. Committee on the Rights of the Child 2007). This definition applies whether the corporal punishment is administered by parents or by school personnel. The term “corporal punishment” is synonymous with “physical punishment,” but we will use the former as it is the term typically used by school districts in the United States.

The specifics of how corporal punishment is administered are determined at the school-, district-, and even state-levels. For example, the Texas Education Code specifies corporal punishment as:

the deliberate infliction of physical pain by hitting, paddling, spanking, slapping, or any other physical force used as a means of discipline.

The Texas code goes on to clarify that

The term does not include: (1) physical pain caused by reasonable physical activities associated with athletic training, competition, or physical education; or (2) the use of restraint as authorized under Section 37.0021 (Texas Education Code, Title 2, Subtitle G, Chapter 37, Sec. 37.0011).

This last point is key: school corporal punishment does not include physical restraint that school personnel may use to prevent a student from hurting themselves or others. It only refers to the infliction of pain as punishment.

Corporal punishment is most often administered by a school principal or other administrator, but is sometimes administered by a teacher or aide. Children are typically told to bend over with their hands on a desk to brace themselves against the impact (Human Rights Watch and ACLU 2008). The punishment can take place in a variety of locations, including the principal's office, a hallway, or a classroom. Students in Texas and Mississippi have reported in interviews with staff from Human Rights Watch that principals sometimes turn on the intercom when they are administering corporal punishment so that students throughout the school can hear it, under the assumption that this will deter other students from misbehaving (Human Rights Watch and ACLU 2008).

Corporal punishment in schools takes a more severe form than that typically meted out by parents. While spanking a child's buttocks with an open hand is the most common form of corporal punishment in homes (Zolotor et al. 2008), the most common form of corporal punishment in schools is paddling (Human Rights Watch and ACLU 2008). Paddling involves school personnel hitting children on their buttocks with wooden paddles which are typically large, flat, wooden boards. Some school districts have clear guidelines for the dimensions of paddles, such as this notation in a policy statement from the Board of Education in Pickens County, Alabama:

The instrument used in corporal punishment should be wisely selected. A wooden paddle approximately 24 inches in length, 3 inches wide and ½ inch thick is recommended. Paddles with holes, cracks, splinters, tape or other foreign material shall not be used for corporal punishment. (Pickens County Board of Education 2014, p. 27)

This school district also specifies that any instance of corporal punishment should include no more than “three (3) licks administered to the buttocks.” These criteria are similar to those used in other school districts that allow corporal punishment (e.g., Tyler [Texas,] Independent School District 2006). The size of the typical paddle is notable. Given that elementary school children range in average height from 42 inches at age 5 to 55 inches at age 10 (Centers for Disease Control and Prevention 2000), a two foot long paddle can be half as tall as they are.

In some cases, corporal punishment is delivered with instruments other than standardized paddles. A variety of objects has been documented as instruments of corporal punishment in schools, including: a belt, a shoe, a lacrosse stick, a baseball bat, an arrow, an electrical cord, a rubber hose, a yard stick, a broomstick, a 10-foot board, a hammer, and a metal pipe (Human Rights Watch and ACLU 2008; Hyman et al. 1988).

Corporal punishment is not restricted to forms of hitting; children have been choked, pinched, had their hair pulled, been dragged by the arm or by their hair, had meals withheld, had their mouths taped shut, and been pricked with thumb tacks, all in the name of discipline (Human Rights Watch and ACLU 2009; Hyman 1995). Corporal punishment can sometimes involve forcing the child to engage in a dangerous behavior, such as remaining in a fixed position for a long period of time, exercising excessively without a break or water, or ingesting noxious substances such as cigarettes (Hyman 1995). While not all of such punishments would meet the

specifications for corporal punishment spelled out in school policy manuals such as the one cited above, they do use physical force or pain as a means of discipline and thus are in the general sense “corporal” punishments. However, in this monograph, we will focus on the form of corporal punishment traditionally practiced in schools, namely paddling a child on the behind with an object.

1.2 Goals of This Monograph

Corporal punishment has been used in American schools for centuries and, as will be demonstrated in this monograph, tens of thousands of children are still corporally punished in schools throughout the country. Few attempts have been made to document who continues to receive corporal punishment, whether there is any discrimination in who receives it, and how each has changed over time. There is very little research about the effects of school corporal punishment on children. There is also little known about any benefits or downsides to banning corporal punishment from schools, or about the demographic and political contexts that determine whether, and how much, corporal punishment is used in schools. This monograph will help fill each of these gaps in what is known about school corporal punishment in the U.S.

Why study a practice that is already on the decline? While it is true that school corporal punishment has declined over the years (see Chap. 2), the U.S. appears to be at a plateau in the number of states that have banned corporal punishment from public schools. As seen in Fig. 1.2, in the 20 years between 1974 and 1994, there was a steep drop in the number of states allowing school corporal punishment as 25 states passed legal bans on school corporal punishment. However, in the subsequent two decades there has been a leveling off as only 5 states passed bans between 1994 and 2014. Understanding what differentiates the states that continue to allow school corporal punishment from those that do not is important if further reductions in school corporal punishment are to be achieved.

In this monograph, we summarize the available data on school corporal punishment from federal government statistics, published empirical studies, and a new policy analysis. In Chap. 2, we compile data on current and historical prevalence of school corporal punishment and review Americans’ attitudes about school corporal punishment from a range of surveys. Chapter 3 includes an analysis of disparities in who is subject to school corporal punishment by gender, race, and disability status. In Chap. 4, we present a summary of the empirical literature on the effects of school corporal punishment, and corporal punishment generally, on children. Chapter 5 features the results from a new policy analysis of the effects of state-level bans on school corporal punishment on rates of juvenile crime. In Chap. 6, we turn to the legal basis for school corporal punishment across the country as established in state laws and regulations as well as in federal case law. We then provide an extensive exploration of legal and public policy avenues to reduce or eliminate school corporal punishment in Chap. 7, while in Chap. 8 we summarize educational and advocacy

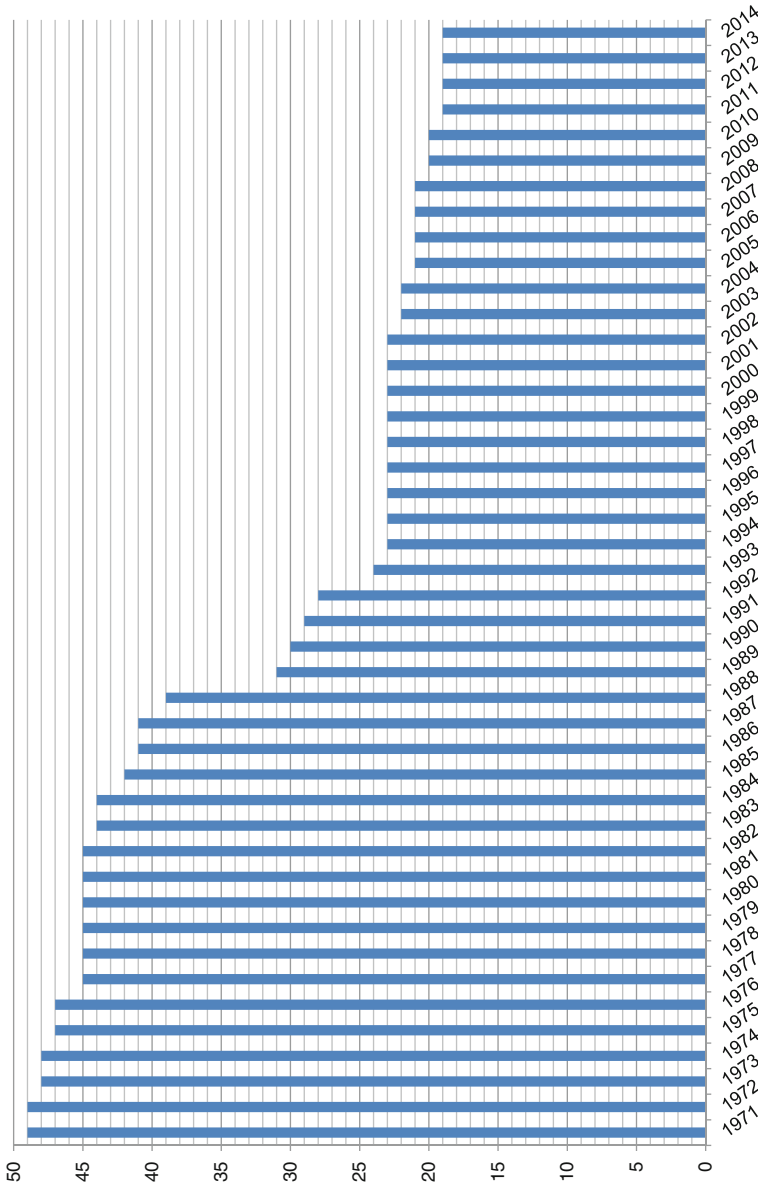


Fig. 1.2 Number of states allowing corporal punishment in public schools by year. *Note* New Jersey banned school corporal punishment in 1867

approaches to reducing school corporal punishment. We end the monograph with a Conclusion that integrates across the chapters and identifies key themes.

Before we begin, we wish to clarify that this monograph is focused on corporal punishment in public schools. While corporal punishment in *public* schools is legal in 19 states, corporal punishment is legal in *private* schools in 48 states—all except Iowa and New Jersey (Bitensky 2009). However, because state education laws and school district discipline policies apply primarily to public schools, and because data on school corporal punishment is only available for public schools (who must report their use of corporal punishment to the U.S. Department of Education), we focus in this paper on corporal punishment in public schools. Future work is needed on the prevalence and effects of corporal punishment in private schools.

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Chapter 2

Prevalence of and Attitudes About School Corporal Punishment in the U.S.

Although there is very little information on the prevalence of school corporal punishment in the published research literature, the federal government has been collecting information about school corporal punishment for several decades. The Office for Civil Rights (OCR) in the U.S. Department of Education has gathered data on school corporal punishment since 1976 as part of its Civil Rights Data Collection (CRDC; previously called the Elementary and Secondary School Survey). The CRDC collects data every few years from a sampling of school districts in all states on a variety of educational and civil rights issues in the public schools. The CRDC is conducted in compliance with Sect. 203(c)(1) of the Department of Education Organization Act of 1979 and as a means of enforcing civil rights afforded through three federal laws, namely protection from discrimination by race, color, or national origin under Title VI of the Civil Rights Act of 1964, protection from discrimination based on sex under Title IX of the Education Amendments of 1972, and protection from discrimination as a result of a disability under Sect. 504 of the Rehabilitation Act of 1973 (Office for Civil Rights 2011). All schools and districts that receive funding from the Department of Education are required to comply with requests for OCR survey data under several federal regulations (34 Code of Federal Regulations [CFR] 100.6(b), 106.71, and 104.61 2000: Office for Civil Rights 2011).

2.1 Prevalence of School Corporal Punishment in Public Schools

We first examined national estimates for the number of students subject to school corporal punishment in the most recently available OCR data. Although OCR has made district- and school-level data from the 2011–2012 CRDC available on its website, it has not yet calculated national estimates and thus the most recent national data are from the 2009–2010 school year (Office for Civil Rights 2014b). In that year, 184,527 non-disabled students and 33,939 disabled students received school corporal punishment, for a total of 218,466 students. OCR estimates that

there were 48,273,920 public school students in the 2009–2010 school year, which means that the rate of corporal punishment was 0.5 % of students or 5 students out of every 1,000.

We then wanted to look at prevalence of school corporal punishment within each of the states that legally permits it. We first attempted to do so using the 2009–2010 data but found that OCR suppressed the data for some subgroups in some states for data reliability issues, meaning that we did not have a count of corporal punishment within subgroup categories. We decided that for any state-level analyses we needed to use the next most recent year of data, namely the 2005–2006 school year (Office for Civil Rights 2014a).

Table 2.1 presents the number of public school students subject to corporal punishment in 2006 within the 21 states that allowed it in that year. The reported numbers represent the sum of both non-disabled and disabled students from the OCR data tables available on its website. (In Chap. 3, we will examine disparities in corporal punishment by student disability status). Some states that allowed school corporal punishment reported no (Wyoming) or very few (Arizona, Colorado)

Table 2.1 Prevalence of school corporal punishment in the 2005–2006 school year by state

State	Total number of students subject to corporal punishment	Prevalence (%)
Alabama	38,827	4.6
Arizona	28	<0.1
Arkansas	26,396	4.7
Colorado	9	<0.1
Florida	8,516	0.3
Georgia	22,152	1.1
Idaho	117	<0.1
Indiana	814	<0.1
Kansas	61	<0.1
Kentucky	2,716	0.3
Louisiana	13,543	1.7
Mississippi	43,962	7.5
Missouri	6,350	0.6
New Mexico	858	0.2
North Carolina	3,226	0.2
Ohio	1,002	<0.1
Oklahoma	17,077	2.4
South Carolina	1,601	0.2
Tennessee	18,486	1.5
Texas	59,419	1.1
Wyoming	0	0.0
US total:	265,160	0.4

Source Office for Civil Rights (2014a)

instances of corporal punishment in public schools. Most states with school corporal punishment reported that 2 % or less of their students experienced it; however, two states report that nearly 5 % of all students experienced school corporal punishment (Alabama and Arkansas), while Mississippi reported that fully 7.5 % of its students experienced corporal punishment during that school year.

We were then interested in how rates of school corporal punishment have changed over time. Although CRDC data on the OCR website only goes back to 2000, the first author applied to the OCR and received access to the restricted Elementary and Secondary School Civil Rights Survey Non-Public Data that included records from 1968 through 1998. Counts of corporal punishment were collected beginning in 1976 and thus we were able to plot the rates by dividing these counts by the total number of students in public schools for each year from this same dataset. Figure 2.1 plots these rates for all public school children for the 30 year period from 1976 to 2006. It is clear that the percentage of U.S. public school children experiencing corporal punishment has decreased dramatically. The number of students experiencing corporal punishment in the 2005–2006 school year (265,260; rate of 0.5 %) represented a reduction of 74 % compared with the number of students corporally punished in the 1975–1976 school year (1,024,063; rate of 4.0 %). The percentage of the public school population subject to corporal punishment dropped even more, from 4.0 % in 1976 to 0.4 % in 2006, a reduction of 90.0 %. The rate in 1982 appears to be an outlier; no explanation for this aberration is provided in the documentation OCR provided to the first author along with the historical data file. If the 1982 data point is removed, there is a clear downward trend in the rate of school corporal punishment over the 30 year period.

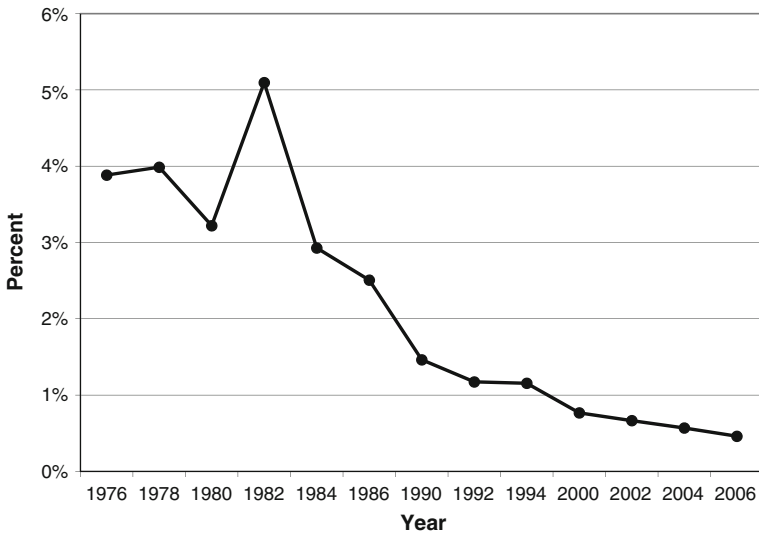


Fig. 2.1 National prevalence of school corporal punishment among public school students (K to 12) by year of the OCR’s Civil Rights Data Collection from 1976 to 2006

2.2 A Note About the CRDC Data

While the CRDC data have been made publicly available on the OCR website for years, OCR has not included any data on corporal punishment in its annual reports to Congress (e.g., U.S. Department of Education, Office for Civil Rights 2009) or in reports summarizing the surveys for the public (e.g., Office for Civil Rights 2012). Outside of a few academic publications that have used annual OCR data (Gregory 1995; Owen 2005) and two joint reports from a collaboration between Human Rights Watch and the ACLU (Human Rights Watch and ACLU 2008, 2009), data on rates of school corporal punishment and the disparities in its use have not been widely disseminated. In addition, there have been no publications until now that have shown trends over time; this is the first paper to present these historical trends.

Some observers have argued that the data schools report to OCR are likely underestimates (Human Rights Watch and the ACLU, 2008, 2009) and thus more children may have been corporally punished than are in the OCR records. It is also important to note that the OCR data reports the number of children, not the number of times corporal punishment was administered. It is likely that some children were paddled multiple times in the year and thus these numbers are an underestimate of the instances of corporal punishment (Human Rights Watch and ACLU 2008, 2009). Indeed, a recent review of corporal punishment cases in North Carolina reported that 22 % of students had been paddled more than once (North Carolina Department of Public Instruction 2013). It is also the case that school corporal punishment may still occur in states where it is banned but not be reported to authorities. Finally, the OCR data only include public schools and thus children who attend private schools are not included in official statistics; given that corporal punishment in private schools is legal in 48 states, this means there may be substantial numbers of children who receive corporal punishment each year who are not represented in these statistics.

2.3 Misbehaviors that Elicit Corporal Punishment in Schools

The CRDC data do not include information on what misbehaviors elicited the corporal punishment. Much of what is known about how corporal punishment is administered and for what misbehaviors comes from three main sources: (1) two reports co-authored by Human Rights Watch and the ACLU (2008, 2009); (2) an in-depth study from the 1990s (Czumbil and Hyman 1997); and (3) a recent report from the North Carolina Department of Public Instruction (2013).

It is first important to establish that corporal punishment is used to correct misbehavior in all grades of public school, namely from preschool through senior year of high school, although it tends to be used in the younger grades of elementary school (Human Rights Watch and ACLU 2008). A recent review of

corporal punishment cases in North Carolina found that two-thirds of the instances of corporal punishment involved elementary school students (North Carolina Department of Public Instruction 2013).

Proponents of school corporal punishment argue that it is used as a last resort or for only serious infractions. Interviews with paddled students make clear that some of the precipitating incidents are indeed quite serious, including fighting, setting off fireworks in school, or getting drunk on a field trip (Human Rights Watch and ACLU 2008). Principals from schools that do use corporal punishment report they are most likely to use it for student infractions involving fighting and least likely to use it for stealing (Medway and Smircic 1992). In the report from North Carolina, 48 % of cases were for disruptive behavior and 25 % were for fighting or aggression, with the remaining 26 % for inappropriate language, bus misbehavior, or disrespect of staff (North Carolina Department of Public Instruction 2013).

Yet it is not the case that all misbehaviors that elicit corporal punishment are serious. A review of over 6,000 disciplinary files in a central Florida school district for the 1987–1988 school year found that whether corporal punishment was used was not related to the severity of the student’s misbehavior or with how frequently they had been referred for a rule violation (Shaw and Braden 1990). School corporal punishment thus is not used as a ‘last resort’ for frequently misbehaving students or only for serious infractions. Indeed, in this Florida district, fully 25 % of all discipline referrals involved corporal punishment (Shaw and Braden 1990).

There is ample evidence that students are being paddled for a range of minor infractions. Examples of such infractions include but are not limited to: being late to class, failing to turn in homework, violating dress codes, running in the hallway, laughing in the hallway, sleeping in class, talking back to teachers, going to the bathroom without permission, mispronouncing words, and receiving bad grades (Human Rights Watch and ACLU 2008; Mitchell 2010). It is also not true that the severity of the corporal punishment fits the misbehavior. Czumbil and Hyman (1997) reviewed 507 media stories about school corporal punishment from daily, weekly, and Sunday newspapers from 1975 through 1992 and coded both the reason for the punishment (i.e., violent or non-violent misbehavior) and whether the incident of corporal punishment was severe (i.e., medical attention was sought, there was physical evidence of corporal punishment, or the parents thought the corporal punishment was too severe). They found that severe corporal punishment was not more common for violent than non-violent student misbehaviors (Czumbil and Hyman 1997).

2.4 State Characteristics Are Associated with School Corporal Punishment

In addition to individual-level factors such as the type of misbehavior that influence whether corporal punishment is used on a particular student, there are state-level factors that determine whether and how often corporal punishment is used across districts. It is clear from Fig. 1 that school corporal punishment is clustered in the

South. Even among paddling states, states in the South report more frequent school corporal punishment (Owen 2005). Support for school corporal punishment fits within a Southern culture that endorses violence as a means of social control, self-protection, and the socialization of children (Cohen and Nisbett 1994). There are also within-state differences in the rate at which corporal punishment is used in schools. Not surprisingly, rates of school corporal punishment are highest in regions of the country where residents report the strongest support for it (Owen 2005). They are highest in areas that are rural, small, and have high proportions of low income students (Grossman et al. 1995; Han 2011; McClure and May 2008; Nickerson and Spears 2007). It is also highest in schools with the most minority students (Han 2011), with the most Evangelical Christians (Owen and Wagner 2006), and with low social capital (Owen 2005).

While these research studies are informative, they did not examine a comprehensive set of state characteristics. We wanted to expand our understanding of the state characteristics that are associated with school corporal punishment rates by considering a larger set of such characteristics as predictors of whether states allow school corporal punishment at all and, among those allowing it, of how many children are subject to corporal punishment. We examined a range of state-level demographic and social variables, the majority of which were taken from the Kids Count Data Center (Annie E. Casey Foundation 2014): (1) percent of the population that was under 18 years of age; (2) percent of children living in poverty; (3) percent of the population that is White; (4) percent of the population that is Black; (5) percent of the population that is Latino; (6) percent of the population aged 25–34 that did not graduate from high school; (7) percent of the population aged 25–34 that has an Associates, Bachelors, or graduate degree; (8) per pupil expenditures in the public schools (adjusted for regional cost differences); (9) percent of children who are immigrants or have an immigrant parent; (10) percent of children in single parent families; (11) percent of 2 year olds who received the recommended 4:3:1:3:3:1 vaccine series (4 diphtheria/tetanus/pertusis, 3 polio, 1 measles/mumps/rubella, 3 Haemophilus influenza type B, 3 hepatitis B, 1 varicella); (12) rate of all forms of maltreatment per 1,000 children; (13) rate of child deaths per 100,000 children; and (14) rate of juvenile offenders per 100,000 children. Each of these indicators is derived from federal and state data; details are available at datacenter.kidscount.org. (15) We also coded each state as being in the South or not per designations provided by the U.S. Census Bureau (2014); the following 17 states are considered to be Southern: Alabama, Arkansas, Delaware, District of Columbia, Florida, Georgia, Kentucky, Louisiana, Maryland, Mississippi, North Carolina, Oklahoma, South Carolina, Tennessee, Texas, Virginia, and West Virginia.

We first looked at which of these state characteristics predicted whether a state legally allowed corporal punishment in public schools in 2014. We used the most recent data available from Kids Count, which was usually 2012 but in some cases 2010 or 2011, and included Washington, D.C., in our analyses. Because several of the predictors were highly collinear and because our sample size was only 51, a model with all characteristics at once would not run. Thus, we report unadjusted odds ratios from logistic regressions for each characteristic predicting whether school corporal

punishment is legal in Table 2.2. Nine of the fifteen predictors successfully predicted whether a state legally permitted corporal punishment in public schools. States with high proportions of their population that are children and with high proportions of children living in poverty were more likely to have school corporal punishment. Having more adults without a high school diploma is associated with a significantly higher likelihood that school corporal punishment would be legal, while having a higher proportion of the population with a college education and having a higher per-pupil expenditure in public schools were both associated with a lower likelihood that

Table 2.2 State-level characteristics predicting whether school corporal punishment is legal in a state as of 2014 (*N* = 51)

	Unadjusted odds ratio	SE	Z	95 % confidence interval
Percent of population under 18 years	1.44	0.26	2.03*	1.01–2.04
Percent of children living in poverty	1.68	0.25	3.44***	1.25–2.26
Percent of population that is White	0.99	0.02	-0.46	0.86–1.02
Percent of population that is Black	1.05	0.03	1.84	1.00–1.10
Percent of population that is Latino	1.00	0.02	0.09	0.96–1.05
Percent of population aged 25–34 that are not high school graduates	1.46	0.18	3.07**	1.15–1.87
Percent of population aged 25–34 that has AA, BA, or higher degree	0.76	0.06	-3.27***	0.65–0.90
Per pupil expenditures in public schools (2010) ^a	0.99	0.00	-2.64**	0.99–0.99
Percent of children who are immigrants or have an immigrant parent	0.96	0.03	-0.15	0.90–1.02
Percent of children in single parent families	1.11	0.06	1.83	0.99–1.23
Percent of 2 year olds immunized (2008)	1.02	0.06	0.32	0.92–1.14
Rate of maltreatment per 1,000 children	0.94	0.07	-0.82	0.81–1.09
Rate of child deaths per 100,000 (2010) ^b	1.27	0.11	2.82**	1.08–1.50
Rate of juvenile offenders per 100,000 (2011)	0.99	0.00	-0.45	0.99–1.00
Southern ^c	9.26	6.30	3.27***	2.43–35.14

Note District of Columbia is included as a state. All state characteristics are from 2012 unless otherwise noted. All characteristics but the last one come from Kids Count Data Center (Annie E. Casey Foundation 2014)

- * p < .05
- ** p < .01
- *** p < .001

^a Adjusted for regional cost difference

^b For children aged 1–14 years

^c Source Southern region defined by the U.S. Census Bureau: http://www.census.gov/geo/maps-data/maps/pdfs/reference/us_regdiv.pdf

school corporal punishment would be legal. States with higher child death rates were also more likely to allow corporal punishment in schools. States in the South were significantly more likely to allow school corporal punishment.

Taken together, these analyses indicate that there is a clear relationship between the demographic environment of a state and whether it permits corporal punishment in schools. School corporal punishment is more likely in states where children are more numerous and living in at-risk conditions (higher poverty, higher death rates), and where education is under-accessed (low college graduation rates) and undervalued (low expenditures). These findings suggest that the barriers to corporal punishment bans in these states may have sources in social and economic factors and any efforts to ban corporal punishment in these states will need to address these factors.

We next were interested in predicting the number of children receiving corporal punishment within the states that allowed it. For this analyses involving inter-state comparisons, we used the 2005–2006 OCR data with complete state-level data. We looked within the 21 states that allowed school corporal punishment in the 2005–2006 school year and linked their 2005 characteristics with the number of school corporal punishment cases they reported that year. As seen in Table 2.3, five

Table 2.3 State-level characteristics predicting number of children who received school corporal punishment in the 2005–2006 school year among states where it was legal ($N = 21$)

	B	SE	β	t test
Percent of population under 18 years	3,394.43	2,693.83	0.28	1.26
Percent of children living in poverty	2,197.57	636.52	0.62	3.45**
Percent of population that is White	-456.79	238.57	-0.40	-1.92
Percent of population that is Black	615.59	259.78	0.48	2.37*
Percent of population that is Latino	40.40	260.40	0.04	0.16
Percent of population aged 25 to 34 that are not high school graduates	3,356.40	1,121.86	0.57	2.99**
Percent of population aged 25 to 34 that has AA, BA, or higher degree	-1135.22	942.45	-0.27	-1.21
Per pupil expenditures in public schools ^a	-3.30	3.65	-0.20	-0.91
Percent of children who are immigrants or have an immigrant parent	166.21	446.66	0.09	0.37
Percent of children in single parent families	1,430.96	642.13	0.46	2.23*
Percent of two year olds immunized	1,000.62	738.70	0.30	1.36
Rate of maltreatment per 1000 children	-10.16	678.92	-0.01	-0.02
Rate of child deaths per 100,000 ^b	1,069.79	902.58	0.26	1.19
Rate of juvenile offenders per 100,000	-38.21	36.04	-0.24	-1.06
Southern ^c	20,300.19	6,106.08	0.61	3.33**

Note All state characteristics are from 2005 except rate of juvenile offenders which comes from 2003. All characteristics but the last one come from Kids Count Data Center (Annie E. Casey Foundation 2014)

* $p < .05$

** $p < .01$

^a Adjusted for regional cost difference

^b For children aged 1–14 years

^c *Source* Southern region defined by the U.S. Census Bureau (2014)

state-level indicators predicted the number of children who received school corporal punishment in separate *t*-tests. School corporal punishment rates were higher when states were characterized by higher proportions of children living in poverty, of children living in single parent families, of the general population that was Black, and of adults aged 25–34 who did not graduate from high school. In addition, states in the South reported higher numbers of school children being subject to corporal punishment than did states not in the South.

While the analyses presented in Table 2.2 illustrated the differences between states that do and do not permit school corporal punishment, the analyses in Table 2.3 make clear that there are differences among states that allow corporal punishment as well. Several states have corporal punishment on the books but rarely use it (see Arizona, Colorado, Kansas, and Wyoming in Table 2.1) and this analysis identified the demographic and cultural factors that predict how often corporal punishment is administered in a state. There is likely additional variation with each state at the district or county level but we are unable to examine that possibility with these data.

The state-level factors that predict whether school corporal punishment is legal were generally the same as those that predict how often corporal punishment will be administered, a finding which suggests these factors may need to be addressed if corporal punishment is to be banned in these states. States that report more corporal punishment face several social and economic challenges which may underlie their support for harsh punishments for children’s misbehaviors, just as families who experience the stress of living in poverty use more corporal punishment with their children (Berlin et al. 2009). These findings suggest that more work is needed to understand what it is about being in the South that promotes corporal punishment in schools. They are likely also a reflection of more favorable attitudes toward corporal punishment both in homes and in schools. In the next section, we review what is known about Americans’ attitudes about school corporal punishment.

2.5 Attitudes About School Corporal Punishment in the U.S.

Both state and federal laws are thought to reflect the will of the people. The only way to ascertain the will of the people is to ask, which typically means surveying a representative sample of them. A variety of surveys has asked Americans generally and educators specifically about their views on school corporal punishment. As will be seen below, school corporal punishment is falling out of favor with both of these constituencies, a fact that suggests the remaining laws permitting school corporal punishment are out of step with both public and educator opinion.

2.5.1 Public Opinion

Americans are by no means opposed to the corporal punishment of children overall. In a 2012 nationally representative survey, 65 % of women and 77 % of men surveyed agreed with the statement that sometimes a child needs a “good hard spanking” (ChildTrends 2013). These largely favorable attitudes have decreased only slightly since 1986, when 82 % of women and 84 % of men agreed with the same statement (ChildTrends 2013). Parents’ support for their own use of corporal punishment has been thought to underlie the public’s support for school corporal punishment historically (Society for Adolescent Medicine 2003). However, that connection is beginning to erode, as support for school corporal punishment is falling at a much faster rate than that for parental corporal punishment.

The first available opinion data about school corporal punishment specifically is from a national poll in 1938, in which 76 % of Southerners and 50 % of non-Southerners approved of school corporal punishment (Reed 1971). But rather than decreasing over time, support for school corporal punishment rose over the ensuing decades, such that by 1958, both groups had increased their support for school corporal punishment, with Southerners at 81 % approval and non-Southerners at 58 % (Reed 1971). By 1968, support dropped again, such that 49 % of all Americans were found to approve of corporal punishment (Poole et al. 1991). In other words, 46 years ago, and 9 years before the Supreme Court’s *Ingraham v. Wright* ruling that school corporal punishment was constitutional, fewer than half of Americans supported school corporal punishment (see sect. 6.2).

The next reported polls on school corporal punishment were not conducted until the 1980s. In a 1989 poll, 46 % of Americans were in favor of it (Hyman 1990). In this same poll, nearly twice as many Americans (86 %) were in favor of corporal punishment by parents as were those in favor of corporal punishment by school personnel. This poll also found regional differences in favorable attitudes, with 66 % of Southerners approving of school corporal punishment compared with 33 % of non-Southerners (Hyman 1990).

Another survey from the 1980s, although not nationally representative, sheds light on Americans’ attitudes beyond just favorable or not to beliefs about effectiveness. This survey of military personnel who were also parents found that 51 % agreed or strongly agreed that corporal punishment should be allowed in schools. However, their beliefs about its effectiveness were much lower. Only 1 in 5 military parents (20 %) thought school corporal punishment improved academic performance, and only 1 in 3 of these parents (34 %) thought it improved student behavior (Kelly et al. 1985). These results suggest that, at least in the 1980s, Americans’ beliefs about whether corporal punishment is an effective disciplinary practice lagged behind their support for the idea of corporal punishment in schools.

Available data on Americans’ attitudes about school corporal punishment takes another jump from the 1980s to the 2000s, and the data from the 2000s indicates a large drop in favorable attitudes over that time. In a 2002 national poll of over 1,000 adults, 74 % of Americans did not think teachers should be allowed to spank their

students, meaning only 26 % believed that they should (Crandall 2002). This same poll found that disapproval of school corporal punishment was even true for parents who spank their own children, 67 % of whom believed that school personnel should not be allowed to spank children at school, and for Southerners, 65 % of whom thought spanking should not be allowed in schools (Crandall 2002). This latter statistic represents a complete reversal from the 1989 data cited above, in which 66 % of Southerners had favorable attitudes (Hyman 1990).

Another survey conducted in the 2000s indicated minimal support for school corporal punishment in general but the presence of some regional variations. At the national level, only 23 % of the American adults in a 2005 national survey agreed that it was “OK for a school teacher to spank a student” (SurveyUSA 2005). As would be expected, support for school corporal punishment was much stronger in the Southern U.S. The four states in which more than half of adults approved of school corporal punishment were in the South and permitted school corporal punishment, namely Arkansas (53 %), Mississippi (53 %), Alabama (52 %), and Tennessee (51 %). Approval for school corporal punishment was lowest in the Northeast, where several states had fewer than 10 % of its residents in favor of school corporal punishment (9 %: Connecticut, Massachusetts, Rhode Island, Vermont; 8 %: New Hampshire).

A trend line compiling these surveys is presented in Fig. 2.2. It is clear that Americans’ attitudes about school corporal punishment have dropped precipitously over a nearly 40 year period. Again, this is in contrast to Americans’ attitudes about corporal punishment by parents, which has decreased only slightly over the last three decades (ChildTrends 2013).

Finally, if newspaper editorial pages can be seen as another reflection of the voice of the people, then there is evidence of increasing discomfort with the notion

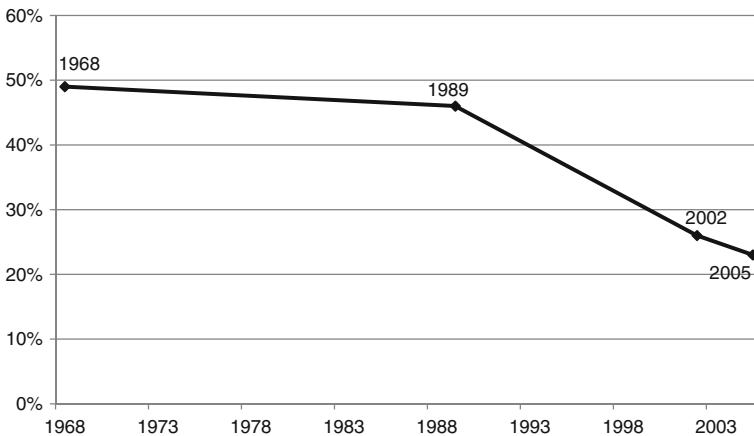


Fig. 2.2 Americans’ approval of school corporal punishment in national polls, 1968–2005. Sources 1968: Poole et al. (1991); 1989: Hyman (1990); 2002: Crandall (2002); 2005: SurveyUSA (2005)

of children been paddled in schools. The Center for Effective discipline, a non-profit organization that compiles data on corporal punishment and alternatives, lists on its website the newspaper editorials from 1985 to 2010 in major daily newspapers in both paddling and non-paddling states that have called for an end to school corporal punishment. *USA Today* has been at the forefront, publishing editorials calling for an end to corporal punishment in 1989, 1990, and 1994 (Center for Effective Discipline 2010); *USA Today* also published an editorial entitled “End Spanking in Public Schools” in 2012 (USA Today Editorial Board 2012). Editorials calling for a ban on school corporal punishment have appeared in newspapers in most paddling states: Alabama: *Huntsville Times* (2000); Arizona: *Arizona Republic* (2009); Georgia: *Atlanta Journal-Constitution* (1989); Kentucky: *Louisville Courier-Journal* (2009). Louisiana: *Shreveport Times* (2008); North Carolina: *News and Observer* (2007); Oklahoma: *The Oklahoman* (2009); Tennessee: *Nashville Tennessean* (2004) and *Memphis Commercial Appeal* (2004); and Texas: *Dallas Morning News* (2000) and *Houston Post* (1989) (Center for Effective Discipline 2010).

2.5.2 Educator Opinion

Surveys of educators over the last several decades have tended to find stronger support for school corporal punishment than was found for the American public. A 1975 study commissioned by the Pennsylvania State Board of Education found that parents had the lowest percentage of being in favor of school corporal punishment (71 %) compared with 74 % of teachers, 78 % of principals, and 81 % of school board presidents (Reardon and Reynolds 1979). Tellingly, only 25 % of students surveyed in that same study were in favor of school corporal punishment. Similar levels of support were found in a survey of rural elementary school principals in South Dakota, among whom half were in favor of school corporal punishment; half also perceived that their communities supported the practice (Webster et al. 1988). A more recent study with teachers in Miami-Dade County, Florida, found that 70 % of teachers of kindergarten through senior year in high school reported that they agreed or strongly agreed that corporal punishment should be allowed in schools (Kenny 2004).

Teachers in districts that allow corporal punishment do not typically view it as problematic. In a study of over 500 elementary and middle school teachers across the country in the early 1990s, 62 % of teachers said abolishing corporal punishment in the classroom was of “above average importance” as a means of child abuse prevention; this percentage was substantially lower among teachers in the South at 38 % (Abrahams et al. 1992). Only 41 % of teachers in this same survey agreed that talking with their fellow teachers about corporal punishment was an “above average” priority. One teacher in this study stated that, “corporal punishment is not synonymous with child abuse or even with violence,” while another argued, “You want to take away our best effective deterrent to teacher abuse and class abuse” (Abrahams et al. 1992, p. 236).

But not all educators are convinced that school corporal punishment is effective. In a survey of 142 school administrators in Hillsborough County, Florida, elementary school and high school administrators rated corporal punishment as the least effective method of discipline in terms of behavior improvement, while middle school administrators rated it as the 5th most effective disciplinary strategy (after peer mediation, referral to guidance counselors, parent conference, and in-school suspension; Raffaele 1999). Reflecting this assessment, few schools in this district used corporal punishment (10 % of elementary schools; 17 % of middle schools; 7 % of high schools), although it is interesting that corporal punishment was used more often in middle schools than elementary or high schools.

The notion that corporal punishment is not effective has been found in other surveys as well. Only 28 % of 159 school principals from across Missouri professed to using corporal punishment, and none rated it as the most effective disciplinary technique (Billings and Enger 1995). A similar study in the Midwest, South, and Southwest found that when teachers were asked to rank the effectiveness of their classroom management techniques, corporal punishment was ranked as having the lowest effectiveness of the eight techniques considered (Little and Akin-Little 2008).

Educators who administer corporal punishment to students are, not surprisingly, more likely to be in favor of the practice and to believe it to be effective (Bogacki et al. 2005). An anecdotal account from a junior high principal in Everman, Texas, illustrates this firm belief that corporal punishment is necessary and effective:

We, as Americans, have let our school system get a little bit out of control. I love children, but when I see how many are going astray, it's heartbreaking... Corporal punishment adds just one small fear back into the system. (Breen and Goolsby 2006, para. 19)

This principal reported that he and his staff administered 535 paddlings or “pops” to students in a single year (Breen and Goolsby 2006).

A few contextual factors have been found to predict whether an educator favors corporal punishment. Educators are more likely to favor the use of corporal punishment if they are high in authoritarian beliefs (Bogacki et al. 2005) or neuroticism (Rust and Kinnard 1983), if they had been corporally punished by their own parents (Kaplan 1992), and if they had been corporally punished while they were in school (Rust and Kinnard 1983). These same factors have been found to predict whether parents favor and use corporal punishment with their own children (Gershoff 2002; Holden et al. 1999; Rodriguez and Sutherland 1999). In addition, educators who live in a state where school corporal punishment is legal have stronger support for it than educators who live in states where it is illegal (Bogacki et al. 2005).

2.6 Summary

This chapter presented the first published account of school corporal punishment rates over time. While the overall rate has dropped dramatically over the three decades from 1976 to 2006 such that only 0.4 % of students nationally are subject

to corporal punishment, within states that allow school corporal punishment, the rates are much higher, with Mississippi administering corporal punishment to 8 in every 100 of its students each year. Data from a school district in Florida indicate that corporal punishment is used in 2.4 times as many middle schools as high schools and 1.7 times as many elementary schools, suggesting that school personnel find misbehaviors in middle school more deserving of corporal punishment. Corporal punishment is not reserved for serious misbehaviors and rather has been documented as punishment for very minor child misbehaviors and thus is not being used just as a “last resort”. It is also the case that school corporal punishment has fallen out of favor in the majority of states but support for and use of it remains strong in the Southern U.S.

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Chapter 3

Gender, Race, and Disability Disparities in Who Is Subject to School Corporal Punishment

The CRDC data on school corporal punishment summarized above are collected as part of OCR's mandate to ensure that no protected groups of students are being discriminated against in the public schools. As noted in Chap. 2, the CRDC is conducted to monitor possible discrimination in educational practices by race, gender, and disability status (Office for Civil Rights 2011). The CRDC is thus the ideal dataset with which to examine whether corporal punishment is administered in a discriminatory fashion. One previous article documented race and gender disparities in the 1976 CRDC data (Glackman et al. 1978). The joint reports from Human Rights Watch and the ACLU (2008, 2009) using the 2006 CRDC data documented that male, African American, and disabled students received disproportionate amounts of corporal punishment in schools than would be expected based on their rates in the student population. We are aware of no studies to date that have documented disparities in rates of school corporal punishment over time and thus this chapter is the first to do so.

The OCR does not yet have 2011–2012 CRDC national and state estimates available and so cannot be used for these descriptive analyses. As noted above, the 2009–2010 CRDC data are available but are not usable as counts within key subgroups are missing at both the national and state levels and thus we are unable to get true estimates of school corporal punishment by gender, race, or disability status for the 2009–2010 school year. We thus will present the time trends from 1976 to 2006 as well as detailed breakdowns of the disparities by gender, race, and disability in the 2006 CRDC data. We also summarize any other relevant research on each form of disparity.

3.1 Disparities by Gender

As the dashed (boys) and dotted (girls) trend lines in Fig. 3.1 make clear, a gender disparity in prevalence of school corporal punishment nationally has persisted for decades. While corporal punishment decreased over time among both boys and

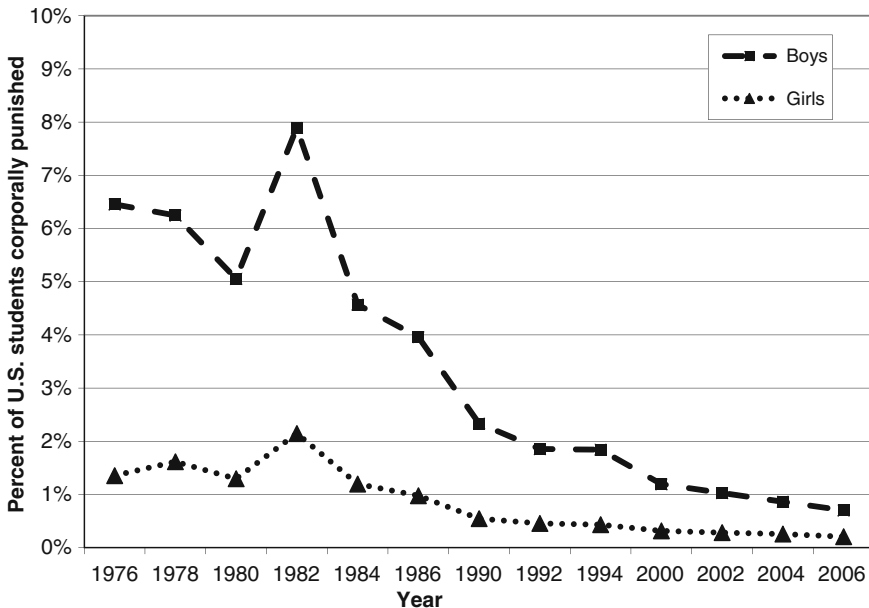


Fig. 3.1 National prevalence of school corporal punishment among public school students (K to 12) by gender for each year of the OCR’s Civil Rights Data Collection from 1976 to 2006

girls, a greater percentage of boys than girls received corporal punishment at each time point. We calculated the odds ratios for boys versus girls for each year of CRDC data, which is the ratio of how likely boys are to be corporally punished to how likely girls are to be corporally punished; all odds ratios presented in Table 3.1 were significantly different from zero. The gender disparity was highest in 1976 with boys being five times as likely as girls to receive corporal punishment in schools (OR = 5.03). The gender disparity dropped below 4.0 from 1982 to 1984 but then spiked to above 4 again from 1986 to 1994. Since 1994, the gender disparity has been slowly decreasing until a slight uptick after 2004 (OR = 3.39) such that the gender disparity in 2006 (3.43) was slightly higher than 2 years before. We wish to note that these data on gender disparities (and on race disparities below) only include non-disabled students; the CRDC did not provide race and gender breakdowns for corporal punishment among the disabled population until the 2009–2010 data collection.

We then looked within states to see how the gender disparity varied across states in 2006. Table 3.2 presents the number of boys and girls who received corporal punishment in each state that legally permitted it that year, along with the gender odds ratios for each state. Across all of the states that allowed it, boys had a 3.43 greater chance of being corporally punished than girls. In 8 of the 20 states with

Table 3.1 National disparities in school corporal punishment of non-disabled students: Odds ratios by gender, race, and ethnicity

Year	Odds ratios		
	Boys: Girls	Black: White	Hispanic: White
1976	5.03	1.92	0.66
1978	4.06	1.89	0.75
1980	4.06	1.87	0.73
1982	3.91	1.52	0.66
1984	3.96	1.68	0.68
1986	4.18	1.90	0.70
1990	4.36	2.24	0.69
1992	4.13	2.78	0.56
1994	4.32	2.35	0.49
2000	3.81	2.66	0.47
2002	3.67	2.54	0.41
2004	3.39	2.48	0.40
2006	3.43	2.19	0.43

Note Each of the odds ratios had confidence intervals that did not include 1, indicating that they were significantly different from zero. *Source* Office for Civil Rights, U.S. Department of Education (2010)

corporal punishment, boys were significantly more likely to receive corporal punishment than girls. The disparity was highest in Kentucky, where boys were five and a half times as likely as girls to receive corporal punishment in schools. Missouri and Arkansas were not far behind, with boys four times as likely as girls to receive corporal punishment. In Alabama and Tennessee, the odds ratios were almost 4 (3.87 and 3.85, respectively), while in Georgia, Louisiana, and Mississippi the odds ratios were close to 3 (3.26, 2.92, and 2.99, respectively). All other states' odds ratios were above one but not statistically different from zero. Thus, nearly half the states that allow school corporal punishment report rates that reveal a significant gender disparity, with boys significantly more likely to receive corporal punishment than girls in each case.

These gender disparities apparent at the national and state levels have also been documented at local levels. In a review of several thousand discipline cases in a Florida district, the vast majority (82 %) of students who received corporal punishment were male (McFadden et al. 1992), a disparity that was in part explained by the greater propensity for males than females to engage in all types of misbehavior. Twenty years later, and in a different state (this time, North Carolina), boys still constituted 82 % of cases of school corporal punishment (North Carolina Department of Public Instruction 2013). These percentages are similar to the national data, where boys constituted roughly 50 % of the national student population in 2006, yet they constituted fully 80 % of the students who received corporal punishment. Gender disparities in school corporal punishment are clearly widespread and persistent over time.

Table 3.2 Prevalence of and disparities in school corporal punishment by gender and race/ethnicity in the 2005–2006 school year within states in which school corporal punishment was permitted

State	Raw numbers of students receiving corporal punishment										Odds ratios	
	By gender		By race/ethnic group					Total	Boys to Girls	Black to White		
	Boys	Girls	Hispanic	Black	White							
Alabama	26,797	6,919	852	12,042	20,288	33,716	3.87	1.01				
Arizona	13	3	3	0	13	16	4.09	0.00				
Arkansas	18,117	4,197	700	6,675	14,818	22,314	4.37	1.46				
Colorado	6	3	3	0	6	9	1.90	0.00				
Florida	5,721	1,464	333	2,642	4,187	7,185	3.71	1.26				
Georgia	14,074	4,175	599	10,747	6,876	18,249	3.26	1.91				
Idaho	82	29	32	0	78	111	2.65	0.00				
Indiana	493	84	39	49	488	577	5.58	0.65				
Kansas	35	15	7	4	39	50	2.18	0.91				
Kentucky	1,887	322	9	123	2,077	2,209	5.49	0.45				
Louisiana	8,311	2,769	50	6,844	4,109	11,080	2.92	1.90				
Mississippi	28,285	9,846	296	23,800	13,853	38,131	2.99	1.62				
Missouri	4,269	890	89	802	4,260	5,159	4.55	0.83				
New Mexico	576	129	343	41	307	705	4.27	1.59				
North Carolina	2,267	438	75	729	1,572	2,705	4.97	0.85				
Ohio	568	104	4	212	454	672	5.17	2.19				
Oklahoma	11,554	3,274	791	978	9,092	14,828	3.42	0.60				
South Carolina	1,002	407	30	1,031	345	1,409	2.36	3.87				
Tennessee	11,903	2,965	182	3,147	11,494	14,868	3.85	0.80				
Texas	38,713	10,484	14,182	9,748	24,983	49,197	3.55	0.98				
Wyoming	0	0	0	0	0	0	–	–				
U.S. Total	174,673	48,517	18,619	79,614	119,339	223,190	3.43	2.19				

Note: Odds ratios that are significantly different from zero are indicated in bold. None of the odds ratios for Hispanics compared to Whites were significant and thus are not reported. Source: Office for Civil Rights, U.S. Department of Education (2014)

3.2 Disparities by Race and Ethnicity

Race and ethnic disparities in school corporal punishment have followed a similar trend to that of the gender disparity; the within-group prevalence rates have all decreased dramatically over time, but the ordering of the race and ethnic groups by rates of corporal punishment have remained stable over the 30 years of data (see Fig. 3.2). Black students are corporally punished at higher rates than Whites or Hispanics at every wave of data. However, unlike the decreasing disparity by gender, the disparity by race has increased over time (see Table 3.2). In 1976, the Black-to-White odds ratio was 1.92; it peaked in 1992 at 2.78, and in 2006 was down to 2.19, which is still higher than the 1976 ratio. In other words, in 1976 Black students were 1.9 times as likely to experience corporal punishment as their White counterparts; 30 years later, this disparity is nearly the same, such that Blacks are slightly more than twice as likely to receive corporal punishment as Whites.

In contrast, Hispanic students are significantly less likely to receive corporal punishment than White students and this has become increasingly so over time (see last column in Table 3.2). In 1976, Hispanic students were 34 % less likely than White students to receive corporal punishment; in 2006, Hispanic students were 57 % less likely than White students to receive corporal punishment. Thus, Black

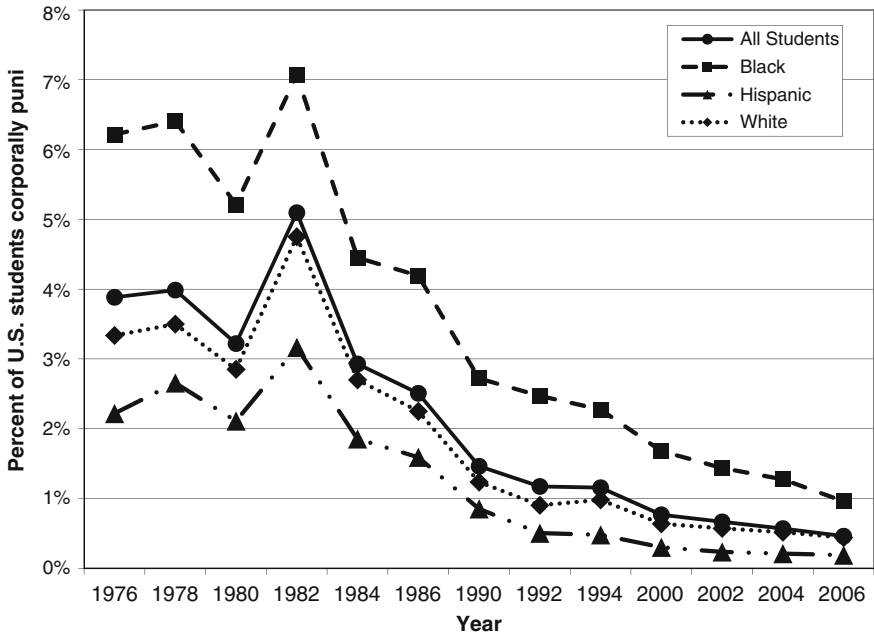


Fig. 3.2 National prevalence of school corporal punishment among public school students (K to 12) by race and ethnicity for each year of the OCR’s Civil Rights Data Collection from 1976 to 2006

students are, on average, at higher risk of being subject to corporal punishment in schools while Hispanic students are at lower risk.

Within-state analyses of the 2005–2006 data revealed that in 5 of the 20 states that allowed school corporal punishment that year, Black students were significantly more likely than white students to receive corporal punishment. The disparities were largest in Georgia (OR = 1.91, $p < 0.05$) and Louisiana (OR = 1.90, $p < 0.05$), with Blacks receiving corporal punishment at nearly twice the rates as Whites. In Arkansas and Mississippi, Blacks were approximately 50 % more likely than Whites to receive corporal punishment. One anomaly was Tennessee, where Blacks were 20 % less likely than Whites to receive corporal punishment. Alabama's odds ratio was statistically significant but not practically significant (OR = 1.01). No Black students were corporally punished in three states (Arizona, Colorado, Idaho), while in 11 states, Blacks and Whites received corporal punishment at similar rates.

As with gender disparities, race and ethnic disparities in school corporal punishment have been documented within states and districts. A review of corporal punishment cases in North Carolina for the 2011–2012 school year found that corporal punishment was disproportionately given to Native American students, who accounted for 58 % of cases while being only 2 % of the student population (North Carolina Department of Public Instruction 2013). Several studies have documented the racial disparity in corporal punishment in Florida schools. In one, Black students were significantly more likely than White students to receive corporal punishment (Shaw and Braden 1990). A similar review of over 4,000 discipline events that occurred from 1987 to 1989 in 9 schools in a Florida school district revealed that, although Blacks constituted 22 % of school enrollment, they accounted for over half (54 %) of all instances of corporal punishment (McFadden et al. 1992). At least in Florida, this discrepancy may be diminishing. The Florida Department of Education (2010) reported that cases of school corporal punishment in their state had decreased from 65,060 in the 1988–1999 school year to 4,274 in the 2008–2009 school year, with 65 % of students receiving corporal punishment identified as White, 25 % as Black, and 5 % as Hispanic.

These racial disparities in the administration of corporal punishment are also present for school suspensions and expulsions (American Psychological Association Zero Tolerance Task Force 2008). Indeed, several decades of research have documented that Black students are suspended at higher rates than White students (Children's Defense Fund 1975; Costenbader and Markson 1998; Eitle and Eitle 2004). An analysis of data from 728 schools in Florida found that Blacks were 69 % more likely than Whites to be suspended, and that this imbalance was higher at schools that were larger, that had lower overall achievement, or that had lower per-pupil expenditures (Eitle and Eitle 2004).

Given the presence of these race disparities, the question is of course why they exist. One possibility is that there are true differences in the base rates of misbehavior, such that Black students misbehave more often than White students, while another possibility is that there is discrimination in who is referred for misbehavior or in the severity of the imposed punishment (Eitle and Eitle 2004). According to

the American Psychological Association Zero Tolerance Task Force (2008), there is no evidence to support the notion that Black children exhibit higher rates of misbehavior, and rather there is clear evidence that Black students are disciplined more severely for the same misbehaviors. In confirmation of this conclusion, an analysis of school discipline cases in North Carolina found that Black students at elementary, middle and high schools were more likely to be suspended than White students for the same misbehavior, and that Black students were given significantly longer suspensions for the same misbehaviors than were White students (Kinsler 2011). Similarly, in Florida districts, corporal punishment was not predicted by students' frequency or severity of misbehavior but rather solely by their race (Shaw and Braden 1990). Racial bias thus seems a more likely explanation for the disparities presented in this chapter than does a racial difference in misbehavior.

It is clear that racial disparities are present in all forms of school discipline, and the fact that they have persisted for decades points to a need for a major change in the school discipline system.

3.3 Disparities by Disability Status

Children with physical, mental, or emotional disabilities are afforded special protections and services in U.S. public schools (Individuals with Disabilities Education Act [IDEA] 1990). However, they are not afforded protection from corporal punishment in the states that allow it, and in many states are actually at greater risk for receiving corporal punishment than their nondisabled peers. Judges have upheld the right of schools to use corporal punishment on disabled students, even in cases that have resulted in the child being hospitalized in a psychiatric facility, typically ruling that the school personnel had not singled out the child because of their disability (Lohrmann-O'Rourke and Zirkel 1998).

The OCR data provides rates of corporal punishment by student disability status. OCR defines "disability" in accordance with IDEA as any physical or mental impairment that limits a major life activity (1990); this designation thus includes physical impairments, mental impairment, learning disabilities, emotional disturbance, and mental illness. The inability to examine prevalence within subgroups of disability is a limitation of the OCR data.

In the 2005–2006 school year, children classified as disabled were more likely to experience corporal punishment than were non-disabled children. While disabled students constituted 14 % of the total U.S. student body, they constituted 19 % of the students across the country who were corporally punished. The last column of Table 3.3 presents the ratio of disabled to non-disabled students by state. Large disparities are evident in four states. In Arizona, disabled children were paddled at a rate per their population that was nearly six times higher than that for non-disabled children (ratio: 5.86). This means that 43 % of the students being paddled in Arizona that year were disabled, when only 13 % of all students in the state were disabled. The percent of disabled children subject to school corporal punishment in

Table 3.3 Prevalence of school corporal punishment by disability status in the 2005–2006 school year by state

State	Number subject to corporal punishment		Odds ratios of disabled to non-disabled students
	Non-disabled students	Disabled students	
Alabama	33,716	5,111	1.27
Arizona	16	12	5.86
Arkansas	22,314	4,082	1.39
Colorado	9	0	–
Florida	7,185	1,331	1.19
Georgia	18,249	3,903	1.71
Idaho	111	6	0.44
Indiana	577	237	2.53
Kansas	50	11	1.59
Kentucky	2,209	507	1.41
Louisiana	11,080	2,463	1.43
Mississippi	38,131	5,831	1.26
Missouri	5,159	1,191	1.57
New Mexico	705	153	1.30
North Carolina	2,705	521	1.36
Ohio	672	330	3.48
Oklahoma	14,828	2,249	0.97
South Carolina	1,409	192	0.91
Tennessee	14,868	3,618	2.13
Texas	49,197	10,222	1.73
Wyoming	0	0	0.00
US total	223,190	41,970	1.37

Note Odds ratios that are significantly different from zero are indicated in bold. *Source* Office for Civil Rights, U.S. Department of Education (2014)

Ohio (which banned corporal punishment from schools in 2009) was 3.48 times higher than that for non-disabled children, while in Indiana it was 2.53 and for Tennessee it was 2.13 (see Table 3.3). For 15 of the 19 states that reported corporal punishment of disabled students, the rate of disabled children was significantly higher than that of non-disabled children but did not exceed two times as high. In the remaining 4 states (Idaho, Kansas, Oklahoma, and South Carolina), the rate of corporal punishment of disabled children was not significantly different from the rate for non-disabled children.

The OCR surveys did not solicit rates of corporal punishment by disability status until 2005–2006, and thus there are no historical data to report. However, the disparities by disability status seen in the 2005–2006 data are consistent with disparities reported in other research. In North Carolina for the 2011–2012 school year, disabled students constituted 29 % of all students who were paddled (North Carolina Department of Public Instruction 2013). Another study reported that the most

common disciplinary response to misbehavior by disabled students was corporal punishment (40 %), which was used twice as often as the next most common disciplinary technique, in school suspension (20 %) (McFadden et al. 1992). As a result of this reliance on corporal punishment, children with disabilities were more likely to receive corporal punishment for the same behavior, namely fighting with other students (56 %), than were non-disabled students (36 %) (McFadden et al. 1992).

Human Rights Watch and the ACLU (2009) conducted an in-depth investigation of the corporal punishment of disabled students and interviewed many parents of disabled children who had been injured by corporal punishment at their schools. One grandmother from Georgia described the injuries suffered by her five-year-old granddaughter with autism:

You could see the bruising. Her whole arm was swollen by the time she got to the emergency room. Her right arm. The doctor said it looked like she'd been hit by a baseball bat or had been in a motorcycle accident. That's the only time he'd seen injuries like that ... To this day, I have no idea what they hit her with ... The human hand doesn't have that kind of strength (Human Rights Watch and ACLU 2009, p. 19).

Especially troubling is the report's discovery that children were being corporally punished for exhibiting behaviors that were symptoms of their disabilities or conditions, including those for autism, Tourette syndrome, or obsessive compulsive disorder (Human Rights Watch and ACLU 2009).

3.4 Summary

It is clear that school corporal punishment is not delivered equally to all children. Disparities in rates of corporal punishment by gender, race, and disability status have been well-documented in both recent and historical data. These disparities by student characteristics are similar to well-known disparities in school suspensions and expulsions (American Psychological Association Zero Tolerance Task Force 2008; Eitle and Eitle 2004). These disparities are in contravention of three federal laws that prohibit discrimination by race, gender, or disability status, namely Title VI of the Civil Rights Act of 1964, Title IX of the Education Amendments of 1972, and Section 504 of the Rehabilitation Act of 1973.

These disparities should be a cause for concern in all states and districts that currently permit corporal punishment, and should provide additional justification for the need to ban it from U.S. schools entirely. The racial disparities in school corporal punishment alone have led one legal scholar to argue that school corporal punishment violates the guarantee in *Brown v. Board of Education* (1954) that children be treated equally in the schools regardless of race (Bitensky 2004). Such a challenge has not yet been brought to a legal test.

Three initiatives in 2014 from different constituencies have focused national attention on the need for reform in school discipline policies and practices with an emphasis on reducing disparities. The first is the Supportive School Discipline

Initiative by the U.S. Departments of Education and Justice which issued a set of “guiding principles” that call on all schools and districts to monitor their disciplinary practices and ensure that they are applied in an equitable and fair manner that is “without regard to a student’s personal characteristics, including, race, color, national origin, religion, disability, ethnicity, sex, gender, gender identity, sexual orientation, or status as an English language learner, migrant, or homeless student.” (U.S. Department of Education 2014, p. 14). The second is the Discipline Disparities Research-to-Practice Collaborative of researchers, educators, advocates, and policy analysts coordinated through the Equity Project at Indiana University. The Collaborative has issued three briefs, two of which offer policy and practice recommendations for reducing disparities in discipline which include reducing punitive approaches, increasing supportive and cooperative school environments, enhancing student involvement, attending to bias, and introducing conflict prevention and intervention strategies such as social emotional learning (Gregory et al. 2014; Losen et al. 2014). The third initiative by the Council of State Governments Justice Center resulted in *The School Discipline Consensus Report* (Morgan et al. 2014), which also called for more tracking of discipline by gender, race, and disability as well as for better assessments of students’ behavioral health and or the implementation of targeted interventions and systems-of-care approaches to address the needs of students with behavioral and emotional problems.

While the recent increase in attention to school discipline generally and to disparities in particular is welcome and needed, not one of these three recent reports discussed the disparities in or potential harm of school corporal punishment. There is a clear need for corporal punishment to be included in discussions of concerning discipline practices alongside suspensions, expulsions, and physical restraints.

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Chapter 4

School Corporal Punishment Effects on Children

Although a substantial literature has shown that corporal punishment by parents is linked with increased behavior problems, increased mental health problems, and decreased school performance (Gershoff 2002, 2008, 2010, 2013), corporal punishment by school personnel has been almost entirely unstudied. Only a handful of correlational studies have linked corporal punishment in schools with children's developmental outcomes. We know very little about the effects of school corporal punishment on children's behavior or performance in school, and thus, while this chapter covers the most important concern related to school corporal punishment, there is very little data on the key question of what effects school corporal punishment has on children.

From a research perspective, a main obstacle to studying corporal punishment is that it is impossible to use in an experiment, which is the gold standard for establishing causal relationships between two variables (Shadish et al. 2002). It is unethical and likely illegal to randomly assign one child to be hit and another not to be, even if the hitting is in the form of corporal punishment for a misbehavior. While there are a range of non-experimental statistical methods that can be used to improve causal inference (Shadish et al. 2002), these have largely not been applied to the topic of school corporal punishment. We use these methods in Chap. 6 as a way of linking state school corporal punishment bans with state trends in juvenile delinquency, but this is the first such effort of which we are aware.

For several decades beginning in the 1970s, Irwin Hyman, a professor of school psychology at Temple University, made the academic case against corporal punishment and was a vocal advocate for its abolition. His many academic papers and books articulate the arguments against and concerns about school corporal punishment; he combined findings from the literature on corporal punishment by parents with findings from OCR data, from news stories, and from personal accounts (e.g., Hyman 1990, 1995; Hyman et al. 1977, 1988). His work is often cited as evidence that school corporal punishment causes harm to children (see Society for Adolescent Medicine 2003).

Since Hyman's work, few attempts have been made to link children's experiences of school corporal punishment with their academic outcomes. An analysis of state average scores on the ACT college readiness test revealed that students in

states that allowed school corporal punishment performed worse than students in states that had banned it. Ninety percent of the paddling states had average ACT scores that were below the national average, compared with only 20 % of the states that had banned paddling (Center for Effective Discipline 2014). In contrast, 77 % of non-paddling states had average ACT scores that were above the national average, compared with only 25 % of paddling states (Center for Effective Discipline 2014). A similar analysis using average state scores on the 8th grade 2009 National Assessment of Educational Progress (NAEP) found that none of the states that allowed school corporal punishment scored in the top 20 %; rather, 60 % of the paddling states fell below the national average (Benton 2010). Both of these attempts to link standardized test data to whether states allow school corporal punishment are compelling but are correlational in nature—the link between the presence of corporal punishment in a state and its average test scores is not a direct one. A more careful analysis comparing the states with and without bans is needed. It will also be important to rule out potential third variable explanations, including per-pupil expenditures, student demographics, and the economic stability of the community. However, what can be said is that, given the strong correlation between the presence of school corporal punishment in a state and low overall achievement, school corporal punishment is clearly not a necessary condition for academic success.

Another analysis linking school corporal punishment and achievement comes from West Africa. This study compared children's academic achievement at a school that employed frequent corporal punishment with children who attended a school that did not (Talwar et al. 2011). Corporal punishment at the school that allowed it was quite frequent, with an average of 40 incidents per day that included slapping, pinching, and hitting with a stick. The researchers found that 1st graders in the school without corporal punishment had higher receptive vocabulary scores and higher executive functioning scores than children in the school with corporal punishment. Children from the school without corporal punishment also engaged in more intrinsically driven behaviors in a delay of gratification task (Talwar et al. 2011). This study was non-experimental, meaning that children were not randomly assigned to the schools, so differences between the students at the two schools may be attributable to other factors that determine which school they attended (e.g., parents who rely on corporal punishment may choose school that does). These findings suggest that children who attend schools with high rates of corporal punishment may suffer academically, but they will need to be confirmed with longitudinal, individual-level data.

Of course the main reason schools use corporal punishment is to correct misbehavior and promote appropriate behavior. While again there are no individual-level studies addressing this issue, the fact that the same children are paddled repeatedly (North Carolina Department of Public Instruction 2013) suggests that it is not effective in reducing misbehavior.

One researcher examined whether schools that have corporal punishment have fewer school shootings. If corporal punishment creates a disciplined atmosphere and reduces severe misbehavior, then all student-to-student violence should

decrease, including drastic events such as school shootings. State-level analyses have revealed that school shooting fatalities are in fact more, not less, common in states that allow school corporal punishment, and that this was true even after controlling for rates of poverty and the prevalence of Conservative Christians in the state (Arcus 2002). It should be noted, however, that this study did not consider other potential covariates that may also be important, such as rates of juvenile crime or neighborhood violence. In addition, the more school corporal punishment reported in a state, the more school shooting fatalities that state experienced (Arcus 2002). The author argued that these results supported a conclusion that school corporal punishment creates a climate that is accepting of violence generally. However, these results were correlational and do not support a conclusion about causal direction—it may be that states that experience school shootings escalate their harsh discipline as a result in the belief that it will quell future shooting. They also do not include other state-level aspects that could be related both to shootings and to school corporal punishment, including per pupil expenditures, the number of children in a state, neighborhood crime rates, or juvenile crime rates.

These studies are at the macro-level and link the presence or absence of school corporal punishment with child outcomes. While these findings are suggestive, what is needed is research that links individual children's experiences of school corporal punishment with their own outcomes. Unfortunately, the data available at the individual level are largely anecdotal. They can be revealing, however.

One outcome that has been consistently linked with school corporal punishment at the individual child level is physical injuries. Given that school corporal punishment is typically meted out with large wooden paddles, there is an even greater risk that it will result in a physical injury to the child. As one team of researchers observed, "Some child abuse is an inevitable consequence of corporal punishment" (Bauer et al. 1990, p. 290). As noted above, school corporal punishment has been known to result in a range of physical injuries, including bruises, cuts, hematomas, nerve damage, muscle damage, broken bones, and on a range of body parts, including buttocks, legs, arms, hands, face, chest, and sexual organs (Block 2013). One study in Africa linked corporal punishment experienced in schools or homes with eye injuries (Ayaninyi et al. 2009). There are numerous news accounts of parents protesting when their children return home with bruises and hematomas that are the result of paddlings at school (Hardy 2013). The Society for Adolescent Medicine (2003) estimated that between 10,000 and 20,000 students required medical attention as a result of school corporal punishment each year. In addition, Human Rights Watch and the ACLU (2009) documented many cases in which the experience of corporal punishment exacerbated the underlying medical conditions of children with disabilities.

Anecdotal accounts have also made clear that students who are subject to corporal punishment experience sometimes severe mental and emotional trauma (Human Rights Watch and the ACLU 2008). Anger, fear, and sadness are common responses to being paddled. Students also report feeling humiliated, especially if the punishment occurs in front of other students, but even if it does not, they return to class embarrassed, particularly if it is clear that they are in pain or crying. Students

have reported in interviews that witnessing another child being hit, either in person or heard over an intercom, is a traumatic experience (Human Rights Watch and the ACLU 2008).

4.1 What Can Be Learned from Research on Corporal Punishment by Parents

With so little available research on school corporal punishment, it is instructive to examine the much more extensive literature on parental corporal punishment to gain an understanding of the potential effects of corporal punishment on children. There is reason to believe that corporal punishment by educators would have similar effects on children as would parental corporal punishment, mainly because both teachers and parents are in positions of authority over children and because children typically are motivated (either by love, fear, or a sense of obligation) to comply with these authority figures. Yet it is also true that educators typically use a more severe form of corporal punishment—paddling—than parents do, and corporal punishment is administered in a social setting where students may be embarrassed by other students seeing, hearing, or just knowing about their corporal punishment. Thus, it is possible that any effects of corporal punishment by educators may be stronger than that by parents. The literature on corporal punishment by parents has been reviewed extensively elsewhere (Gershoff 2002, 2010) so what follows is a brief summary of what is known about the effects of parental corporal punishment on children.

4.1.1 Corporal Punishment Is Linked with Increases in Child Aggression

One of the main circumstances in which both parents (Holden et al. 1995) and teachers (Medway and Smircic 1992) say they use corporal punishment is when a child has hit or somehow been aggressive to another child. Punishing child aggression with adult aggression (corporal punishment) gives a decidedly mixed message that, as noted above, likely undermines the disciplinary message. Yet 25 % of cases of the 2011–2012 school corporal punishment incidents in North Carolina were for fighting or aggression, and nearly half (48 %) of cases were for disruptive behavior (North Carolina Department of Public Instruction 2013). This suggests that both parents and educators clearly believe that corporal punishment will be particularly successful in correcting aggression and disruptive behavior.

However, the research to date has found the exact opposite. In a meta-analysis of 27 studies, not a single study found corporal punishment to be associated with less aggression; rather, in all studies, the more children were subject to corporal

punishment (typically spanking), the more aggressive they were (Gershoff 2002). While many of these studies are correlational and thus unable to establish which came first in the causal chain, these same results have been replicated in several longitudinal studies summarized below that use corporal punishment to predict changes in children's aggression over time.

In one study of several thousand preschoolers, the more parents increased their spanking between ages 1 and 3, the more children's aggression increased from age 3 to age 5 (Lee et al. 2013). By regressing change in child aggression on change in parents' spanking, the analyses both make a stronger case for a causal relationship between them and rule out any potential unmeasured time-invariant third-variable predictors. This study also controlled for associations between maternal warmth and child aggression and for children's bidirectional effect on their parents, namely the extent to which children's aggression elicited more spanking from their parents over time.

Another study using 2,500 preschoolers again found that the more their parents spanked them at ages 1 and 2, the more aggressive they became at ages 2 and 3, over and above their initial levels of aggression (Berlin et al. 2009). This study did not find evidence of a child effect; child aggression did not elicit more spanking over time. In a third study, both parent and child effects were found using data from a nationally representative sample of 11,044 children, such that spanking predicted increases in aggression between kindergarten and third grade, and child aggression at kindergarten predicted increases in spanking over the same period (Gershoff et al. 2012). Similar results were found in a study of 440 children making the transition to adolescence, such that spanking predicted increases in aggression at the same time that aggression elicited more spanking from parents (Sheehan and Watson 2008).

In these studies, although children's aggressive behavior often elicited more spanking over time, this effect did not entirely explain the association between spanking and children's aggression. Rather, spanking predicted increases in children's aggression over and above initial levels. It is important to highlight that in none of these longitudinal studies did spanking predict decreases in children's aggression over time; in other words, spanking was not effective at reducing children's aggression and in fact had an iatrogenic effect such that it led to more rather than less of the behavior it was trying to reduce.

4.1.2 Corporal Punishment Does Not Increase Desirable Behavior

In addition to decreasing behaviors they do not want, such as aggression, parents and educators use corporal punishment with the goal of increasing the likelihood that children will engage in desirable behaviors in the future. That is the goal of discipline after all—to instill in children reasons why they should make appropriate, pro-social behavioral choices so that they will do so long into the future and even when adults are not around to discipline them, what is termed internalized, or long-term, compliance (Grusec and Goodnow 1994).

Unfortunately, corporal punishment does not promote such internalized compliance. A meta-analysis of studies that examined the strength of the association between corporal punishment and children's internalized compliance and prosocial behavior found a strong negative relation; more spanking was linked with less long-term compliance and prosocial behavior (Gershoff 2002).

Findings regarding corporal punishment and short-term compliance are mixed. An initial meta-analysis of the handful of studies that have examined this issue (most of them in experimental intervention studies) found that spanking resulted in immediate compliance with a parent's command (Gershoff 2002). The effect sizes taken from three experimental studies only compared post-intervention rates of compliance, which is typical for random assignment experiments. However, there were in fact significant baseline differences between the experimental (spanked) and control (not spanked) groups in these studies, which led to an inflation in the effect sizes. A revised meta-analysis that focused on differences in pre- to post-intervention changes in compliance found that spanking was in fact no more effective than time outs at increasing children's immediate compliance to mothers' commands (Gershoff and Grogan-Kaylor 2014). It is now clear that corporal punishment by parents does not promote either short-term or long-term compliance and thus is clearly ineffective at achieving parents' aims when disciplining their children.

4.1.3 Corporal Punishment Is Associated with a Range of Unintended Adverse Side Effects

In addition to being ineffective at promoting compliance and prosocial behavior, corporal punishment has been linked with a range of unintended and undesirable outcomes that thus can be thought of as adverse side effects. In a series of meta-analyses, spanking was associated with increases in mental health problems in childhood and adulthood, delinquent behavior in childhood and criminal behavior in adulthood, negative parent-child relationships, and increased risk for physical abuse by parents (Gershoff 2002).

The link between parents' use of corporal punishment and the likelihood that they will physically abuse their children is the most severe of these unintended effects. But given that both acts involve hitting, and purposefully hurting, children, the difference between the two is often in degree (duration, amount of force, object used) rather than in intent. Most substantiated cases of physical abuse have been found to begin with parents spanking their children for a perceived misdeed (Durrant et al. 2006). Corporal punishment and physical abuse are on the same continuum of violence toward children, with the line between them defined by severity and injury to the child (Child Welfare Information Gateway 2011; Gershoff and Bitensky 2007).

4.2 Why Is Corporal Punishment Ineffective?

One main reason corporal punishment is ineffective is that it fails to adhere to the conditions that behaviorists say must exist for punishment to be effective, namely that it be immediate, consistent, and delivered after every instance of the targeted behavior (Hineline and Rosales-Ruiz 2012). It is difficult to imagine that a parent or educator would be able to meet all of these criteria when administering corporal punishment.

A second reason that corporal punishment is ineffective is that children learn by more complicated methods than just which behaviors elicit a punishment; indeed, successful socialization requires that children internalize reasons for behaving in appropriate and acceptable ways (Grusec and Goodnow 1994). Corporal punishment alone does not teach children why their behavior was wrong or what they should do instead (Hoffman 1983). Rather, it teaches them that they must behave when the threat of corporal punishment exists, but once the threat is gone, they have no reason to behave appropriately (Hoffman 1983).

Moreover, corporal punishment is ineffective because it causes physical pain, and it can be confusing and frightening for children to be hit by someone they love and respect. Children report fear, anger, and sadness when they are subject to corporal punishment both from parents (Dobbs et al. 2006) and from teachers (Human Rights Watch and the ACLU 2008), feelings that interfere with their ability to internalize disciplinary messages (Grusec and Goodnow 1994). Corporal punishment increases the likelihood that children will attribute hostile intentions to others, attributions that in turn increase the likelihood that they will behave aggressively in social interactions (Dodge et al. 1986).

Finally, children's imitation of aggressive models has been well-documented (Bandura et al. 1961; Eron et al. 1971; Walters and Grusec 1977). When parents use corporal punishment, they model the use of aggression and violence, teaching children that it is acceptable and reasonable for a person with power over you to use violence to get what he or she wants and that violence is sometimes a part of caring relationships (Eron et al. 1971).

4.3 Summary

School corporal punishment has been linked empirically with lower achievement and anecdotally with emotional trauma and physical injury. There are no U.S. studies to date examining the effects of school corporal punishment on rates of misbehavior, either at the individual or school level. However, research on corporal punishment by parents clearly demonstrates that spanking or hitting children in the name of discipline leads to increases in problematic behaviors and decreases in desirable behaviors.

A strong theme emerges from the literature on parental corporal punishment and its effects on children, namely that there is no evidence that corporal punishment improves child behavior and instead much evidence that child behavior deteriorates the more they are exposed to corporal punishment. Indeed, in the 2002 meta-analysis by Gershoff (2002), 93 % of the statistically significant effect sizes represented associations between corporal punishment and detrimental or undesirable outcomes for children. That hitting children should be associated with negative outcomes should not be surprising, as the literature on exposure to violence has long shown negative outcomes for child and youth mental and behavioral health (Margolin et al. 2010; Aber et al. 2004) as has the literature on physical abuse (Johnson-Reid et al. 2012; Norman et al. 2012). Indeed, if parents were to hit their children with objects and cause injuries as school corporal punishment has been demonstrated to do, it would be considered physical abuse (Child Welfare Information Gateway 2013) and thus if school corporal punishment was held to the same standard it too would be considered physical abuse.

The teachers, administrators, and legislators in paddling states who argue that corporal punishment is effective in reducing misbehavior and improving achievement either are unaware of the research, discount it, or rely on anecdotal accounts (Smith 1996). In an era that emphasizes the use of evidence-based interventions, the fact that corporal punishment, whether by parents or school personnel, is a disciplinary practice with no evidence of effectiveness and that instead may cause considerable harm should convince policymakers that corporal punishment is not necessary nor effective in schools.

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Chapter 5

Policy Analysis: School Corporal Punishment Bans and Juvenile Crime

An important source of resistance to banning corporal punishment from schools is the belief held by some school personnel that a ban will lead to an increase in the incidence of student aggressive and delinquent behavior problems (Dubanoski et al. 1983; Hyman 1990). In a survey of principals and assistant principals from elementary and middle schools in South Carolina, two thirds believed that student behavior problems would increase if school corporal punishment were abolished (Medway and Smircic 1992). Observations of a debate among a task force on corporal punishment in one Ohio school district documented that principals' personal accounts that the practice is effective were more influential in the outcome of the debate than were the research articles presented by a social scientist on the task force (Smith 1996). Given the belief that corporal punishment is effective and that removing it from schools would lead to an increase in student problem behavior, it is important to examine relevant data, but unfortunately no research studies to date have addressed this question directly. The only relevant data comes from a survey of 36 school districts that had abolished corporal punishment which found that 71 % of school superintendents reported that there was either no change in or an improvement in student behavior after the ban (Farley et al. 1978). It is also the case that a meta-analysis has linked corporal punishment by parents with a significant risk for increased juvenile delinquency (Gershoff 2002); thus, it may be that school corporal punishment increases rather than decreases student misbehavior and a ban would have a positive effect on delinquency rates at the state level.

This is at heart an empirical question: Do states that ban school corporal punishment experience increases in misbehavior? This question is difficult to answer with the OCR data used above, because the base rate of misbehavior is not reported, only the incidence of discipline. But it is possible to address this question using another source of "student" misbehavior, namely Federal Bureau of Investigation (FBI) records of juvenile crime.

5.1 Impacts of State School Corporal Punishment Bans on Juvenile Crime

This section presents a policy analysis of the impact that state bans on school corporal punishment have had, if any, on subsequent juvenile crime rates. A difference-in-difference approach is used with data from all 50 states and the District of Columbia to identify whether juvenile crime increased after the enactment of school corporal punishment bans. The analysis examines changes in juvenile crime between 1980 and 1999, a period over which 22 states enacted school corporal punishment bans (5 enacted bans before 1980, and 4 enacted them after 1999). The outcome is the rate of juvenile crimes, with a focus on juvenile crimes that are comparable to adult crimes, namely violent, property, and drug offenses, rather than on statutory offenses that pose less threat to the community (e.g., violating curfew).

In addition to looking at associations between bans and juvenile crime in the first year after the bans went into place, we anticipated that there may be some long-term or “sleeper” effects of the bans on juvenile crime. For example, if bans do lead to more juvenile crime by causing a lack of discipline in school children, it would likely take a few years before these changes are manifest at the state level. We thus looked at whether the passage of school corporal punishment bans predicted juvenile crime rates 5 and 10 years later.

In order to conclude that the enactment of school corporal punishment bans led to any changes in juvenile crime, we wanted to be sure to rule out potential alternative explanations. We use state fixed effects to remove time-invariant differences across states. However, states that institute bans may be changing in ways that are different from states that do not and these changes may predict both whether a ban occurs and whether juvenile crime rates change. If true, any association between bans and juvenile crime would be spurious. To guard against this possibility, we control in the analyses for a variety of time-varying state-level socio-demographic characteristics that may predict both bans and juvenile crime.

Even with this strong set of state-level covariates included in all models, it is possible that some unobserved differences between the states account for both which states have school corporal punishment bans and which states see changes in juvenile offense rates. In other words, it is important to examine whether there is any selection bias that accounts for whether a state has or does not have a ban. To check for this possibility, we ran lead models in which we regressed juvenile offense rates 1 and 3 years *before* the state bans went into effect on the state ban indicator for a given year. This method has been called a falsification test; if bans “predict” juvenile crime data before the bans occurred, that would indicate that there are systematic differences between the states that explain which states implement bans.

Another potential alternative explanation is adult crime. States that experience increases in adult crime rates may be more harsh on both adult and juvenile crime (or in-school misbehavior) and thus retain school corporal punishment in the belief that it will serve as a deterrent to juvenile offenses. It is also likely that states with high adult crime rates will also have high juvenile crime rates, as juveniles may be

more likely to engage in crime if many adults around them do, either through modeling or direct encouragement. Thus it is possible that school corporal punishment bans are spuriously correlated with juvenile crime rates, and that adult crime rates drive any association between bans and juvenile offenses. To check for this, we run supplementary analyses that include adult crime rates as a covariate.

5.2 Method

5.2.1 Variables and Data Sources

The sample for this analysis was the 50 states of U.S., plus the District of Columbia (hereafter referred to as “states”). Annual information on these states was collected for a period of 20 years, namely from 1980 to 1999. This study period was chosen because 22 states instituted bans on corporal punishment in public schools within it. Data was derived from secondary and publicly available datasets that covered the 1980 to 1999 time period. Not all datasets had annual data and thus data were interpolated for missing years as appropriate (a process explained below). The list of all variables, their means and standard deviations can be found in Table 5.1; the correlations among all study variables can be found in Table 5.2.

5.2.1.1 Dependent Variables: Juvenile Offenses

We calculated juvenile offense rates as the number of juvenile offenses in a state in a given year divided by the number of children in that state in that year. Thus, for the numerator of our offense variables, annual data on rates of juvenile arrests from the FBI’s Unified Crime Reports (UCR; FBI 2004) were used. In the UCR data, a juvenile is anyone under 18 years of age. While these reports do not include any information on whether the arrest resulted in a conviction (U.S. Bureau of Justice Statistics and FBI 1985), they are the only national reports of criminality available for the study period. UCR data are comprised from reports from state and local law enforcement agencies across the U.S. that record the number of arrests during a given reporting period, the nature of the crime for which the arrest occurred, and the age, race, and sex of the person arrested. The UCR identifies 29 types of offenses (FBI 2004). For the purposes of the present study, we focused on offenses that fell into three categories that were applicable to both juveniles and adults (e.g., statutory offenses such as curfew violations were excluded): *violent offenses* (e.g., murder, rape, robbery, and assault), *property offenses* (e.g., burglary, larceny, and arson), and *drug offenses* (e.g., sale, manufacture, and possession). The full list of offenses by category is presented in Table 5.3. We note several limitations of the UCR data at the end of this chapter.

Table 5.1 Descriptive statistics for variables included in the policy analysis of bans on school corporal punishment

Variable	Mean	SD
% of States that ever banned school CP	53 %	0.50
% of months × states where school CP ban was in effect	31 %	0.46
<i>Rate of juvenile offenses (per 1,000 people)</i>		
Total offenses	17.28	7.57
Violent offenses	3.18	1.88
Property offenses	9.99	4.35
Drug offenses	4.10	3.33
<i>State demographics</i>		
% Children	27 %	2.58
% Poor	14 %	0.04
% Unemployed	6 %	0.02
Population density	356.24	1,368.89
% Population in urban areas	31 %	0.21
% Male	49 %	0.01
% Male teens	12 %	0.01
% Minority	21 %	0.15
% Married	56 %	0.05
% With high school diploma	32 %	0.04
% High school dropout	11 %	0.03
Rate of all adult offenses (per 1,000 people)	42.42	15.78

Note $N = 1,020$ (51 states (including D.C.) × 20 years)

To calculate juvenile offense rates per the juvenile population for the denominator, we used the postcensal estimates for the 1980–1990 period (U.S. Census Bureau 1990) and the 1990–1999 period (U.S. Census Bureau 2000) as denominators. These estimates apply statistical modeling to approximate each state’s annual population change between the decennial-censuses. We used the *population of children* (persons under 19 years of age) for each of the years in the study period (1980–1999).

We used the counts of juvenile offending and the population estimates of children to calculate the rate of each type of juvenile offense per the population of juveniles in the state. We thus derived the *rate of juvenile personal offenses*, the *rate of juvenile property offenses*, and the *rate of juvenile drug offenses*. We also summed these counts across the categories and divided by the juvenile population in the state to derive a *rate of total juvenile offenses* category.

Table 5.2 Correlations among variables in the policy analysis of bans on school corporal punishment

	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17
1 State ever has school CP ban	-																
2 State currently has school CP ban	0.63	-															
3 Total juvenile offenses	0.18	0.20	-														
4 Violent offenses	0.12	0.30	0.78	-													
5 Property offenses	0.21	0.06	0.80	0.41	-												
6 Drug offenses	0.07	0.21	0.78	0.68	0.29	-											
7 % Children	-0.05	-0.22	-0.06	-0.35	0.24	-0.25	-										
8 % Poor	-0.09	-0.13	-0.10	-0.17	0.01	-0.14	0.12	-									
9 % Unemployed	-0.01	-0.16	-0.04	-0.21	0.16	-0.17	0.20	0.53	-								
10 Population density	-0.11	-0.03	0.27	0.30	-0.02	0.47	-0.43	-0.15	-0.08	-							
11 % Population in urban areas	0.05	0.12	0.33	0.32	0.07	0.48	-0.09	-0.11	-0.08	0.17	-						
12 % Male	0.26	0.12	0.19	-0.07	0.40	-0.05	0.53	0.06	0.05	-0.41	-0.02	-					
13 % Male teens	-0.07	-0.34	-0.15	-0.49	0.13	-0.23	0.68	0.11	0.40	-0.16	0.07	0.21	-				
14 % Minority	-0.25	-0.05	0.29	0.38	-0.01	0.45	-0.13	-0.15	-0.12	0.48	0.26	-0.04	-0.06	-			
15 % Married	0.01	-0.12	-0.28	-0.49	0.12	-0.53	0.57	0.23	0.20	-0.85	-0.25	0.41	0.35	-0.64	-		
16 % With high school diploma	0.10	-0.13	-0.28	-0.40	-0.02	-0.38	0.09	0.06	0.21	-0.33	-0.13	-0.03	0.23	-0.62	0.48	-	
17 % High school dropout	-0.48	-0.49	-0.09	-0.15	-0.09	-0.01	0.15	0.14	0.22	0.07	0.04	-0.09	0.33	0.30	-0.04	-0.20	-
18 Rate of all adult offenses	-0.19	-0.07	0.51	0.51	0.26	0.52	-0.17	0.00	-0.06	0.34	0.10	0.01	-0.19	0.48	-0.39	-0.50	0.34

Note CP, corporal punishment. Correlation coefficients above the absolute value of 0.06 are significant at the 95 % level. Correlation coefficients above absolute value of 0.12 are significant at the 99.9 % level

Table 5.3 Offenses by category from the FBI UCR data used in the policy analysis of bans on school corporal punishment

Violent offenses	• Murder and non-negligent manslaughter
	• Manslaughter by negligence
	• Forcible rape
	• Robbery
	• Aggravated assault
	• Other assaults
Property offenses	• Burglary—breaking or entering
	• Larceny—theft
	• Motor vehicle theft
	• Arson
Drug offenses	• Sale or manufacturing of:
	• Possession of:
	▪ Opium, cocaine and their derivatives
	▪ Marijuana
	▪ Synthetic narcotics
	▪ Other dangerous non-narcotic substances

5.2.1.2 Independent Variable: Presence of a School Corporal Punishment Ban

From the list of state school corporal punishment bans maintained by the Center for Effective Discipline (2014), a non-profit organization that educates the public about corporal punishment of children, we created a ban indicator which switched from 0 (“no ban”) to 1 (“ban”) the year *after* a state instituted a ban on school corporal punishment. For example, the state of California outlawed school corporal punishment in 1986. Thus the ban indicator was 0 for the years from 1980 to 1986 (no ban in effect) and switched to 1 in 1987 and remained at 1 through 1999 (a ban in effect). For states that banned school corporal punishment before 1980, the ban indicator was 1 for all years; for states that did not institute bans before 1999, the indicator was 0 (no ban in effect) for all years of the study. 22 states passed bans on school corporal punishment between 1980 and 1999 (AK, CA, CT, IA, IL, MD, MI, MN, MT, ND, NE, NH, NV, NY, OR, SD, UT, VT, VA, WA, WI, and WV) and five states had bans that predated 1980 (DC, HI, MA, ME, NJ, and RI). All other states were marked as having no ban for all 20 years, including the four states (DE, NM, OH, and PA) that banned school corporal punishment after 1999 (Center for Effective Discipline 2014). See Table 5.4 for the list of states with school corporal punishment bans by year of the ban.

Table 5.4 List of the states that have banned corporal punishment in public schools in order of year of the ban

State	Year
New Jersey	1867
Massachusetts	1971
Hawaii	1973
Maine	1975
District of Columbia	1977
Rhode Island	1977
New Hampshire	1983
New York	1985
Vermont	1985
California	1986
Nebraska	1988
Wisconsin	1988
Alaska	1989
Connecticut	1989
Iowa	1989
Michigan	1989
Minnesota	1989
North Dakota	1989
Oregon	1989
Virginia	1989
South Dakota	1990
Montana	1991
Utah	1992
Illinois	1993
Maryland	1993
Nevada	1993
Washington	1993
West Virginia	1994
Delaware	2003
Pennsylvania	2005
Ohio	2009
New Mexico	2011

Source Center for Effective Discipline (2014)

5.2.1.3 Covariates

State demographic characteristics. Two sources were used for state-level demographic covariates, namely the annual March supplement to the Current Population Survey (CPS; U.S. Bureau of Labor Statistics and U.S. Census Bureau 2006) and the Decennial Census (U.S. Census Bureau 1990, 2000). The CPS was used to derive the *unemployment rate* and the *poverty rate* for each of the states for each year of the study period (1980–1999). The remaining state demographic

variables we wanted to include were only available in the decennial Census in 1980, 1990, and 2000. Although linear interpolation is certainly inferior to modeled estimates, we did not have access to any such modeled estimates (e.g., the intercensal and postcensal estimates calculated by the U.S. Census Bureau) and thus interpolation was our only available solution to the missing years of Census data. The interpolated state characteristics included in the analyses as covariates were: *population density, percent of population that is male, percent of population that is minority (i.e., not non-Hispanic white), percent of population above 15 years that is married, percent of population above 25 years who have a high school diploma or equivalent, and percent of population from 16 to 19 that is not in school and not a high school graduate.* Because the analyses estimate change in juvenile crime within states, we only employ time-varying characteristics of states as covariates. The influence of stable, time-invariant state characteristics (such as whether a state is in the South) is removed through the statistical method.

Adult offense rates. Adult offense (committed by persons 19 years old and older) rates for each year of the study period were calculated from the UCR data in the same fashion as for juvenile crime. The postcensal *population of adults* calculated by the Census Bureau was used as the denominator for the adult offense rates. For our analyses, we calculated the *overall rate of adult offenses* as the count of all adult offenses divided by the population of adults.

5.3 Results

To identify the effect of banning school corporal punishment on juvenile offenses, we conducted state-level panel analyses with state and year fixed effects, net of the same-year state-level demographic covariates noted above. We used the *ban indicator* as the chief predictor and tested models with lagged and leading effects of the ban. The fixed effects accounted for the differences between years (cohorts) and between states.

5.3.1 Base Model—Short Term Effect

We first examined whether the onset of school corporal punishment bans predicted state-level juvenile offense rates in the subsequent year. As seen in the first data column of Table 5.5, school corporal punishment bans did not predict juvenile violent offenses, property offenses, drug offenses, or total offenses one year later, $B_s = -0.05, 0.21, -0.02,$ and $0.14,$ all *NS*.

Table 5.5 Results from base, lag, and lead models predicting juvenile offenses from presence and timing of school corporal punishment bans

	Base model	Lag models		Lead models	
		Offense data lagged on bans by		Offense data leading bans by	
		5 years	10 years	1 year	3 years
<i>Dependent variable: violent offenses</i>					
Ban on school corporal punishment	-0.05 (0.09)	0.10 (0.14)	-0.50 (0.34)	-0.03 (0.10)	0.04 (0.10)
<i>Dependent variable: property offenses</i>					
Ban on school corporal punishment	0.21 (0.20)	-0.11 (0.28)	0.63 (0.57)	0.35 (0.22)	0.35 (0.23)
<i>Dependent variable: drug offenses</i>					
Ban on school corporal punishment	-0.02 (0.21)	0.47 (0.27)	-0.34 (0.53)	-0.14 (0.22)	-0.28 (0.22)
<i>Dependent variable: total offenses</i>					
Ban on school corporal punishment	0.14 (0.36)	0.68 (0.57)	-0.22 (1.17)	0.18 (0.41)	0.12 (0.42)

Note Unstandardized coefficients are presented with standard errors in parentheses. All models control for a set of state-level demographic characteristics: unemployment rate, poverty rate, population density, percent of population that is male, percent of population that is minority (i.e., not non-Hispanic whites), percent of population above 15 that is married, percent of population above 25 that has a high school diploma or equivalent, and percent of population between 16 and 19 years of age that are dropouts (not in school and not high school graduates)

5.3.2 Lagged Model—Long Term Effects

To determine whether school corporal punishment bans may have had delayed impacts on state-level juvenile crime, we examined whether the onset of bans resulted in any changes in juvenile offending 5 and 10 years after the ban went into effect. As seen in Table 5.5, the coefficients for the ban variable were not consistently positive or negative and none were significant, $B_s = -0.50$ to 0.68 , all *NS*, indicating that school corporal punishment bans did not predict juvenile offenses 5 or 10 years later.

5.3.3 Robustness Check #1—Lead Models

Although we have a strong set of state-level covariates included in all models, it is possible that some unobserved differences between the states account for both which states have school corporal punishment bans and which states see changes in juvenile offense rates. In other words, it is important to examine whether there is any selection bias that accounts for whether a state has or does not have a ban. To check for this possibility, we ran lead models in which we regressed juvenile

offense rates one and three years *before* the state bans went into effect on the state ban indicator for a given year. This method has been called a falsification; if bans “predict” juvenile crime data before the bans occurred, that would indicate that there are systematic differences between the states that explain which states implement bans. The results of these analyses are presented in the final two columns of Table 5.5. As with the base and lag models, none of the state ban coefficients were statistically significant. This indicates that juvenile crime rates in years before bans are instituted do not differentiate states that do ban from those that do not.

5.3.4 Robustness Check #2—Adult Crime Rates

To test for the possibility that adult crime rates drive any association between bans and juvenile offenses, we reran the base model for total juvenile offense rates but now including total adult crime rates as a covariate. Concurrent adult crime rates were strong and significant predictors of juvenile violent offenses ($B = 0.06$, $SE = 0.01$, $p < 0.0001$), property offenses ($B = 0.10$, $SE = 0.01$, $p < 0.0001$), drug offenses ($B = 0.09$, $SE = 0.01$, $p < 0.0001$), and total offenses ($B = 0.25$, $SE = 0.01$, $p < 0.0001$). Whether or not states had school corporal punishment bans still did not predict any index of juvenile crime when adult crime rates were in the models.

5.4 Summary

Our results indicate that youth in states with school corporal punishment bans were not more likely to engage in juvenile crime post-ban than were youth in states that continued to allow corporal punishment in public schools. This finding held both in the short term (one year after the ban) and in the long term, both 5 and 10 years after the ban. These findings suggest that legislatures that are currently considering bans of school corporal punishment need not worry that such a policy change would result in increases in state juvenile crime rates.

However, this is also to say that the bans have not decreased juvenile crime either. Bans may have other positive impacts on youth in these states, but reductions in youth crime are not among them. If corporal punishment is associated with increases in delinquency at the individual level, why did we not see such an association at the state level? When viewed over time, the trend in juvenile crime rates for states that have banned school corporal punishment looks remarkably similar to the trend for states without bans. As shown in Fig. 5.1, the juvenile crime rates for ban states tracks that for non-ban states very closely, although the ban states have higher levels of juvenile crime over all. The similar trends suggest that factors beyond whether a state allows corporal punishment in schools are driving their levels of juvenile crime. Juvenile crime is influenced by a host of individual-

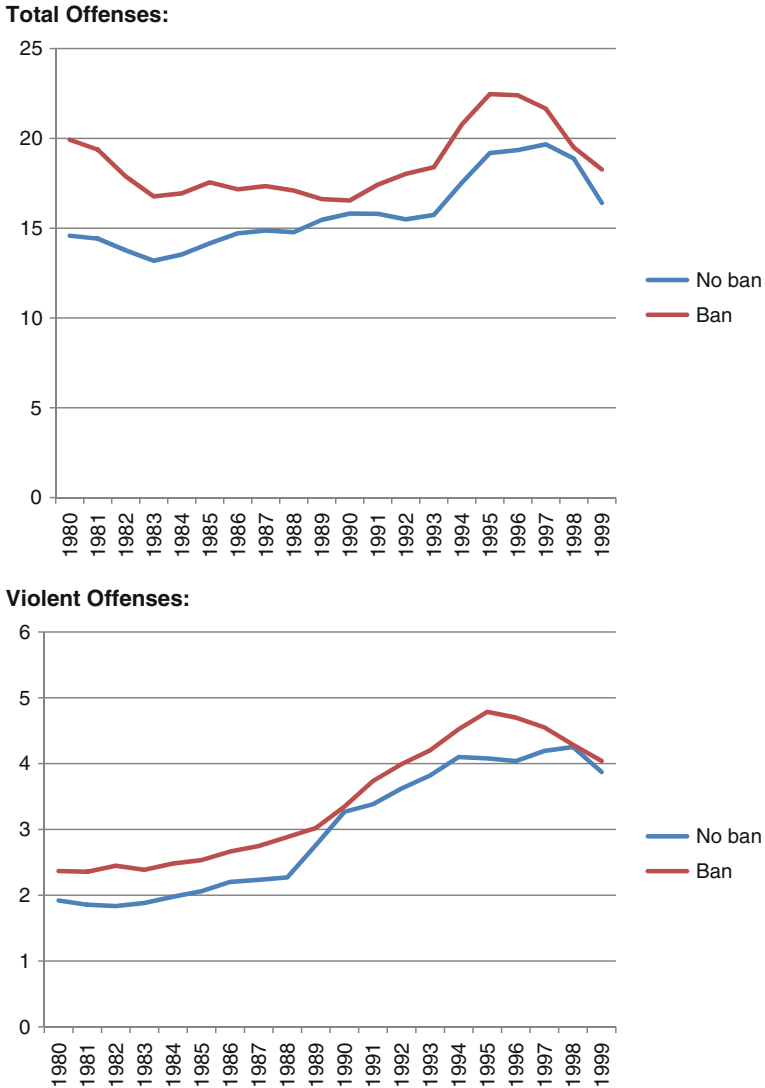


Fig. 5.1 Average rate of observed juvenile offenses from 1980 to 1999 for states that did or did not have a public school corporal punishment ban before 2000

level factors, including family poverty, family structure, parental discipline, parental abuse or neglect, and the presence of delinquent peers, as well as by contextual factors such as neighborhood levels of poverty and violence and school climate (National Research Council and Institute of Medicine 2001). Each of these factors is in turn influenced by state policies related to welfare and income supports, policing, and school funding. Thus, it is likely that state policies related to these

many other aspects of youths' lives affect delinquency more than one policy about a specific disciplinary practice.

We relied on FBI UCR data as our source of state-level trends in juvenile offenses. The UCR data have been used widely in the criminology literature but are not ideal. Several limitations of the UCR have been identified, including that it: (1) reports arrests, not convictions, and clearly not everyone arrested is determined to be guilty of a crime, (2) is a count of arrests, not of people, and thus is an overcount when the same individual is arrested multiple times in the same year, (3) is voluntary and thus the UCR data does not include data from all precincts in all states, (4) may be influenced by political pressure in districts not to report all of their arrests to the FBI, and (5) records only the most serious crime, and thus any additional crimes committed at the same time are not counted (FBI 2009; National Research Council and Institute of Medicine 2001). For each of these reasons, the UCR data is likely an undercount of crimes. However, any undercounting is likely to be present in all states and so should not bias the data from one state more than another. In addition, many of these concerns have been allayed in analyses comparing the UCR data to other national data sources and finding consistent crime trends (e.g., Blumstein et al. 1991).

The conclusion from the analyses presented in this chapter is that states' enactment of school corporal punishment bans has not led to increases in subsequent juvenile crime rates in those states. States that currently permit school corporal punishment thus have no basis for concern that banning corporal punishment will lead to a subsequent increase in juvenile crime.

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Chapter 6

The Legal Basis for School Corporal Punishment

Corporal punishment has been documented as a part of the education of children around the world as far back as ancient Greece (Pate and Gould 2012). In the U.S., corporal punishment has been a part of how both families and schools discipline children since this country's colonial days (Hyman 1990). Corporal punishment of children was brought to the U.S. by colonists from England, where there was a long history of using corporal punishment (often called "flogging") to discipline children, students, prisoners, and military personnel (Scott 1959).

Support for and use of corporal punishment in the U.S. has long been tied to religious beliefs, particularly those of conservative Protestant affiliations, with adherents of corporal punishment using the Bible as justification for beating children in homes and schools as a form of discipline (Greven 1990). This connection between religious beliefs and the corporal punishment of children continues to the present day, with Conservative Protestants much more likely to believe in and use corporal punishment than parents of other religious traditions (Gershoff et al. 1999).

Despite its long tradition, corporal punishment (in the form of whipping, caning, flogging, lashing, paddling, etc.) has been outlawed as a method of disciplining adult prisoners and military personnel (Block 1997). Although corporal punishment had not been used in the penal system since 1952, a key 1968 federal court decision (written by future Supreme Court Justice Harry Blackmun) effectively outlawed corporal punishment in prisons. The Eighth Circuit Court of Appeals ruled that the Arkansas practice of whipping prisoners "offends the contemporary concepts of decency and human dignity and precepts of civilization which we profess to possess" (*Jackson v. Bishop* 1968, at 571). Based on this decision, a prison guard who strikes a prisoner, even if done with the intent of correcting a misbehavior, can be prosecuted under state laws prohibiting physical assault or battery, in the same way that any adult who strikes another adult can be prosecuted. As will be discussed more below, the Supreme Court decided nine years later that while the Eighth Amendment protected prisoners from corporal punishment, that protection was not extended to schoolchildren (*Ingraham v. Wright* 1977).

Adults who hit animals can also be prosecuted under state laws designed to prevent and prosecute animal cruelty. It is against the law in all states to beat an animal, particularly to beat so hard or long as to sustain an injury, and in most states

Table 6.1 Prohibitions of corporal punishment in five child educational, care, or supervisory settings across all 50 states and the district of Columbia

State	Schools	Child care centers	Foster care	Juvenile detention facilities	Residential care
Alabama		X	X	X	X
Alaska	X	X	X	X	X
Arizona		X	X		X
Arkansas		X	X		X ^a
California	X	X	X	X	X
Colorado		X	X	X	X
Connecticut	X	X	X		X
Delaware	X	X	X		X
Florida		X	X	X	X
Georgia		X	X	X	X
Hawaii	X	X	X		
Idaho			X	X	X
Illinois	X	X	X	X	X
Indiana		X	X		
Iowa ^b	X	X	X	X	X
Kansas		X	X	X	X
Kentucky		X	X	X	X
Louisiana		X ^c	X	X	X ^c
Maine	X	X	X	X	X
Maryland	X	X	X		X
Massachusetts	X	X	X		X
Michigan	X	X	X		X
Minnesota	X	X	X	X	X
Mississippi		X	X		X ^d
Missouri		X	X	X	X
Montana	X	X	X	X	X
Nebraska	X	X	X	X	X
Nevada	X	X	X		X
New Hampshire	X	X	X		X
New Jersey ^b	X	X	X	X	X
New Mexico	X	X	X		X
New York	X	X	X	X	X
North Carolina		X ^c	X	X	X
North Dakota	X	X	X		X
Ohio	X	X	X	X	X
Oklahoma		X	X	X	X
Oregon	X	X	X	X	X

(continued)

Table 6.1 (continued)

State	Schools	Child care centers	Foster care	Juvenile detention facilities	Residential care
Pennsylvania	X	X	X	X	X
Rhode Island	X	X	X		X
South Carolina			X	X	X
South Dakota	X	X	X		
Tennessee		X	X	X	X
Texas		X	X	X	X
Utah	X	X	X	X	X
Vermont	X	X	X		X
Virginia	X	X	X	X	
Washington	X	X	X		X
West Virginia	X	X	X	X	X
Wisconsin	X	X	X	X	X
Wyoming		X	X		X
Total	31	48	50	31	46

^a Corporal punishment is allowed in private group homes/institutions

^b Prohibits physical punishment in both public and private schools; all other school prohibitions apply to public schools only

^c Corporal punishment allowed in centers that do not receive state or federal funding

^d Corporal punishment only prohibited in licensed facilities

^e Permitted in religious-sponsored centers with parent permission

Note Sources for data are Bitensky (2006) and Center for Effective Discipline (2012)

doing so is a felony offense (Otto 2005). In but one example, Indiana prohibits corporal punishment of vertebrate animals under its anti-animal cruelty statute, even while it permits corporal punishment of children in schools (Frank 2013).

Children are the only subgroup of people in the U.S. against whom corporal punishment is legally permitted. All states allow parents to hit their children in the name of discipline if the hitting is considered to be “reasonable” corporal punishment (Gershoff and Bitensky 2007). All states also prohibit parents from beating their children for a length of time or with such severity that the child suffers injuries (Child Welfare Information Gateway 2011). Yet as noted above, child welfare laws do not apply to teachers and school personnel as they are not the official caregivers of students (Child Welfare Information Gateway 2013). It is also the case that they are administering corporal punishment in the name of the state and thus are often judged to be immune from prosecution (Pedersen 1998).

States have largely banned corporal punishment from public institutions that serve children, with schools and juvenile detention facilities the only institutions where corporal punishment is allowed in a third or more of the states. As summarized in Table 6.1, corporal punishment is banned from child care centers in 48 states, from foster care settings in all 50 states, from juvenile detention facilities in 31 states, and from residential care settings in 46 states (Center for Effective

Discipline 2012). All states that allow corporal punishment in schools have banned the practice from two or more other public institutions that serve children. Indeed, twelve (63 %) of the states that allow corporal punishment in schools have banned it from the four other care settings summarized in Table 6.1 (Alabama, Colorado, Florida, Georgia, Kansas, Kentucky, Louisiana, Missouri, North Carolina, Oklahoma, Tennessee, and Texas).

Why do many states continue to permit the corporal punishment of children while they are in schools when at the same time they prohibit the practice in other settings? The answer is that states rely on a legal interpretation from over 200 years ago and on a Supreme Court decision from nearly 40 years ago as their license to permit school corporal punishment.

6.1 In Loco Parentis

The right of school personnel to discipline children while they are under their supervision is derived from an interpretation of English law dating back to the 18th century. In his compilation of English law, William Blackstone in 1770 noted that teachers were held to be authority figures who stand in loco parentis, or “in place of the parent,” and thus given the legal right to discipline students in their care (Conte 2000). Since that time, in loco parentis has been interpreted to include the right to use corporal punishment.

Influenced by beliefs about religion and about the supposed intractable nature of children, U.S. educators over the last few centuries have gone beyond asserting their right to use corporal punishment to believing it to be their duty. At an 1874 national conference of educators, a statement on the theory of education referred to the role of schools as “substitutes” for parents with an obligation to teach discipline, corporal punishment specifically:

In order to compensate for lack of family-nurture, the school is obliged to lay more stress upon discipline and...in its phase of substitute for the family, use corrective punishment which...is mostly corporal punishment. (Calhoun 1969, p. 297).

In this interpretation, educators are not just standing in for parents when disciplining students at school but are indeed redressing the deficiencies of parents whom educators believe to be insufficiently strict disciplinarians at home.

Not all teachers are comfortable administering corporal punishment under the authority of in loco parentis. In a 2000 survey of 60 in-service teachers’ attitudes about in loco parentis, only 6.7 % reported that they would “feel comfortable responding as would a parent by utilizing corporal punishment” (Conte 2000, p. 198). Their discomfort seemed specific to corporal punishment, as 70 % stated they were willing to use detention and 88 % were willing to use removal of privileges. Thus, these teachers were comfortable “standing in the place” of the parent when punishments were non-physical but not comfortable when they involved hitting children as a means of punishment.

Schools' in loco parentis authority has been challenged when it comes to the administration of corporal punishment. A federal court in 1972 ruled that a school could not administer corporal punishment over the stated objections of a parent (Glaser v. Marietta 1972). However, in a similar case a few years later in which a child was subject to corporal punishment despite the fact that his mother had prohibited school personnel from doing so because she was opposed to the practice, a federal district court ruled, with its ruling upheld by the U.S. Supreme Court, that,

we cannot allow the wishes of a parent to restrict school officials' discretion in deciding the methods to be used in accomplishing the not just legitimate but essential purpose of maintaining discipline (*Baker v. Owen* 1975, at 301).

In this ruling, the wishes of the school personnel and their obligation to maintain student discipline were held above the wishes of the parent.

Since the *Baker* decision, many school districts in paddling states and sometimes entire states themselves (e.g., Texas: *An Act Relating to Corporal Punishment in Public Schools* 2011) have instituted regulations or laws that allow parents to revoke the school personnel's right to use corporal punishment on their children. Such laws allow parents to "opt out" of corporal punishment, but because not all parents will be aware of this option or how to exercise it, opt out policies are not as strong as "opt in" policies that require parents to provide written permission for schools to administer corporal punishment. Unfortunately, even when parents have explicitly prohibited corporal punishment of their children, their wishes are not always respected, as happened in the *Baker* case.

Although the practice of corporal punishment and the in loco parentis right of teachers to administer it to students both came to the U.S. from England, school corporal punishment is no longer legal in the U.K. Indeed, it was banned from all public schools in 1987 and from all private schools over the subsequent 10 years. In contrast, the federal judiciary in the U.S. has upheld the right of educators to use corporal punishment.

6.2 The Supreme Court's *Ingraham v. Wright* Decision

Corporal punishment of public school children in the U.S. is currently permitted under a 1977 decision by the Supreme Court known as *Ingraham v. Wright*. In this case, two students at a Florida junior high school were hit by their school principal with a wooden paddle that was two feet long, a half inch thick, and four inches wide; one boy was hit with the paddle more than 20 times and suffered a hematoma that required medical attention, while the other boy was hit on his arms and was unable to use one of his arms for a week (*Ingraham v. Wright* 1977). The plaintiffs argued that this excessive corporal punishment violated their protection against "cruel and unusual punishments" as provided in the Eighth Amendment to the Constitution and right to procedural due process under the Fourteenth Amendment.

There are two types of due process guaranteed in the Constitution. The first is substantive due process which refers to the justification for the government's deprivation of life liberty, or property and addresses the question of whether there is sufficient need for this deprivation (Chemerinsky 2006). Procedural due process refers to the procedures by which the government imposes a punishment, such as having a hearing or providing advance notice before the punishment is imposed (Chemerinsky 2006). In the case of *Ingraham*, the Court refused to consider whether school corporal punishment constituted a violation of substantive due process and only considered issues of procedural due process.

In its decision, the Court ruled that the Eighth Amendment only applied to prisoners being held against their will and not to students in public school, and that there was no violation of the Due Process Clause as paddling students "has long been an accepted method of promoting good behavior" (*Ingraham v. Wright* 1977, at line 659). The Court acknowledged that the public and professionals were divided in their opinions of corporal punishment but because only 2 states had banned it (New Jersey and Massachusetts), the Court argued, "we can discern no trend toward its elimination" (*Ingraham v. Wright* 1977, at line 661). This landmark decision shaped public education in the U.S. and continues to provide the legal permission to use corporal punishment in schools nearly four decades later (Zirkel 2002).

6.3 State Laws

The *Ingraham* decision allowed states to be the arbiters of whether corporal punishment should be permitted in schools, and 19 state legislatures have decided to continue to allow corporal punishment. State laws permitting school corporal punishment give school personnel explicit authority to administer it to students at their discretion. The law in Georgia is typical; it states:

An area, county, or independent board of education may, upon the adoption of written policies, authorize any principal or teacher employed by the board to administer, in the exercise of his sound discretion, corporal punishment on any pupil or pupils placed under his supervision in order to maintain proper control and discipline. (Georgia Code Sect. 20-2-731, 2013).

This section goes on to specify that the corporal punishment must not be "excessive or unduly severe" nor "a first line of punishment." It must be administered in the presence of a principal or assistant principal and to a child whose parents have not filed a statement from a doctor that corporal punishment would be harmful to the child's "mental or emotional stability." Most state laws provide a combination of a license to use corporal punishment on students with a caution that it must be "reasonable" and not excessive in nature.

It is instructive once again to contrast corporal punishment in schools with corporal punishment in penal institutions. Just as corporal punishment has been

banned from all adult prisons (Jackson v. Bishop 1968), corporal punishment has been banned from juvenile detention facilities in most states through a combination of federal circuit court decisions and federal regulations (Murphy et al. 2010). It is thus the case that, in 19 states, children have more protection against physical assault in juvenile detention than they do in public schools.

Over the years, some states have used a variety of policy mechanisms to regulate school corporal punishment, including state statutes that explicitly permit the practice as well as laws that prohibit “unreasonable” or “malicious” or “injurious” corporal punishment under civil tort or criminal liability (Lines 1978; Paquet 1982). While all states allowed school corporal punishment at some point, 31 states and the District of Columbia have since banned it through state laws or regulations. New Jersey was the first state to do so in 1867, followed 104 years later by Massachusetts (Center for Effective Discipline 2014).

6.4 Summary

School corporal punishment has a long history in the U.S. It is legally permitted under the 1977 *Ingraham v. Wright* decision by the Supreme Court that the practice does not violate the Constitution’s prohibition against cruel and unusual punishment, although a circuit court had decided corporal punishment did meet this standard for prisoners in 1968, effectively banning corporal punishment from prisons. State legislatures decide the legality of school corporal punishment, with 31 states deciding to ban the practice. School personnel exercise their right to use corporal punishment under their in loco parentis authority to act in the stead of parents while children are in school.

The legal statutes relevant to school corporal punishment summarized in this chapter, taken together, constitute a contradiction in how states treat corporal punishment. States bestow on school personnel the right to discipline children as if they were the parents of those children under the legal principle of in loco parentis; however, states do not treat these same school personnel as caregivers under laws regarding physical maltreatment. This double standard pits states’ education systems against their child welfare systems, and for now the education system is winning. It would seem time for the state legislatures or the courts to resolve this double standard so as to best protect children.

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Chapter 7

Legal and Public Policy Strategies to Reduce or Ban School Corporal Punishment

Internationally and within the U.S., school corporal punishment is on the decline both in frequency of use and in its legality, trends which suggest the practice will be abandoned and/or abolished in all countries in the near future. For the 19 states in the U.S. in which school corporal punishment remains legal, how will bans come about? There are three main mechanisms for such a change in educational practice: legal remedies, changes to public policy, and advocacy and educational efforts. The first two will be discussed in this chapter; the third will be considered in Chap. 8.

7.1 Legal Remedies

Each level of the U.S. legal system, from local courts to the Supreme Court, is a potential avenue for a challenge to the legality of school corporal punishment. Indeed, school corporal punishment has been challenged at every level of the legal system, but with minimal effect on the legality of the practice in states. None of the current state bans on school corporal punishment came about because of a legal case. However, if a legal challenge were to be successful, particularly in the higher courts, it could affect widespread change.

7.1.1 International Law and Human Rights

Corporal punishment of children, whether by school personnel or parents, has been declared a human rights violation according to several international treaties (Bitensky 2006, 2009; Gershoff and Bitensky 2007). The primary of these treaties is the Convention on the Rights of the Child (CRC) which was adopted by the United Nations in 1989. Article 19 of the CRC protects children from “all forms of physical or mental violence (United Nations 1989, Article 19, para. 1), while Article 37 protects children from “cruel, inhuman, or degrading punishment or treatment” (United Nations 1989, Article 37, para. (a)). The U.N. Committee on the

Rights of the Child, which is tasked with interpreting and then monitoring compliance with the CRC, has stated that, under these two Articles of the CRC, “corporal punishment and other cruel or degrading forms of punishment are forms of violence” and as such should be banned by all parties to the CRC (Committee on the Rights of the Child 2007, para. 18). Consistent with this conclusion, the final report from the U.N. Study on Violence against Children urged countries around the world to prohibit “all forms of violence against children, in all settings, including all corporal punishment” (Pineiro 2006, para. 98).

In addition to the interpretation of the CRC as prohibiting the corporal punishment of children generally, the U.N. has also interpreted the Convention as prohibiting school corporal punishment specifically. The U.N. Committee on the Rights of the Child has stated in a General Comment that, under the principles outlined in Articles 28 and 29 which both deal with education, “corporal punishment does not respect the inherent dignity of the child nor the strict limits on school discipline” (U.N. Committee on the Rights of the Child 2001, para. 8).

Despite its key role in drafting the CRC (Bitensky 2009), the U.S. has not ratified it, although U.S. Ambassador to the U.N. Madeline Albright signed it on behalf of President Bill Clinton in 1995. The CRC has never been sent to the U.S. Senate for its approval, which is needed before the President can ratify it and the Convention can become law of the land. The U.S. is one of only two countries in the world that have not ratified the CRC, and the government of the other country, Somalia, has expressed its intention to ratify it (Somalia to ratify UN child rights treaty 2013). Once it does, the U.S. will be the only country in the world that is not subject to the protections afforded to children under the CRC. The U.S. can still be influenced by international treaties it has not ratified (see the discussion of *Roper v. Simmons* 2005, below), but for now, the U.S. has kept itself separate from the rest of the world in its disregard for children’s rights.

Corporal punishment of children with disabilities also violates the U.N. Convention on the Rights of Persons with Disabilities (CRPD; United Nations 2006), which President Obama has signed but the U.S. Congress failed to ratify. The CRPD enshrines the right of individuals with disabilities to be protected against violence and abuse and from being discriminated against for their disability. The disparities in rates of corporal punishment by disability status and the injuries sustained by disabled students summarized above are clear violations of this treaty.

The conclusion that corporal punishment violates children’s human rights has spurred the Council of Europe to call for and work toward the elimination of corporal punishment from the continent. The Parliamentary Assembly of the Council of Europe (2004) has called for all countries in Europe to ban corporal punishment of children, whether in homes or in schools. Two years later, then Commissioner for Human Rights for the Council of Europe Thomas Hammarberg remarked in a statement condemning the corporal punishment of children,

Children have had to wait until last to be given equal legal protection from deliberate assaults—a protection the rest of us take for granted. It is extraordinary that children, whose developmental state and small size is acknowledged to make them particularly vulnerable to

physical and psychological injury, should be singled out for less protection from assaults on their fragile bodies, minds and dignity (Hammarberg 2006, para. 5).

His statement labels corporal punishment as assault and notes the hypocrisy of adults being protected from assault while more vulnerable citizens, namely children, are not afforded that same protection. Building on its strong repudiation of corporal punishment, the Council of Europe launched a “Raise your hand against smacking!” campaign that aims to have corporal punishment abolished in all member countries and to educate parents about non-violent forms of discipline.

European multinational organizations have not been the only ones to condemn corporal punishment of children. The Inter-American Commission on Human Rights (IACHR), a branch of the Organization of American States, concluded that corporal punishment was a violation of children’s human rights according to several treaties and thus should be banned “in all contexts” (IACHR, Rapporteurship on the Rights of the Child, and Organization of American States 2009, p. 1, para. 3). This statement is particularly significant because the U.S. is a member of the Organization of American States.

In large part because of these proclamations, corporal punishment is increasingly banned throughout the world. Within Europe alone, corporal punishment is now banned from schools in all 47 European countries and from homes in 50 % (25) of European countries (Global Initiative to End Corporal Punishment of Children [Global Initiative] 2014). Globally, nearly two-thirds of all countries have bans on corporal punishment in schools ($n = 122$; 62 %) while a little more than a third have laws that allow it ($n = 76$; 38 %) (Council of Europe 2013; Global Initiative 2014). A total of 43 countries have gone even further by banning all corporal punishment of children, including that by parents, meaning that children in 17 % of the world’s countries are protected from all corporal punishment (Global Initiative 2014; see Table 7.1 for full list). Given current support for and use of corporal punishment in homes and schools, it is difficult to imagine the U.S. joining this group of countries that has banned all corporal punishment of children, at least for the foreseeable future.

7.1.2 *The Supreme Court*

Legal scholars have argued that the *Ingraham v. Wright* Supreme Court decision allowing school corporal punishment is ripe for reconsideration (Bitensky 2009; Sacks 2009). As noted above, one of the Court’s key arguments was that corporal punishment was still widely used in public schools and that the Court could “discern no trend toward its elimination” (*Ingraham v. Wright* 1977, at 661). At the time the Justices considered the case, only two states—New Jersey and Massachusetts—had banned school corporal punishment. Now 38 years later, the practice has fallen out of favor in a majority of the states, with 31 states and the District of Columbia now banning corporal punishment from public schools.

Table 7.1 Countries that have banned all corporal punishment of children, including in homes and schools, with year of ban

Country	Year of Ban
Sweden	1979
Finland	1983
Norway	1987
Austria	1989
Cyprus	1994
Denmark	1997
Latvia	1998
Croatia	1999
Bulgaria	2000
Israel	2000
Germany	2000
Turkmenistan	2002
Iceland	2003
Ukraine	2004
Romania	2004
Hungary	2005
Greece	2006
Netherlands	2007
New Zealand	2007
Portugal	2007
Uruguay	2007
Venezuela	2007
Spain	2007
Togo	2007
Costa Rica	2008
Republic of Moldova	2008
Luxembourg	2008
Liechtenstein	2008
Poland	2010
Tunisia	2010
Kenya	2010
Republic of Congo	2010
Albania	2010
South Sudan	2011
Republic of Macedonia	2013
Honduras	2013
Malta	2013
Brazil	2014
Bolivia	2014
Argentina	2014
San Marino	2014
Nicaragua	2014
Estonia	2014

Source Global Initiative to End Corporal Punishment of Children (2014)

If past decisions are a guide, this majority should be enough to convince the Court that there is in fact a national “trend toward its elimination.” The 2005 *Roper v. Simmons* decision banning the death penalty for individuals who committed their crimes when they were juveniles is a key case in point. In its decision, the Court reaffirmed a statement it made 47 years earlier in the *Trop v. Dulles* decision that the interpretation of “cruel and unusual punishments” in the Eighth Amendment must reflect “the evolving standards of decency that mark the progress of a maturing society” (*Trop v. Dulles* 1958, at 100–101). The Court referred to three such “evolving standards” that argued for the abolition of the juvenile death penalty at the national level, namely:

the rejection of the juvenile death penalty in the majority of States; the infrequency of its use even where it remains on the books; and the consistency in the trend toward abolition of the practice (*Roper v. Simmons* 2005, at 567).

Each of these evolving standards is also the case for school corporal punishment: a majority of states have banned the practice; rates of corporal punishment usage have dropped dramatically over the last several decades (see Fig. 3.1); and states have consistently moved toward banning school corporal punishment since 1977, although the progress of bans has slowed in the past 10 years (Center for Effective Discipline 2014). Thus if the Court were to apply these same criteria used in *Roper* to the case of school corporal punishment, there is a likelihood it would be compelled to decide that school corporal punishment is a violation of the Eighth Amendment.

It is telling that this argument informed a lower court’s decision to ban the corporal punishment of prisoners from Arkansas prisons as meeting the “cruel and unusual” standard of the Eighth Amendment (*Jackson v. Bishop* 1968). At the time of this decision, 48 states had banned corporal punishment of prisoners, leading the Eighth Circuit Court of Appeals to observe that public opinion was clearly against the practice. It is also the case that other arguments underlying the Court’s decision to ban prison corporal punishment would also apply to school corporal punishment, namely that it can easily turn into abuse, is often used in non-prescribed manners, “generates hate” toward the punishers, and interferes with the rehabilitation of the prisoners.

It is also interesting to note that in its *Roper* decision, the Court recognized “the overwhelming weight of international opinion” (*Roper v. Simmons* 2005, at 578) which reinforced its decision in this case. The Court noted that the U.N. Convention on the Rights of the Child prohibits capital punishment of juveniles as a human rights violation (United Nations 1989, see Article 37). The Court also observed that only seven other countries had executed juveniles since 1990, putting the U.S. in ignominious company (China, the Democratic Republic of Congo, Iran, Nigeria, Pakistan, Saudi Arabia, and Yemen). Once again, if the Court used a similar international comparison for a case about school corporal punishment, it would similarly side on behalf of abolition.

Nearly 30 years after the *Ingraham* decision, the Court had the opportunity to consider the constitutionality of corporal punishment in the case of *Serafin v.*

School of Excellence in Education (2007). In this case, an 18 year old young woman who had left campus to buy breakfast but returned before the school bell rang was accused of violating the school's closed campus policy and was subjected to corporal punishment as a penalty. She was hit repeatedly by the principal with a four-foot-long piece of wood on the buttocks, hips, legs, and hand; the blows left her buttocks bleeding and her hand swollen, injuries for which she was treated in a hospital emergency room (Sacks 2009). The Court of Appeals for the Fifth Circuit rejected Ms. Serafin's appeals that, as a legal adult, her rights to due process and equal protection were violated (*Serafin v. School of Excellence in Education* 2007). Ms. Serafin appealed to the Supreme Court, but the Court denied her petition without comment (Case No. 07-9760: U.S. Supreme Court 2008). Thus, the Court's validation of school corporal punishment in the *Ingraham* decision remained in place. Whether a new case brought with arguments similar to those in *Roper* summarized above might be successful remains an open question.

The "evolving standards" and international opinion arguments were successful in abolishing school corporal punishment in Canada through a 2004 decision by its Supreme Court. In *The Canadian Foundation for Children, Youth and the Law v. The Attorney General of Canada*, the Court observed that some provinces, territories, and school boards had already banned school corporal punishment and that, as a party to the U.N. CRC, Canada had an international obligation to ban corporal punishment from schools. The majority opinion concluded that:

Substantial societal consensus, supported by expert evidence and Canada's treaty obligations, indicates that corporal punishment by teachers is unreasonable (at 38).

Although the U.S. does not currently have such international obligations under the CRC, the arguments regarding societal consensus and expert evidence do hold and could be used in a challenge to the *Ingraham* decision.

7.1.3 Lower Court Litigation

Although no official count has been done, dozens of lawsuits have been filed against school personnel by parents who claim their children were injured by corporal punishment delivered at school. Yet because school corporal punishment is authorized by state law in the 19 states where it is still practiced, courts have been very reluctant to find school personnel at fault when they are carrying out corporal punishment as part of their official duties. One review of lower federal and state court decisions regarding school corporal punishment found that in fully three-fourths of the cases, the courts ruled in favor of the schools or school personnel (Pedersen 1998). This is despite the fact that in most of these litigated cases the children suffered substantial physical injuries. In one recent case, a physical education teacher who slapped a student on the face was acquitted of assault because her behavior was considered a form of state-protected corporal punishment (*State of Indiana vs. Paula Fetting* 2008).

Cases that are decided in favor of the student tend to involve severe assaults. In one case, a Texas Court of Civil Appeals decided that a jury had been improperly instructed that intent to injure was required for an act to be considered assault. In this case, a football coach had hit a student's helmet so hard that he suffered a severe cervical sprain and was hospitalized for 8 days. The court stated that

we do not accept the proposition that a teacher may use physical violence against a child merely because the child is unable or fails to perform, either academically or athletically, at a desired level of ability, even though the teacher considers such violence to be "instruction and encouragement" (*Hogenson v. Williams* 1976, para. 11).

The Court clearly recognized the coach's behavior as a form of violence and that such violence was unwarranted in the case of a student underperforming. It is worth noting that the Court did not say such violence is never warranted.

In its *Ingraham* decision, the Supreme Court did not rule on whether substantive due process claims against school corporal punishment could be valid. As a result, cases since that 1977 decision have attempted to claim that corporal punishment violates substantive due process (Mitchell 2010), namely whether the government has adequate justification for depriving an individual of their liberty (Chemerinksy 2006). In the case of a student who was hit so hard with a thick rubber paddle across her left hip and thigh that she required hospitalization for trauma to soft tissues for 10 days, *Hall v. Tawney* (1980), the court recognized a student's substantive due process claim to protection from state intrusion on the security of her body that is "so brutal, demeaning, and harmful as literally to shock the conscience of a court" (para. 16).

A variety of cases regarding school corporal punishment have been brought to circuit courts throughout the country under a substantive due process claim. The courts have used the *Hall* decision to establish a high bar for when school corporal punishment violates a student's constitutional right to substantive due process; namely, it must be so severe as to "shock the conscience" of the jurists (Mitchell 2010). In an example of where this standard was applied and decided in favor of the student, a principal was charged with slamming a female student against a wall and slapping her face while on a school band trip (*Webb v. McCullough* 1987). In its decision, the Sixth Circuit Court observed that,

the substantive due process inquiry in school corporal punishment cases must be whether the force applied caused injury so severe, was so disproportionate to the need presented, and was so inspired by malice or sadism rather than a merely careless or unwise excess of zeal that it amounted to a brutal and inhumane abuse of official power literally shocking to the conscience (*Webb v. McCullough* 1987, at 1158).

The court went on to rule that the teacher's hitting of the student was unnecessary and thus constituted "a brutal and inhumane" abuse of power.

Yet in subsequent cases in which courts have held assault claims to the standards of what constitutes "excessive" corporal punishment seen in *Hall* and *Webb*, few cases have been judged as meeting or exceeding this standard, including cases involving severe bruising, choking, and punching (Mitchell 2010). In such cases, the courts have rejected claims to a constitutional violation by students physically

harmed by corporal punishment, such as in the case of a student who was grabbed and pulled by a teacher and as a result fell and injured himself (*Jones v. Witinski* 1996). This is not to say that no cases of school corporal punishment have been found to meet this standard. In *Spacek v. Charles* (1996), the Court of Appeals of Texas ruled that two high school coaches, who had threatened to hang a student, had put a gun to his head, and had threatened to kill the student if his grades did not improve, had engaged in excessive force and not reasonable corporal punishment and thus were not immune from prosecution.

Most cases involving school corporal punishment are not this extreme, however, and thus substantive due process claims against school corporal punishment have rarely been successful. One legal scholar has argued that it may be more expedient for plaintiffs to argue that the Fourth Amendment requires that punishments be “reasonable” and comparable in scope to the nature of the student’s misbehavior (Mitchell 2010). Some cases have successfully made this argument, such as a principal’s slapping of a 15 year old student across the face for saying “Heil Hitler” being seen as unreasonable for a nonviolent offense (*P.B. v. Koch* 1996). In light of the fact that more than half of the states now ban school corporal punishment, it is clearly less socially acceptable than it was at the time of *Ingraham* and thus is no longer universally accepted as a “reasonable” punishment (Mitchell 2010).

These cases involving school corporal punishment have been brought before both civil and criminal courts, depending on where the state includes assault. A mechanism not used in situations of injury by school corporal punishment is the child welfare system because non-accidental injuries that are inflicted by individuals who are not parents or caregivers fall under criminal assault and not physical abuse (Child Welfare Information Gateway 2013). All state statutes on child physical abuse define it as involving a physical injury to the child, yet these statutes only apply to official “caregivers” and thus do not apply to teachers (Child Welfare Information Gateway 2011). As noted above, there are countless cases of children being physically injured as a result of a paddling or other corporal punishment in schools. The result is that the same behavior that is considered allowable corporal punishment by a teacher could be considered physical abuse if inflicted by a parent. For example, in one case of excessive school corporal punishment, a nurse who examined the student noted that she would have had to call Child Protective Services if the injury had been sustained at home instead of at school (*Garcia ex rel. Garcia v. Miera* 1987). Thus, a teacher who bruises a child’s buttocks with a paddle is considered to be doing their job, while a parent who hits a child and leaves a bruise is considered to be an abusive parent and can lose custody of their child under state child abuse laws. Indeed, as mandated reporters (*Child Abuse Prevention and Treatment Act* 1974), teachers are required to report suspected abuse if a child comes to school with a suspicious injury, however, a parent cannot report a teacher for abuse if the child comes home from school with the same injury.

In a startling illustration of this point, a father brought his 12 year old daughter, who had a large welt on her buttocks as a result of a school paddling, to the Kentucky child protective services office. Child protective services performed an investigation and concluded that physical abuse had occurred and attempted to

charge the principal with criminal assault, but a grand jury failed to indict the principal. When the family sued in a U.S. district court, the court ruled her injuries did not reach the “shock-the-conscience” standard (*C.A. ex rel G.A. v. Morgan Co. Bd. of Educ.* 2008).

The fact that two arms of government do not agree on what constitutes abuse or assault leaves children in a situation in which they are not being afforded equal protection from assault and injury under federal and state law in two ways. First, they are not protected from assaults in the same manner as adults are. Second, they are protected from assault in their homes in all states but not in their schools in 19 states. These two facts are problems of law beyond just school corporal punishment but they are key reasons why school corporal punishment continues in this country.

7.2 Changes to Public Policy

School corporal punishment is currently banned in 31 states under state laws or regulations. Bans in the remaining 19 states could also be achieved through state-level laws or regulation changes, but it could alternatively be achieved by a federal law that applies to all states.

In order to be effective, a law prohibiting corporal punishment entirely or just in schools would need to achieve several things. According to the Global Initiative to End Corporal Punishment of Children (Global Initiative 2009), an international education and advocacy organization that works to end all corporal punishment of children, an effective law would need to (1) remove any legal defenses to using corporal punishment (e.g., as discipline) so that criminal laws on assault apply to children as they already do adults, (2) prohibit corporal punishment in various settings explicitly, (3) establish appropriate sanctions when corporal punishment is used, and (4) include an effort to educate professionals and parents about the law. The Global Initiative also recommends that the legislation use clear language that includes the full range of corporal punishment methods and not just “violence” so that there is no ambiguity about whether “mild” methods such as spanking with a hand are included. It is also important that legislation make clear that there are legitimate uses of force as a means of protecting a child from immediate danger (e.g., restraining a child who is about to run into a busy street), of protecting others (e.g., holding a child who is trying to hit another child), or of protecting property (e.g., grabbing the arm of a child who is about to throw a rock at a window) (Global Initiative 2009).

7.2.1 Federal Law

There are currently no federal laws or regulations governing the acceptability of school corporal punishment. The only federal laws or regulations relevant to the practice are actually about the collection of data about it, namely the 1980 Department of Education Organization Act (1979; see: § 203.c.1) and 34 C.F.R. Sect. 100.6(b) (2000) of the Code of Federal Regulations. Together, these policies authorize the collection of school corporal punishment prevalence from public school districts via the Civil Rights Data Collection.

The full Congress has yet to consider a bill prohibiting corporal punishment from schools nation-wide; several bills have been introduced over the last several decades but none has made it out of committee. The first attempt to ban school corporal punishment would have required that states ban the practice in order to receive federal funding. It was introduced by Representative Major Owens (D-NY) as H.R. 1013 in 1990, as H.R. 1522 in 1991, and as H.R. 627 in 1993. One of the bills (1522) made it out of its subcommittee but failed in front of the full education committee, despite having 29 co-sponsors (Block 2013).

A second effort to institute a federal ban on school corporal punishment was begun by Representative Carolyn McCarthy (D-NY) in 2010. As a prelude to potential legislation, the House Education and Labor Subcommittee on Healthy Families and Communities convened a hearing on the topic of corporal punishment in schools. The hearing was chaired by Representative McCarthy and included testimony from a school principal, a teacher, a professor of pediatrics, and a mother of a 12th grade student who was injured from a paddling at school in Mississippi for a dress code violation, even after the mother had signed a form saying she did not want her child paddled. All of the speakers voiced opposition to school corporal punishment (Subcommittee on Healthy Families and Communities 2010). The American Civil Liberties Union and Human Rights Watch submitted a joint statement in favor of the legislation in which they concluded, “A federal prohibition on corporal punishment in public schools is necessary to protect students from the discriminatory impact and the academic harms which it brings” (Murphy et al. 2010, p. 4). The National Education Association (2010) submitted a letter to the committee saying that it “categorically opposes the use of corporal punishment as a school discipline technique. It is more than ineffective—it is harmful.”

Two months after the hearing, Representative McCarthy introduced legislation to ban school corporal punishment, entitled the Ending Corporal Punishment in Schools Act (H.R. 5628, 111th Congress 2010). Key aspects of the proposed legislation were that it would tie federal education funding to banning corporal punishment from schools, explicitly permit the use of reasonable force under when there is imminent threat of harm to the child or others, and define corporal punishment as “paddling, spanking, or other forms of physical punishment, however light, imposed upon a student.” (§12.1). The proposed bill garnered 24 co-sponsors (all Democrats), but died in committee and was never voted on by the full House of

Representatives. Representative McCarthy introduced the bill again in the 112th Congress (*Ending Corporal Punishment in Schools Act of 2011*) but it again died in Committee.

On June 26, 2014, Representative McCarthy reintroduced the bill as H.R. 5005 in the 113th Congress, 2nd session. The bill was assigned to the House Committee on Education and the Workforce. As yet another sign of the politicization of this issue, all of the co-sponsors were Democrats and only five of whom represented states that currently allow school corporal punishment (see www.govtrak.us). The bill proposes that text banning corporal punishment be added to the General Education Provisions Act (20 U.S.C. 1232f et seq.); the text is presented in Table 7.2. As of this writing, the bill is at the Committee stage and it is unclear if it will be considered by the full House.

7.2.2 State Law

To date, school corporal punishment has remained an issue of state law. Each state that has banned school corporal punishment has done so in revisions to its state statutes, typically in its education code, or in statewide regulations (Center for Effective Discipline 2014). There are efforts to ban school corporal punishment ongoing in each of the 19 states that allow it. Following is a brief summary of the efforts going on in three states, namely Texas, North Carolina, and Tennessee.

7.2.2.1 Texas

As the paddling state with the largest number of students, Texas not surprisingly has the highest number of students subject to corporal punishment (see Table 2.1). Yet corporal punishment is increasingly a rural phenomenon in Texas, as the school districts in its large cities have banned corporal punishment (Arlington, Austin, Dallas, El Paso, Fort Worth, Houston, San Antonio: Center for Effective Discipline 2008).

There have been efforts to eliminate, and later to reduce, school corporal punishment in Texas. In 2007, Representative Alma Allen, a former school principal, introduced a bill to ban corporal punishment from public schools but it failed to make it out of committee (*An Act Relating to Corporal Punishment in Public Schools* 2007). Four years later, Representative Allen introduced, and the Legislature passed, a bill that allows parents the right to prohibit corporal punishment of their child by submitting a written statement at the beginning of the school year (*An Act Relating to Corporal Punishment in Public Schools* 2011). Two stricter provisions included in an earlier version of the bill were dropped before passage: a requirement that parents give written permission for their children to receive corporal punishment at school (an “opt-in” provision that would have been stronger than the “opt-out” provision that was passed), and a requirement that the educator delivering the corporal punishment be the same sex as the student.

Table 7.2 Proposed amendment to Subpart 4 of part C of the General Education Provisions Act (20 U.S.C. 1232f et seq.) included in H.R. 5005, *Ending Corporal Punishment in Schools Act of (2014)*, introduced June 26, 2014, by Representative Carolyn McCarthy

<p>SEC. 448. Prohibition against corporal punishment</p>	<p>(a) General Prohibition No funds shall be made available under any applicable program to any educational agency or institution, including a local educational agency or State educational agency, that has a policy or practice which allows school personnel to inflict corporal punishment upon a student</p> <p>(1) as a form of punishment; or</p> <p>(2) for the purpose of modifying undesirable behavior.</p> <p>(b) Local Educational Agency</p> <p>(1) In General In the case of an applicable program under which a local educational agency may only receive funds through a State educational agency that is prohibited under subsection (a) from receiving funds under any applicable program, a local educational agency that is not prohibited under subsection (a) from receiving such funds may apply directly to the Secretary to receive funds under the program.</p> <p>(2) Certification Each local educational agency applying directly to the Secretary under paragraph (1) shall certify in such application that the agency is not prohibited under subsection (a) from receiving funds under any applicable program.</p> <p>(c) Rule Of Construction Nothing in this section shall be construed to preclude school personnel from using, within the scope of employment, reasonable restraint to the lightest possible degree upon a student, if</p> <p>(1) the student’s behavior poses an imminent danger of physical injury to the student, school personnel, or others;</p> <p>(2) less restrictive interventions would be ineffective in stopping such imminent danger of physical injury; and</p> <p>(3) the reasonable restraint ends immediately upon the cessation of the conditions described in paragraphs (1) and (2).</p> <p>(d) Definitions For purposes of this section</p> <p>(1) the term ‘corporal punishment’ has the meaning given such term in Section 12 of the Ending Corporal Punishment in Schools Act of 2014;</p> <p>(2) the term ‘educational agency or institution’ means any public or private agency or institution which is the recipient, or serves students who are recipients of, funds under any applicable program;</p> <p>(3) the terms ‘local educational agency’ and ‘State educational agency’ have the meanings given such terms in Section 9101 of the Elementary and Secondary Education Act of 1965;</p> <p>(4) the term ‘school personnel’ has the meaning given such term in Section 12 of the Ending Corporal Punishment in Schools Act of 2014; and</p> <p>(5) the term ‘student’ includes any person who is in attendance at an educational agency or institution.</p>
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This latter issue garnered national attention in 2012 when parents of two female high school students complained that the male assistant principal who delivered the corporal punishment hit the girls so hard he left bruises and welts on each of them (Miller 2012). The mother of one of the girls noted that if she had left such a mark on her child that child protective services would come to her home. Rather than reconsider a practice that injures its students, the school board of Springtown Independent School District dealt only with the sexualized aspect of the case and voted unanimously to allow opposite sex staff to administer corporal punishment to students (Miller 2012).

Representative Allen introduced her bill to abolish all school corporal punishment yet again in the 2012–2013 legislative session but it stalled in committee (*An Act Relating to Corporal Punishment in Public Schools* 2013). The next chance to consider the legislation will be in the 2014–2015 legislative session.

7.2.2.2 North Carolina

School corporal punishment is on the decline in North Carolina. It has been banned in all but 11 of its 115 school districts (Action for Children North Carolina 2013), with Onslow County Schools becoming the most recent district to ban corporal punishment from schools in August, 2014 (Harris 2014). The use of school corporal punishment is diminishing rapidly in North Carolina, with the number of incidents of corporal punishment reduced by 55 % between the 2010–2011 and 2011–2012 school years (North Carolina Department of Public Instruction 2013).

Concerns about the potential harm of school corporal punishment recently led the North Carolina State Board of Education to adopt a resolution opposing school corporal punishment, which stated in part, “the use of corporal punishment has the potential to seriously harm students physically, mentally and emotionally” and “corporal punishment is often indistinguishable from child abuse” (North Carolina State Board of Education 2013, pp. 4–5). Such a resolution does not change the policy in the state, however, and thus school corporal punishment remains legal in North Carolina.

Six years before this resolution, a bill to ban school corporal punishment was introduced to the North Carolina Assembly (*An Act to Prohibit the Use of Corporal Punishment* 2007) but it failed to pass the House on a 66–50 vote. Rather than revisit the same bill in the ensuing years, the Assembly has passed a series of bills that restrict who can be subject to corporal punishment and how it can be administered. In 2010, the House and Senate unanimously passed a bill that prohibited the use of corporal punishment on children with legally-defined disabilities (such as mental retardation, vision or hearing impairments, physical impairments, serious emotional disturbance, or autism) or on children with other disabilities whose parents state in writing that they do not want corporal punishment used on their child (*An Act to Prohibit the Use of Corporal Punishment on a Student with a Disability* 2010). A provision allowing parents to opt their children out of corporal punishment by submitting a written form at the beginning of the school year was

made into law in the 2011–2012 session (An Act to Require the Involvement of a Parent 2011). In a recent legislative session (2013–2014), a bill was introduced in the state Senate that would have prohibited the corporal punishment of children in foster care and, in an echo of the Texas law noted above, required that the school administrator delivering the corporal punishment be the same gender as the student (An Act to Prohibit the Administration of Corporal Punishment 2013). The bill died in committee.

Thus, in each of the last three legislative sessions, the General Assembly of North Carolina has considered or passed restrictions on school corporal punishment. Paired with the decreasing incidence of corporal punishment within the state, it seems likely that corporal punishment will be effectively eliminated in North Carolina in the near future.

7.2.2.3 Tennessee

School corporal punishment is legal in Tennessee and no legislation has been considered by its General Assembly to abolish or restrict the use of corporal punishment. The current state statute provides broad permission to use corporal punishment in schools: “Any teacher or school principal may use corporal punishment in a reasonable manner against any pupil for good cause in order to maintain discipline and order within the public schools” (Tennessee Statutes and Codes 1979). Within the state, the school districts of its major cities (Memphis, Nashville, and Knoxville) have banned corporal punishment (Center for Effective Discipline 2008).

The decision by Memphis City Schools to abolish corporal punishment has received particular scrutiny. As part of a district-wide overhaul to improve student performance, the Memphis City Schools launched a Blue Ribbon Behavior Plan in the 2005–2006 school year. A key part of this plan was an end to school corporal punishment and a move toward positive behavior management. Two years before the ban was instituted, 28,829 instances of corporal punishment were documented in Memphis schools (Do and Lewis 2006). There was some resistance to the shift away from corporal punishment, particularly from staff at high schools (Do and Lewis 2006). In the first year that the Blue Ribbon plan was implemented, findings were mixed. There were decreases in student misconduct in the classroom (–31 %) and in referrals to the principal (–18 %); however, there were also increases in assaults to students (+26 %) and against staff (+30 %), although these increases parallel the increase in crime experienced by Memphis over the same period (Do and Lewis 2006). The question of school corporal punishment was revisited in the summer of 2013 when Memphis City Schools merged with Shelby County Schools, the latter of which permitted school corporal punishment. After a debate that included anecdotal support from proponents of corporal punishment and empirical evidence of the harm of corporal punishment presented by opponents, the Shelby County Board of Education voted 13-2 to ban corporal punishment from its schools (Kelley 2013).

7.3 School District Policies

State laws that permit school corporal punishment do not require it; rather, they allow local school districts to decide whether or not to implement it. Districts throughout the country in paddling states have banned the practice from their districts. As of 2008, 98 of the 100 largest school districts in the U.S. had banned corporal punishment (Center for Effective Discipline 2008). Interestingly, more than half of these districts (55 %) are in states that allow school corporal punishment. In effect, this means that students in most large cities in paddling states are protected from corporal punishment but students in smaller cities and rural areas are not. Such local policy change can be an effective tool for eliminating school corporal punishment when state legislative bodies are not amenable to state-wide abolition.

7.4 Summary

Although corporal punishment, either by school personnel or by parents, has been declared a human rights violation by several international organizations including the United Nations, school corporal punishment remains legal in the U.S. under the 1977 *Ingraham v. Wright* Supreme Court decision. At the time of the decision, the Court felt there was “no trend toward its elimination” given that only 2 states had banned it at the time the case was brought forward; a trend toward elimination of school corporal punishment is now clear, with 31 states banning the practice. Lower courts have been unsympathetic to parents who sue school personnel for injuring their children during corporal punishment. There is currently no federal law regarding school corporal punishment, but a bill that would require states to ban school corporal punishment in order to receive federal education funding has been proposed several times in the House of Representatives but has never made it out of committee. There are some efforts to ban school corporal punishment in the 19 states that still allow it, including in North Carolina and Texas, but only 5 states have banned school corporal punishment in the last two decades. School corporal punishment is increasingly a rural phenomenon, as most urban school districts in states that allow school corporal punishment have banned it.

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Chapter 8

Education and Advocacy Efforts to Reduce School Corporal Punishment

Any law that bans corporal punishment would need to be accompanied by efforts to inform the public about the law and to educate them about positive discipline and other non-violent methods of correcting children's misbehavior (Global Initiative 2009). In places where policy changes will be difficult or take a long time, educational campaigns can help reduce the use of corporal punishment in schools before it is officially banned.

8.1 Educational Campaigns

Some legal scholars have argued that the most effective way of removing corporal punishment from schools will be to change attitudes about it at the community level, rather than a top-down approach of applying state, federal or international law to local schools (Imbrogno 2000). Just as violence toward women was first redefined in the public sphere as a deviant behavior and then state and federal laws followed, once school corporal punishment is defined as deviant, school districts will be compelled to abandon the practice (Imbrogno 2000).

Several interventions have been successful at reducing attitudinal support for corporal punishment. Two recent interventions targeted at parents used educational materials, either baby books (Reich et al. 2012) or a brief video viewed in a pediatric clinic (Scholer et al. 2010), to discourage corporal punishment and encourage positive parenting practices; both were successful in reducing positive attitudes toward corporal punishment. Three other interventions were similarly successful but with non-parents. In one, education students who were asked to write an empirical paper about "the pros and cons of corporal punishment in America's schools" decreased their support for corporal punishment compared with control students who did not write such a paper (Griffin et al. 2000). The second study found that undergraduates who read a 2,000 word summary of the empirical research on corporal punishment reported a significant decrease in their intention to

use corporal punishment with their own children (Robinson et al. 2005). In a third study, reading brief summaries of the empirical research linking corporal punishment to specific detrimental child outcomes led to significant decreases in attitudes about and intention to use corporal punishment among a sample of undergraduates and among a sample of parents (Holden et al. 2013).

In an ambitious effort to reduce support for and use of corporal punishment across the continent of Europe, the Council of Europe launched its “Raise your hand against smacking!” campaign in 2008. The campaign includes a variety of educational materials, including handbooks and brochures for parents and empirically-based books targeting lawmakers. A key feature of the campaign is a public service announcement with eye-catching visuals that show silhouettes of hands helping children and ends with the message, “Hands should nurture, not punish. Raise your hand against smacking” (see http://www.coe.int/t/dg3/children/corporalpunishment/Campaignpack/Default_en.asp for links to all campaign materials). While the campaign has yet to be evaluated, seven European countries have banned all corporal punishment, including that in schools, since it began (Albania, Luxembourg, Liechtenstein, Macedonia, Malta, Poland, and Republic of Moldova). The “Raise your hand” campaign was instrumental in achieving a ban in the Republic of Moldova, where it was presented directly to Parliament and government ministers (Global Initiative 2014).

Yet, even when corporal punishment is banned from a school, school district, state, or even country, the practice does not immediately end altogether, particularly without an educational campaign. A study of schools in Washington state in 1991–1992 (1 year before the state instituted a ban on school corporal punishment) revealed that 16 % of corporal punishment incidents occurred in schools where it was officially banned (Grossman et al. 1995). In Kenya, where school corporal punishment has been banned since 2001, the practice has continued, typically in the form of caning (Lacey 2006). Focus groups with Kenyan teachers revealed that they were aware of their country’s ban but were steadfast in their belief that corporal punishment was a necessary and effective disciplinary tool to maintain order in schools (Mweru 2010). Similarly, South Africa banned school corporal punishment when it transitioned to a new government and a new Constitution that valued the rights of children in 1996. However, students have reported that corporal punishment continues to be a regular part of education in South Africa (Payet and Franchi 2008).

It is clear that just banning a practice without educating teachers and school administrators about the harms and ineffectiveness of corporal punishment and without providing them with alternative methods will be an ineffective endeavor. Overhauls such as that taken on in Memphis are necessary to provide teachers with effective tools that rely on positive reinforcement and non-physical punishments.

8.2 Promotion of Effective Alternatives to Corporal Punishment

A final way that corporal punishment in schools could be reduced would be for individual schools or school districts to replace corporal punishment with other forms of discipline. There is a large body of literature on the effectiveness of various school disciplinary practices and it is beyond the scope of this monograph to provide a comprehensive summary of them. We instead highlight two approaches that have particular promise as methods that could replace corporal punishment in schools that currently use it.

Decades of research make clear that substituting other harsh punishments for corporal punishment is not the answer. Suspensions, expulsions, and zero tolerance policies that enforce suspensions and expulsions without attention to mitigating circumstances have been largely criticized for their overuse and harmful effects (American Psychological Association Zero Tolerance Task Force 2008). Zero tolerance policies, which emphasize harsh consequences including referral to law enforcement, have been a particular cause for criticism for their role in creating a “school to prison pipeline” (ACLU 2008).

An in-depth study in Texas illustrates the key problems with these practices. One in six students was found to have been either suspended or expelled during 7th through 12th grades (Fabelo et al. 2011). Suspensions and expulsions were also found to be used repeatedly for the same students, with those in the school disciplinary system given an average of 8 suspensions or expulsions (Fabelo et al. 2011). Disparities by race, gender, and disability status were also found. Suspensions and expulsions were linked with poor school performance, including a doubled likelihood that the student would repeat a grade, even after controlling for a host of student-level (e.g., race, gender, disability status, socioeconomic status, limited English proficiency) and school-level characteristics (e.g., percent meeting state achievement test standards, student to teacher ratio, student body diversity, drop-out rate). Suspensions and expulsions were associated with increased behavior problems, including a three-fold increase in the likelihood that the student would be involved with the juvenile justice system the year after a suspension or expulsion, again controlling for student and school characteristics (Fabelo et al. 2011).

If suspensions, expulsions, and zero tolerance policies are ineffective, what should schools do instead? The U.S. Department of Education recently released a set of guiding principles for improving discipline in schools (U.S. Department of Education 2014). This guide advocates for an “instructional approach” to discipline such that misbehaviors are used as opportunities for children to learn, practice, and be rewarded for appropriate and positive behavior. It also recommends that schools should have:

a discipline policy that sets high expectations for behavior; provides clear, developmentally appropriate, and proportional consequences for misbehavior; and uses disciplinary incidents to help students learn from their mistakes, improve their behavior, and meet high expectations (U.S. Department of Education 2014, p. 3).

Although corporal punishment is not mentioned in the guiding principles document, it does state that “restraint and seclusion should *never* be used for punishment or discipline” (p. 14).

A review of research on school discipline programs (Osher et al. 2010) identified four conditions that were required for a school to be promotive of student learning, namely authentic challenges, physical and emotional safety, connectedness, and a positive school climate. Successful schools met these conditions by the implementation of positive behavioral supports, engaged teachers, social emotional learning, and/or supportive relationships. Osher et al. (2010) highlighted two programs that met these goals—school-wide positive behavioral interventions and supports and social emotional learning—and we summarize each approach and the research evidence below. Both approaches emphasize prevention and both have the goal of creating a positive learning environment for students.

8.2.1 School-Wide Positive Behavioral Interventions and Supports

School-wide positive behavioral interventions and supports (SWPBIS) is a holistic approach to preventing student misbehavior that targets both teacher and student behaviors (Osher et al. 2010). As its name suggests, SWPBIS is a universal, school-wide prevention model (Bradshaw et al. 2010). Teachers are trained to actively teach and model appropriate behavior, to reward appropriate behavior and academic effort, and to implement consistent and non-punitive consequences when expectations are not met (Osher et al. 2010). Positively stated expectations for behavior (e.g., “Be respectful, responsible, and ready to learn,” Bradshaw et al. 2010, p. 134) are taught explicitly to students and then posted around the school for reinforcement.

An early study of SWPBIS found that it reduced misbehavior and disciplinary referrals in schools (Taylor-Greene et al. 1997). A later study demonstrated the effectiveness of the SWPBIS model through a group-randomized trial in 37 elementary schools, which found that disciplinary referrals to the principal’s office and suspensions decreased significantly over the five years of the study (Bradshaw et al. 2010). No significant program impacts were found on student achievement (Bradshaw et al. 2010). The SWPBIS model appears feasible for schools as it has been put in place in schools around the country. One study of state-wide implementation of SWPBIS in seven states (Colorado, Florida, Illinois, Maryland, Missouri, North Carolina, and Oregon) found that all states were able to successfully implement the program and to bring it to scale in several hundred schools each, particularly once local capacity of program trainers and coaches was established (Horner et al. 2013). SWPBIS thus has promise to be an effective alternative for school districts or states that decide to eliminate corporal punishment as a form of discipline.

8.2.2 Social Emotional Learning Approaches

Social emotional learning (SEL) approaches to preventing student misbehavior are also universal but take a different approach, namely one aimed at enhancing students' individual skills and resources. The SEL strategy is to prevent student misbehavior by developing skills in self-regulation, conflict resolution, moral behavior, social awareness, relationship skills, and responsible decision making [Collaborative for Academic, Social, and Emotional Learning (CASEL) 2012; Osher et al. 2010]. SEL skills are conveyed to students through direct instruction, modeling, and opportunities to practice skills and are reinforced through enhanced classroom management and through school-wide activities aimed at community building (Durlak et al. 2011).

There is a broad array of successful SEL programs for all grade levels (CASEL 2012). A meta-analysis that compared the findings from over 200 SEL programs found that children in such programs showed greater improvements in their SEL skills, their positive social behavior, their conduct problems, their emotional distress, and their academic performance than did children in control groups (Durlak et al. 2011). These results provide strong evidence that SEL programs are effective at improving student behavior as well as their academic achievement.

8.3 Advocacy

The consistency of the research linking corporal punishment with undesirable outcomes, the evidence of injuries linked to school corporal punishment, and changes in attitudes about the appropriateness of school personnel hitting children in the name of discipline have led several professional organizations to voice concern about and advocate for the abolition of school corporal punishment.

Concern among professional organizations about the potential harm of corporal punishment in schools began in the 1970s. The American Civil Liberties Union and the American Orthopsychiatry Association co-sponsored a conference on school corporal punishment in 1972 that was strongly critical of the practice (Hyman et al. 1977). The American Psychological Association (APA) then became the first professional organization to pass a resolution stating its opposition to school corporal punishment in 1975 (APA 1975). In its resolution, APA stated that,

It is evident that socially acceptable goals of education, training, and socialization can be achieved without the use of physical violence against children, and that children so raised, grow to moral and competent adulthood (APA 1975, para. 2).

The National Education Association (NEA) called for corporal punishment to be abolished from schools in 1975, and reaffirmed its belief that “corporal punishment has no place in public education” in its 2013–2014 resolutions (National Education Association 2013). The American Public Health Association (APHA) called for a ban in 1979 (APHA 1980).

The American Academy of Pediatrics (AAP) first called for a legal ban on all school corporal punishment in a policy statement in 1984, at which time 47 states permitted school corporal punishment (AAP, Committee on School Health 1984). It revised its statement in 1991 to include the promotion of alternatives to corporal punishment:

The American Academy of Pediatrics urges parents, educators, school administrators, school board members, legislators, and other adults to seek (1) the legal prohibition by all states of corporal punishment in schools and (2) the employment of alternative methods of managing student behavior (AAP, Committee on School Health 1991, p. 173).

Nine years later, with 23 states still allowing school corporal punishment, the AAP reiterated this statement (AAP, Committee on School Health 2000). An important aspect of this resolution is that it encourages its members “to seek” a ban on corporal punishment, thus clearly endorsing an advocacy role for pediatricians. This advocacy role was emphasized in an accompanying statement by the Committee on School Health of AAP which called on pediatricians to “assume a leadership role in a national movement to abolish corporal punishment in schools and to promote alternative disciplinary activities” (Poole et al. 1991, p. 167).

Other organizations have also called on their members to advocate against school corporal punishment. The National Association of Social Workers (NASW) called for a ban on corporal punishment in 1984 and reiterated its support for a ban in its 2012 policy statements (NASW 2012). An article in a journal published by NASW exhorted social workers “to advocate for effective alternatives to corporal punishment and to work to ban corporal punishment” (Dupper and Dingus 2008, p. 243).

A wide range of national organizations for professionals who work in schools and education settings has called for the abolition of corporal punishment in schools, including the American School Counselor Association, National Association for the Education of Young Children, National Association of Elementary School Principals, National Association of School Nurses, National Association of School Psychologists, National Association of Secondary School Principals, National Association for State Boards of Education, and National Parent Teachers Association (Center for Effective Discipline 2008).

Concern over the potential harm of school corporal punishment has also been voiced by national organizations of professionals who work with children outside of education. In addition to the resolutions by AAP, APA, APHA, and NASW noted above, organizations across a range of professions have issued policy statements calling for a ban on school corporal punishment, including the American Academy of Child and Adolescent Psychiatry, American Academy of Family Physicians, American Bar Association, American Civil Liberties Union, American Medical Association, National Association of Pediatric Nurse Practitioners, and National Association for the Advancement of Colored People (Center for Effective Discipline 2008). The Society for Adolescent Medicine (SAM) in particular has published a strongly worded policy statement, in which it states that,

...corporal punishment in schools is an ineffective, dangerous, and unacceptable method of discipline. The use of corporal punishment in the school reinforces physical aggression as an acceptable and effective means of eliminating unwanted behavior in our society. We join many other national and international organizations recommending that it be banned and urge that nonviolent methods of classroom control be utilized in our school system (SAM 2003, p. 391).

The Society even declared that children subject to corporal punishment in schools,

are being physically and mentally abused and no data exist demonstrating that such victims develop enhanced social skills or self-control skills (SAM 2003, p. 388).

A complete listing of organizations opposed to corporal punishment in schools is available in Table 8.1. It is clear that organizations representing professionals across a range of medical, legal, and social service disciplines share concern about the potential negative effects of school corporal punishment on children.

An additional source of advocates against corporal punishment in schools comes from an unlikely source, namely religious organizations in the U.S. The Unitarian Universalist General Assembly was the first such organization to speak out against school corporal punishment. It passed a resolution in 1973 opposing the practice and promoted direct advocacy when it urged its members to “work actively through school boards, legislatures, and courts to help arouse public opinion to bring an end to the practice” (Unitarian Universalist Association of Congregations 1973). It took another 30 years for another religious organization to take a similar step, but in 2004, the United Methodist Church passed a resolution calling on states to abolish corporal punishment from schools, child care, and residential care facilities (United Methodist Church 2008). The Church also passed a similar resolution encouraging parents not to use corporal punishment (United Methodist Church 2012). The third religious organization to oppose corporal punishment in schools is the General Assembly of the Presbyterian Church, USA, which adopted a resolution calling for parents to avoid using corporal punishment of children (2012). While the resolution did not specifically mention schools, their position can be implicitly assumed to include corporal punishment in schools given that a statement against corporal punishment in homes is the more culturally difficult stand to take.

As observed by Nadine Block and Robert Fathman (1988), two advocates who have worked to ban school corporal punishment for several decades, most legislation on corporal punishment is passed only with the vocal support of advocacy groups. A coalition of groups who share a commitment to ending school corporal punishment can provide the needed energy for advocacy of a state or federal bill ending school corporal punishment. At the moment, there is no active movement to organize the efforts of these organizations around their commitment to abolishing corporal punishment in schools. One such body that could be revived is the National Coalition to Abolish Corporal Punishment in Schools (NCACPS). NCACPS was established in 1987 as a joint effort of the National Center on Child Abuse Prevention, the American Academy of Pediatrics, the American Bar Association, the Parent-Teacher Association, the National Education Association, the

Table 8.1 List of national organizations opposed to school corporal punishment

American Academy of Child and Adolescent Psychiatry
American Academy of Family Physicians
American Academy of Pediatrics
American Counseling Association
American of School Administrators
American Bar Association
American Civil Liberties Union
American Humane Association
American Humanist Association
American Medical Association
American Orthopsychiatric Association
American Psychiatric Association
American Psychological Association
American Public Health Association
American School Counselor Association
Association for Childhood Education International
Association of Junior Leagues
Attachment Parenting International
Council for Exceptional Children
Defense for Children International
Friends Committee on Legislation
International Society for the Study of Trauma and Disassociation
National Association for State Departments of Education
National Association for the Advancement of Colored People
National Association for the Education of Young Children
National Association of Elementary School Principals
National Association of Pediatric Nurse Practitioners
National Association of School Nurses
National Association of School Psychologists
National Association of Secondary School Principals
National Association of Social Workers
National Association for State Boards of Education
National Council of Teachers of English
National Education Association
National Foster Parents Association
National Indian Education Association
National Mental Health Association
National Organization for Women
National Parent Teachers Association
National Women’s Political Caucus
Prevent Child Abuse America

(continued)

Table 8.1 (continued)

Society for Adolescent Medicine
Unitarian Universalist General Assembly
United Methodist Church General Assembly
U.S. Department of Defense: Office of Dependents Schools Overseas

Source Center for Effective Discipline (2008). U.S. Organizations Opposed to School Corporal Punishment. Retrieved from: <http://www.stophitting.com/index.php?page=usorgs>

Society for Adolescent Medicine, and 20 other professional groups (Block 2013; Society for Adolescent Medicine 2003). However, NCACPS was folded into the Center for Effective Discipline and is not currently active on its own. It will likely take one or more of the organizations named above to revive the NCACPS, or to create a new coalition, that can mobilize their constituencies toward advocacy at the state and federal levels.

8.4 Summary

Even when corporal punishment is banned from schools, attitudes of school personnel and of the public can be slow to change. Studies of locales that have banned school corporal punishment make clear that education campaigns are needed to change attitudes about and use of corporal punishment even after the practice is officially banned. Several educational approaches have been shown to be effective at changing attitudes about corporal punishment, including the use of videos, printed materials, or baby books to present the arguments against using corporal punishment. Many prominent professional organizations oppose school corporal punishment and advocate against its use, including the American Academy of Pediatrics, the American Psychological Association, the American Public Health Association, the National Association of Social Workers, the National Association of Elementary School Principals, the National Association of Secondary School Principals, and the National Education Association. Three religious denominations in the U.S.—the General Assembly of the Presbyterian Church—USA, the United Method Church, and the Unitarian Universalist Association of Congregations—officially oppose the use of corporal punishment in schools. Replacing corporal punishment with effective alternative methods of discipline is crucial to the well-being of schools and the students in them, and approaches such as the school-wide positive behavioral interventions and supports (SWPBIS) and social emotional learning (SEL) have been shown through research to be effective at reducing misbehavior and promoting positive behavior and achievement.

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Chapter 9

Conclusion

School corporal punishment has a long history in the U.S., but recent trends suggest we are witnessing its denouement, in practice if not in law. This monograph has brought together what is known about the current and past prevalence of school corporal punishment, disparities in its use, the outcomes it has for children, and potential means by which it may be reduced or abolished at federal, state, or local levels in the future.

This monograph was hampered by the utter absence of U.S.-based research studies linking children’s experiences with school corporal punishment and their academic achievement or their misbehavior. Much more research is needed that links school corporal punishment with child outcomes, particularly in longitudinal studies that also control for children’s experience with corporal punishment from their parents. There is also a need merely for descriptive data on corporal punishment; all that we know about the contemporary practice of school corporal punishment comes from administrative counts from the OCR data and from anecdotal accounts from interviews, media stories, and lawsuits. To understand what impacts school corporal punishment has on children, we first need to understand the variations in how corporal punishment is administered.

Despite this lack of individual-level data on the outcomes associated with school corporal punishment, we have endeavored to present all that is known about school corporal punishment in the U.S. In doing so, we have presented data showing that the legality and prevalence of school corporal punishment are predicted by key state-level characteristics, that there are clear demographic disparities in who is subject to corporal punishment, that there is strong evidence that corporal punishment by parents is associated with negative outcomes for children, and that states that have banned school corporal punishment have not experienced increases in juvenile offending. We have also reviewed the legal status of school corporal punishment in the U.S. and identified legal, education, and advocacy avenues for reducing and potentially eliminating corporal punishment from schools. Any such efforts at changing current disciplinary practices in schools are supported by eleven key facts that favor the abolition of school corporal punishment.

9.1 Key Facts that Support Banning Corporal Punishment from U.S. Schools

9.1.1 Schools Are One of the Last Public Institutions Where Corporal Punishment Is Still Legal

Corporal punishment has been banned from U.S. prisons and from military training facilities. It is also banned in most states from child care centers, residential treatment facilities, and juvenile detention facilities. The fact that twelve (63 %) of the states that allow corporal punishment in schools have banned it from other publicly funded settings that care for children suggests that these states already recognize the harm corporal punishment poses to children.

9.1.2 There Is Clear Evidence of Discrimination by Gender, Race, and Disability Status in Who Is Subject to School Corporal Punishment

Some students have a far greater risk for corporal punishment than others, not because of what they have done, but because of who they are. Male, black, or disabled students are far more likely to be corporally punished than their female, White, or non-disabled peers. Disparities in misbehavior rates cannot fully explain this difference; instead, it appears that these children are being discriminated against and targeted for corporal punishment. These disparities are in contravention of three federal laws that prohibit discrimination by race, gender, or disability status, namely Title VI of the Civil Rights Act of 1964, Title IX of the Education Amendments of 1972, and Section 504 of the Rehabilitation Act of 1973.

9.1.3 There Is No Empirical Evidence Showing School Corporal Punishment to Be Effective at or Necessary for Reducing Student Misbehavior, and There Instead Exists a Large Body of Empirical Evidence Demonstrating that Corporal Punishment Is Linked with a Range of Unintended Negative Side Effects

Corporal punishment is not effective at increasing either short- or long-term compliance. There is a large body of literature showing that the more children receive corporal punishment, the more likely they are to be aggressive and to misbehave over time. The fact that the same children are paddled repeatedly (North Carolina

Department of Public Instruction 2013) is a strong indication that it is not effective in deterring future misbehavior. Corporal punishment has also been linked with increased mental health problems and increased delinquent behavior.

9.1.4 School Corporal Punishment Meets Definitions of Violence and Assault

The conditions and consequences of corporal punishment fit widely accepted definitions of violence. A United Nations report adapted a definition of violence from the World Health Organization (Krug et al. 2002, see p. 5) to delineate violence against children as

the intentional use of physical force or power, threatened or actual, against a child, by an individual or group, that either results in or has a high likelihood of resulting in actual or potential harm to the child’s health, survival, development or dignity (Pinheiro 2006, p. 6)

Because it is intentional, involves physical force, and has a high likelihood of pain or injury, school corporal punishment should be considered a form of violence under this internationally accepted definition of violence. School corporal punishment also meets the legal definition of assault. Assault is defined in the Model Penal code as an act that “knowingly or recklessly causes bodily injury to another” (Model Penal Code 1981, § 211.1), with “bodily injury” defined as “physical pain, illness or any impairment of physical condition” (Model Penal Code 1981, § 210.0). As an intentional act, school corporal punishment is “knowingly” committed and is devised with the purpose of inflicting “physical pain” as a means of punishing an undesirable behavior—thus meeting the definition of assault.

9.1.5 School Corporal Punishment Results in Severe Physical Harm and Injury to Children

Because school corporal punishment is typically delivered using a large wooden paddle (with a typical size being a 2 foot long × 4 in. wide × 1/2 in. thick wooden board) and by an adult (often a male principal), the opportunity for injury is always present. Indeed, there are countless cases of children experiencing bruises, welts, cuts, hematomas (subdural bruises), and broken bones as a result of school corporal punishment. Such injuries would be considered abuse if caused by parents, or assault if caused by any other adult, but are not considered abuse or assault if caused by school personnel. This double standard means that individuals who do not have caregiving responsibilities for a child (educators) can harm a child in the name of discipline but a parent who does have caregiving responsibilities cannot. Nor can a parent seek redress against educators who harm their children, even if it was against parental wishes not to subject their children to corporal punishment at school.

9.1.6 U.S. States that Have Banned School Corporal Punishment Have Not Seen a Subsequent Increase in Juvenile Crime

Contrary to the arguments by defenders of school corporal punishment that banning it would result in an increase in misbehavior and delinquent activity, states that have banned corporal punishment from their schools have not seen a subsequent increase in juvenile crime. There is thus no evidence that removing corporal punishment from schools creates a state-wide permissive environment where youth fail to control their own behavior.

9.1.7 Corporal Punishment Undermines Schools' Efforts to Create a Violence-Free Environment

Corporal punishment involves hitting, which is an act of violence. Schools throughout the country have engaged in efforts to reduce violence, including anti-bullying campaigns. Corporal punishment undermines such efforts by allowing school- and state-sanctioned violence against children by school personnel.

9.1.8 There Are Effective Alternative Disciplinary Methods

Schools throughout the country have successfully implemented school climate and disciplinary methods that de-emphasize punitive methods such as corporal punishment. Two promising approaches are school-wide positive behavior support and social-emotional learning (Bradshaw et al. 2010; Durlak et al. 2011). Many school districts within paddling states have come to the conclusion that positive and non-violent methods are more effective at maintaining discipline and have banned corporal punishment (Center for Effective Discipline 2008). The U.S. Department of Education (2014) recently added its support to positive behavioral support approaches to school discipline in a report that encourages schools to create positive school climates with an “instructional approach” to discipline that avoids harsh and punitive methods.

9.1.9 A “Discernible Trend Toward Elimination” of Corporal Punishment Now Exists and Would Support a Case Brought Before the Supreme Court

When the Supreme Court ruled in favor of school corporal punishment in the *Ingraham* case in 1977, it stated there was no “discernible trend” away from the practice with only two states banning it. Now, more than half of the states, 31 in total, have banned corporal punishment from schools. If a case were to be brought before the Supreme Court, it may decide as it did in *Roper* decision about capital punishment for juveniles that when a majority of the states ban a practice, it is time to ban it across the nation.

9.1.10 Prominent Professional Organizations and Religious Denominations Have Called for an End to Corporal Punishment in Schools

These organizations represent a range of disciplines, including education (e.g., National Association for State Boards of Education, National Association of Elementary School Principals), medicine (e.g., AAP, American Medical Association), mental health (e.g., APA, NASW), and law (e.g., American Bar Association). In addition, the Unitarian Universalist Association of Congregations, the United Methodist Church, and the General Assembly of the Presbyterian Church, USA, have each passed resolutions calling for an end to corporal punishment in schools and urging parents to use non-violent forms of discipline.

9.1.11 The International Human Rights Community Has Condemned School Corporal Punishment as a Violation of Children’s Human Rights, and a Total of 122 Countries Around the World Have Banned School Corporal Punishment

Drawing upon rights guaranteed to children in the Convention on the Rights of the Child (CRC), the United Nations, the Council of Europe, and the Inter-American Commission on Human Rights have each called for the abolition of corporal punishment generally and in schools specifically. Although the U.S. has yet to ratify the CRC, it can be influenced and inspired by this international opinion, as was the Supreme Court in its *Roper* decision to ban capital punishment for minors. As it stands, the U.S. is one of only two of the 24 major industrialized countries to continue to allow school corporal punishment; the other is Australia, where only 4 of

its 16 states and territories have banned school corporal punishment (Global Initiative 2014). Countries that have banned school corporal punishment (43 have also banned corporal punishment by parents) are doing better than the U.S. on the same dimensions that proponents of corporal punishment say benefit from the practice, namely academics and violence. Countries without school corporal punishment are doing very well academically; 32 of the 35 countries whose 15-year-old scored above students in the U.S. on the latest PISA math test have banned school corporal punishment (Organisation for Economic Co-operation and Development 2013). Countries that have banned corporal punishment are also not suffering from heightened violence. A comparison of violence mortality rates among 17 peer industrialized countries found the U.S. to have rates by far higher than the other 16 countries (nearly three times higher than the country with the second highest rate; National Research Council 2013), 14 of whom have banned school corporal punishment. Looked at another way, the ten countries rated as most peaceful in the world according to the Global Peace Index have all banned corporal punishment in schools (Institute for Economics and Peace 2013); seven have also banned corporal punishment by parents (Global Initiative 2014). Clearly, school corporal punishment is not necessary to raise a new generation of citizens that succeed academically and avoid violent behavior.

9.2 The Future of School Corporal Punishment in the U.S.

Given so many reasons to avoid using corporal punishment in schools, it is puzzling that the practice has persisted for so long in the U.S. There are no empirical data to support its use, thus its persistence is not evidence-based. Rather, the continued use of school corporal punishment is more likely attributable to tradition and beliefs about its necessity to maintain discipline. Any efforts to ban corporal punishment at the local, state, or federal levels will only be successful if they address these beliefs directly and provide educators with alternative, effective positive management techniques. Training in the harms of corporal punishment and the benefits of alternative means of discipline, such as SWPBIS and social emotional learning programs, will be necessary for teachers, administrators, and parents.

More permanent bans on school corporal punishment could take place at several levels. School districts could develop regulations that ban corporal punishment. State legislatures could pass bans on school corporal punishment. The U.S. Congress could prohibit corporal punishment as a condition of receiving federal education funding through a bill such as one introduced by Rep. Carolyn McCarthy in 2014 (H.R. 5005: Ending Corporal Punishment Act of 2014). A case illustrating the harm of school corporal punishment could be brought before the Supreme Court to force it to revisit its 1977 *Ingraham v. Wright* decision.

Such efforts in the U.S. may be bolstered by future research on the impacts of school corporal punishment on individual children, the crucial issue in this debate and one on which there is no extant research. That said, throughout the world it is

not research but concern for the human rights of children that fuels the movement to end corporal punishment of children in schools, care facilities, and homes. It may be some time before arguments about the human rights of children have sway in the U.S., but until then, there is ample empirical evidence to support a clear and definitive conclusion: Corporal punishment is ineffective, unnecessary, and harmful to children. There should be no place for it in American education.

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Index

A

Achievement scores, 30, 38, 42, 89–91, 95, 99, 108
ACLU, 12, 25, 33, 39
Advocacy, 4, 91–93, 95, 99
Aggression, 40, 41, 43
Alabama, 11, 19, 27
Alaska, 53, 62
Allen, Texas Representative Alma, 79, 81
American Academy of Pediatrics, 92, 93, 95
American Psychological Association, 30, 31, 33, 89, 91, 95
American Public Health Association, 91, 95
Arizona, 20, 31
Arkansas, 19, 27, 30, 61

B

Bans on all corporal punishment, 48, 49, 52, 54–56, 58
Bans on school corporal punishment in the U.S., 1, 4, 9, 17, 99, 104
Black students, 29–31
Brown v. Board of Education, 33

C

California, 52
Child abuse and maltreatment, 14, 20, 67, 81
Civil Rights Act of 1964, 9, 33, 100
Civil Rights Data Collection, 9, 78
Colorado, 1, 10, 17, 28, 64, 90
Compliance, 9, 41, 42
Connecticut, 19
Convention on the Rights of the Child, 103
Corporal punishment definition, 1–4
Corporal punishment in institutions that serve children, 64
Corporal punishment in schools
alternatives to, 89, 92
educator opinion about effectiveness, 20

effects on students, 37, 40
in Texas Education Code, 2, 79, 89
legal basis for, 4, 61
methods used, 21, 48, 66, 77
misbehaviors that elicit, 12, 13
physical injuries associated with, 39, 74
predictors of prevalence, 14
predictors of state ban, 14, 56
prevalence, national, 9, 25, 99
prevalence, by state, 9
public opinion about, 18, 73, 93
states legal in, 1, 6
trend in bans, 11, 56, 104
versus. physical abuse, 42, 44, 76
Corporal punishment of animals, 63
Corporal punishment of prisoners, 61, 73
Council of Europe, 70, 88, 103

D

Delaware, 14
Department of Education Organization Act of 1979, 9, 78
Disability disparities, 25, 26, 30–34
Discipline Disparities Research-to-Practice Collaborative, 34
District of Columbia, 14, 48, 67

E

Educational campaigns, 87, 88
Eighth amendment, 61, 65, 66, 73
Elementary school(s), 3, 11, 12, 20
Evolving standards, 73, 74

F

Florida, 13, 22, 27, 30, 31, 65

G

Gender disparities, 25–27, 30

General Assembly of the Presbyterian Church, USA, 93, 95, 103
 Georgia, 1, 14, 27, 30, 33, 64, 66
 Global Initiative to End Corporal Punishment of Children, 71, 72

H

Hawaii, 53, 62
 High school, 12, 14, 15, 17, 20–22, 31, 50, 51, 54, 55, 65
 Human rights, 105
 Human Rights Watch, 3, 12, 13, 25, 33, 39, 40, 43
 Hyman, Irwin, 3, 12, 13, 18, 19, 37, 47

I

Idaho, 1, 28, 30, 32
 Illinois, 90
In loco parentis, 64, 65, 67
 Indiana, 1, 32, 34, 63
Ingraham v. Wright, 18, 61, 65–67, 104
 Inter-American Commission on Human Rights, 103
 Interventions to reduce corporal punishment, 34, 87, 90
 Iowa, 6

J

Juvenile crime, 4, 39, 48, 54–56, 58, 102

K

Kansas, 1, 17, 32, 64
 Kentucky, 1, 10, 14, 20, 27, 28, 32, 62, 64, 76, 107

L

Latino or Hispanic students, 29
 Louisiana, 1, 14, 20, 27, 28, 30, 64

M

Maine, 53, 62
 Maryland, 14, 90
 Massachusetts, 19, 66, 67
 McCarthy, Rep. Carolyn, 78, 79, 104
 Michigan, 53, 62
 Middle schools, 21, 22, 47
 Minnesota, 53, 62
 Misbehavior, 12, 13, 17, 22, 27, 30, 31, 38, 44, 47, 61, 89–91, 95, 100, 102
 Mississippi, 1, 3, 11, 14, 19, 22, 27, 28
 Missouri, 1, 21, 27, 28, 32, 64, 90
 Montana, 53, 62

N

National Association of Social Workers, 92, 95
 National Coalition to Abolish Corporal Punishment in Schools, 93, 95
 National Education Association, 77, 78, 91, 93, 95
 Nebraska, 53, 62
 Nevada, 53, 62
 New Hampshire, 19
 New Jersey, 6, 66, 67
 New Mexico, 28, 32
 New York, 53, 62
 North Carolina, 1, 12, 13, 30, 32, 81, 90
 North Dakota, 53, 62

O

Office for Civil Rights, U.S. Department of Education, 9
 Ohio, 32, 47
 Oklahoma, 1, 14, 64
 Oregon, 90

P

Paddle or paddling, 65, 76
 Parents, 1, 13, 18, 21, 37, 39–44, 63–66, 71, 76, 79, 83, 88, 93, 103
 Parents' use of corporal punishment, 42
 Pennsylvania, 20
 Physical punishment, 78, 88
 Policy analysis, 4
 Principal(s), 3, 20, 47, 76, 90, 95
 Private schools, 6, 12, 65
 Public policy, 69, 77
 Public schools, 1, 4, 6, 11, 14, 20, 56, 67, 78, 82

R

Race and ethnic disparities, 29, 30
 Rehabilitation Act of 1973, 9, 33, 100
 Rhode Island, 19
Roper v. Simmons, 70, 73

S

School-wide positive behavioral interventions and supports, 95
 School violence, 1
Serafin v. School of Excellence in Education, 74
 Social emotional learning, 34, 90, 91, 104
 Society for Adolescent Medicine, 37, 39, 95
 South Carolina, 1, 14, 47
 South Dakota, 20

Supreme Court, [61](#), [64](#), [67](#), [74](#), [75](#), [103](#), [104](#)
Suspensions and expulsions, [30](#), [33](#), [89](#)

T

Teachers or educators, [20](#), [43](#), [64](#), [74](#), [88](#), [90](#)
Tennessee, [1](#), [19](#), [27](#), [82](#)
Texas, [14](#), [64](#), [75](#), [79](#), [82](#)
The South, [14](#), [16](#), [19](#), [54](#)
Title IX of the Education Amendments of
1972, [9](#), [33](#), [100](#)
Trop v. Dulles, [73](#)

U

Unified Crime Reports, Federal Bureau of
Investigation, [49](#)

Unitarian Universalist General Assembly, [93](#)
United Methodist Church, [93](#), [103](#)
United Nations, [69](#), [73](#), [101](#), [103](#)
Utah, [53](#), [63](#)

V

Vermont, [19](#)
Virginia, [14](#)

W

Washington, [14](#), [88](#)
West Virginia, [14](#)
Wisconsin, [53](#), [63](#)
Wyoming, [1](#), [10](#), [17](#)