

Chapter 38

Searching for Social Justice: An Examination of the Views of Alternative School Educators in the San Joaquin Valley of California

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This chapter explores the meaning of *social justice* for educators who work with “at-risk” youth. Issues related to social justice have been at the center of my reflective practice for years as a teacher and administrator and as a graduate student and researcher since joining the National Teacher Corps in Alabama (Terrar, 2009). Not only is social justice an issue for those like me who work with students who find little social justice in their education, but it seems to be an issue for all educators: “Educational leaders today must operate in a post-modern world where debates and conflicting attitudes about the meaning of social justice exist” (Beck, 2011).

In this chapter an exploration is structured to contrast the *social justice* thinking of John Rawls (1971) in *A Theory of Justice* with that of Friedrich Hayek (1976) in *The Mirage of Social Justice*. Rawls discusses *distributive justice, equity, and equality of opportunity* in his theory and, by implication, proposes that education leaders should work toward the common public good using democratic processes. “Any approach to social justice that does not examine the school’s role in perpetuating the larger social inequities which exist on the political economic terrain serves to reinforce and perpetuate them” (English, 1994, p. 91). Rawls’ social justice theory, in my view, involves ethical and moral judgments such as provided in Starratt’s (1994) Ethical School Model. The model includes the following: caring, justice, and critique. *Caring* is defined by asking the following question: What do our relationships ask of us? *Justice* is defined by asking the question: How shall we govern ourselves? And *critique* is defined by asking the questions as follows: Who controls? Who legitimates? and Who defines? These questions are in Thornburg (2001, p. 72) as originally found in Starratt.

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Hayek, in his libertarian view, rejects the Rawls' theory of justice. He argues that *social justice* is centered only in *equal access, due process, policy formation, and implementation* for the individual, not for groups or classes of people. This libertarian view has moved K-12 education toward privatization and competition in recent years. This agenda began in earnest, perhaps, with the publication of *Free to Choose* (1980) by Milton Friedman. William Bennett, President Reagan's former Secretary of Education, advocated for vouchers and other libertarian policies in the middle 1980s (Thornburg, 1986). Hayek was a university colleague of Milton Friedman, and both were Nobel Prize winners in economics. These three giants of philosophical and economic thought – Friedman, Hayek, and Rawls – provided me and the interviewees with a conceptual dichotomy to frame our social justice discussions. That said, Nell Noddings (1992) in *Justice and Equality in Education* identified three themes in education also at work during the last 30 years: (1) inequalities in physical resources, (2) inequalities in basic relationships, and (3) curricular inequalities (pp. 165–177). The first theme is represented in many ways by Title I and became dominant starting with President Lyndon Johnson's War on Poverty. During that time, *social justice* was viewed by many as equivalent to civil rights for historically oppressed groups: African Americans, Latinos, women, Native Americans, and others.

The second theme, inequalities in basic relationships, was inspired by the War on Drugs initiated during the Reagan years in the 1980s. This theme became dominant in the 1990s through the implementation of the Safe and Drug-Free Schools and Communities Act (SDFSCA). It was during that time frame when zero tolerance (see also White & Cooper, Chap. 53 in this volume) became the solution to education problems across America, particularly after Columbine (Thornburg, 2001, pp. 5–8, 39–49).

The third theme, curricular inequalities, is now hegemonic and appears to dwarf other concerns. Michael Apple (2001) in "Educational and curricular restructuring and the neo-liberal and neo-conservative agenda," recognizes two points of view and states as follows:

There is a new alliance...exerting leadership in educational policy and educational reform. First, there are neo-liberals. These are economic modernizers who want educational policy to be centered around the economy, around performance objectives based on a closer connection between schooling and paid work...The economic modernizers are in leadership, by and large, in this new bloc. They see schools as connected to a marketplace, especially the global capitalist market, and the labor needs and processes of such a market. They also often see schools themselves as in need of being transformed and made more competitive by placing them into marketplaces through voucher plans, tax credits, and other similar marketizing strategies. A second group is neo-conservatives. In most cases it is important to make a distinction between the neo-liberal economic modernizers and neo-conservatives...Neo-conservatives often agree with the neo-liberal emphasis on the economy, but their main agenda is cultural "restoration." Examples in the United States are people such as E.D. Hirsch, former Secretary of Education William Bennett, and the late Alan Bloom. These are people who want a return to a totally romanticized version of schooling in which we have a standard curriculum. (p. ii)

California and National Context of the Study

This study was conducted with educators who work or have worked in California's San Joaquin Valley. The San Joaquin Valley is the place, arguably, where the most important civil rights movement outside the southern United States occurred. The San Joaquin Valley is similar to the south with respect to rural populations, poverty, and hate groups. Cesar Chavez led the farm worker movement in the San Joaquin Valley when *social justice* seemed to equal civil rights in the 1960s and 1970s.

The story of the San Joaquin and most of California is of a great Diaspora. In May of 1996, the California Research Bureau released a report comparing the San Joaquin Valley to other states. If the San Joaquin Valley were a state, its per capita income would be between South Carolina and Alabama and fourth in the number of persons involved in farming, forestry, and fishing, surpassed only by California, Florida, and Texas. It would be larger in area than ten states and 31st in population exceeding 20 states. It would rank eighth in population of Asian ancestry, sixth in Hispanic population following California, Florida, Illinois, New York, and Texas, and third in persons of Mexican origin or decent, after only California and Texas.

The San Joaquin region, in addition to being poorer on average than most of California, is also the place where prison populations and incarceration of its residents, mostly minority, are larger than average. The average incarceration rate for adults in the San Joaquin Valley is 130 % compared with the rest of the state and ranges in one county as high as 155 %. The largest state woman's prison in the world is in the valley's center. A billboard sign posted by the ACLU reads that "Welcome to America, Home to 5 % of the World's Population and 25 % of the World's Prisoners" is telling. It tells that the "school-to-prison pipeline" in San Joaquin as explained by the Advancement Project's research is a severe problem for educators. The Advancement Project's research articles (2002–2011) explain how schools systematically test, punish, and push-out students, and these studies parallel the experiences of participants in this study.

The high adult incarceration rates contribute to the foster and homeless youth populations and gang problems. In some regions in San Joaquin, mostly in the foothills, the most virulent White hate groups in America took root (Anti-Defamation League [ADL], 1996; Southern Poverty Law Center [SPLC], 2003). Some of these groups have been responsible for the rise in hate crimes in prisons nationwide as their ideologies have spread beyond prison walls over the past few decades. At the same time, drug problems and gang activities are as virulent as any place in the United States according to a Social Justice Journal article (Rodriquez, 2005). The San Joaquin Valley matches the worst incarceration rates in the United States.

At-risk students for the purposes of this study include students sent to California Alternative Education sites through disciplinary action (suspensions/expulsions), through referrals from the criminal justice system through juvenile probation, or through the California Student Attendance Review Boards (SARBs) process. SARBs handle cases, including behavioral intervention cases for at-risk youth through

community multidisciplinary boards. SARBs are established by California legislative mandate in each county. The alternative education sites to which students are sent include Continuation Schools and Opportunity Programs (least restrictive), Community Day Schools, County Community Schools (more restrictive), and Court Schools within juvenile detention facilities (most restrictive).

California Education Code explicitly gives direction on the process used. According to a discipline matrix, there are 41 possible violations and some are redundant. Typically, when violations occur, independent panels of administrators participate in hearings and make recommendations to boards of trustees. Five offenses require zero tolerance, and according to law, administrators must recommend expelling the student. Administrators may recommend expelling students on most of the other violations; however, zero tolerance “thinking” and “group think” (Janis, 1972) may sway some. A (CDE) California Department of Education consultant pointed out that by “suspending” expulsions, other outcomes are possible too. Parents sent packets of information each year that includes discipline information, often with the title, Zero Tolerance Discipline Policy. Others include the title Assertive Discipline Policy. Data file systems used to track student disciplinary history use these same titles indicating a clear bias toward assertive discipline and zero tolerance methods.

The competition for average daily attendance dollars over the past 30 years (Timar, 2006) has changed California’s educational processes away from “local control” and cooperative, democratic, communitarian processes toward individualistic, competitive, and legalistic processes controlled at the state level. I have often observed administrators talking about students in terms of their average daily attendance (ADA) value, and it has appeared to me that too often students are thought of as commodities to be competed for. Due to an overreliance on state-level funding, districts and schools now find themselves placed into competitive situations with each other and with charter schools. This coupled with (NCLB) No Child Left Behind high-stakes testing standards; districts have incentives to retain high-achieving students and discard low-achieving or disruptive students into alternative programs funded differently.

Incarceration Comparison with Other Countries

According to the [Sentencing Project](#):

The United States is the world’s leader in incarceration with 2.2 million people currently in the nation’s prisons or jails – a 500 % increase over the past thirty years. These trends have resulted in prison overcrowding and state governments being overwhelmed by the burden of funding a rapidly expanding penal system, despite increasing evidence that large-scale incarceration is not the most effective means of achieving public safety.

The dramatic rise in incarceration in the United States correlates with the change in zero tolerance and assertive discipline mechanisms that grew out of the “War on Drugs” and with the Safe and Drug-Free Schools Act. In my initial study, zero

Fig. 38.1 ICPS International Center for Prison Studies. World Prison Population List (8th edition) rate per 100,000 of 218 countries and territories. (Jan 2009)



tolerance and other disciplinary strategies were examined in Louisiana (Thornburg, 2001). According to the Bureau of Justice Statistics, Louisiana has the highest rate of incarceration at 867 per 100,000 with an African American to White ratio of 4.7–1. Now over a decade later, I find that the statewide incarceration rate in California by comparison is 439 per 100,000 with a 6.5–1 African American to White ratio and a 1.7–1 Hispanic to White ratio. The incarceration rate in the San Joaquin Valley region, however, is 130 % higher on average and with a large rural Hispanic population. The U.S. Census Bureau in 2011 lists Black residents in California as 6.2 % of the population, Whites as 57.6 % of the population, and Hispanics as 37.6 % of the population. Louisiana, the state with highest incarceration rate in the United States, has a ratio of Black to White population of 32–62.6 %. Therefore, while both states are clearly discriminatory toward African Americans in terms of incarceration, California appears to be more so based on census data and percentages of White to Black population ([Sentencing Project \(the\)](#)) (Fig. 38.1).

During the preparation of this chapter, I attended California's Third Annual Equity Summit (Watson, 2012b), "Equity, Education and Incarceration: What is California's Future?" I was thus able to reflect on the study's findings and compare them with expert opinions from the summit. James Bell, a prominent civil rights attorney, was the keynote speaker, and he highlighted the difference between incarceration percentages in the United States with other industrialized countries as well as the rise of incarceration rates in the USA over the past three decades. Mr. Bell, in *Zero Tolerance* (2001), wrote "as an advocate for youth in detention" (p. 138) and concluded that there is "too little leadership at the top" interested in the educational well being of incarcerated youth and "too many regulations at the bottom" to help (p. 141). Aligned with Mr. Bell's comments are data compiled by Western, Schiraldi, and Ziedenberg (2003) indicating the growth in spending for incarceration was already 2.5 times higher than for education and this disparity has widened dramatically, since. The growth of incarceration was already at 1,518 % compared with 370 % for education in 1999, and Mr. Bell talked about an increased rate of disparity over the past decade.

Vajra Watson, Director of the Equity Summit and Research for Equity in her new book, *Learning to Liberate* (2012a), dramatically demonstrates through her research that there are ways, outside mainstream education, to break the cycle of social reproduction of poor urban youth. She explains that exemplary leaders, working with youth, can “replace it with *social resistance*” (p. 6) and “*agency*” (Miron & Mickey, 1998). Despite the *ethic of care* or love, competencies, and heroic efforts of the exemplary leaders in her study, Watson (2012a) acknowledges that there is a “current push-pull dynamic between capitalism and democracy” and that “many leaders of school improvement continue to err on the side of the market; that is, they educate to create an economically divided and complacent citizenry” (p. 4). It is the push-pull dynamic she speaks about that is examined in this study.

The Case of the San Joaquin Valley

In the San Joaquin Valley region, the proposed opening of a new charter school became a contentious issue. The public school was closed at the end of the 2011–2012 school year due to poor economic conditions and declining Average Daily Attendance (ADA). According to the superintendent, the reopening of the new charter school would “bankrupt the district.” The board of education, however, approved the reopening of its closed school as a charter school (Bowers, 2011, p.1). State charter school law reportedly gave the board no choice even though it was contended that it would be “unfair to poor students” in the rest of the district and there were no provisions for Title I students in the proposal. Research has demonstrated class and racial bias by charter schools (Thornburg, 2012).

Nationally, charter schools in America are significant, since over a million students now attend them (out of 49 million students in K-12 schools). The research literature seems mixed on whether charter schools do or do not improve academic outcomes (Jacob & Ludwig, 2009). Some are lauded as the best hope for poor Black and Hispanic children (Thernstrum & Thernstrum, 2003), but others worry that charter schools openly (Bulkley & Fisler, 2003; Dee & Fu, 2004) or implicitly (Lacireno-Paquet, Holyoke, Moser, & Henig, 2002; Weiher & Tedin, 2002) reinforce racial stratification. One recent Harvard study by the Project for Civil Rights of U.S. Charter Schools (2012) reported that both class bias and race bias exist with charter schools. The Harvard study claimed that with “*subjective student selection, charter schools are clearly achieving a separate and unequal education based on race and class*” in America.

Research Methods and Participants

This “grounded theory” (Glasser & Strauss, 1967) research project has been iterative and heuristic. Both administrators and teachers from the San Joaquin Valley region were interviewed. These educational leaders interviewed were selected

using a scaffolding approach. I began with two administrators at the (CDE) California Department of Education. Each interviewee brought a unique perspective about the issues affecting at-risk youth and *social justice* in general using the concepts of Rawls and Hayek.

Additional interviewees were found through research. For example, I found that an upper level administrator in Fresno, California, had presented a dissertation on homeless and foster youth. She sent me a copy of her research, and after I reviewed it, she agreed to an interview. Others were recommended to me or known through professional practice in alternative education, for example, through Juvenile Court Community and Alternative School Administrators of California (JCCASAC). Other participants were university educational leaders at California universities, and some interviewees were chosen on an ad hoc basis when opportunities were presented to learn the views of teachers and other educators from the San Joaquin Valley region.

I interviewed the director of the California On My Honor: Civics Institute for Teachers when I attended the conference in San Francisco during the month of June 2011. The issue of *silencing* of public servants came up in the context of the institute, and when I discussed it with her, she agreed to contribute to the study. Moreover, many of the 40 participants from the institute live in the San Joaquin Valley and/or are involved in alternative education. All of the institute participants worked an entire week on *social justice* and law-related civics curriculum design. This institute experience provided me a rich environment to explore my topic with dedicated and focused educators. The Dean of the College of Education, at the University of the Pacific (UOP) (located in San Joaquin County), met with me and provided invaluable insight, criticism, and suggestions. We met because it was her previous work in educational leadership and the *ethic of caring* (Beck, 1992) that influenced some of my earlier thinking on school-wide discipline in the context of educational administration as I moved toward conceptualizing a dissertation about school-wide discipline in urban high schools.

The interviews of the primary participants were recorded, transcribed, and then coded. I listened for evidence of caring, evidence of traditional justice constructs, due process, and evidence of critique. The evidence that the framework either made sense to the participants or didn't was considered throughout. Each of the participant interviewees was asked if pressures resulting from current political discourse made speaking out either in professional forums or in public difficult. In other words, does silencing of critique occur? Finally, all of the key participants read initial drafts of this document and commented on various parts; thus, the process became both heuristic and iterative. Personal experience, interviews, ad hoc conversations, and other research articles have all been integrated into this research effort.

McNeal and Dunbar (2010) utilized (Lipsky, 1980) street-level bureaucracy theory to analyze their qualitative data. After reviewing their article and methods, I then decided to adopt the concept of street-level bureaucracy because I too could see its usefulness toward understanding how actions can lead to either equality or inequality. This framework is used in the conclusion and analysis to interpret interviews and other related observations.

Structural Contexts

Public Democratic Solutions vs. Privatized Individual Choice Solutions

Each interviewee was made aware of the basic differences between Rawls' (1971) fundamental thoughts about *social justice* and Hayek's (1976) book that rejected his thinking. Information was also shared about the Internet blogs of conservative and even right-wing extremist groups, easily found, that used Hayek's thinking to reject the concept or term *social justice*. Some blogs claim the term *social justice* is code for socialism even communism. There are now postmodern cyber disputes between traditional liberals and conservatives, between progressives and libertarians. Those disputes, perhaps, are understandable and in the postmodern cyber space world as cable news channels employ large teams that daily surf the Internet and social media blogs for stories that are sensational and controversial.

McNeal and Dunbar (2010, p. 296) and discussed in (Thornburg, 2001, p. 39) as follows, provided context for the discussions. In an effort to explain public discourse around issues of school violence, which was the impetus for zero tolerance, John Devine (1996) in his book, *Maximum Security*, couches the public perception into two diametrically opposed tiers. The first he refers to as a "right-wing discourse," which he describes as "chaotic," meaning schools are viewed as being out of control. The second view is described as "mainstream liberal discourse," which he suggests means to "minimize it and psychologicalize it (school violence) as a result of student alienation" (Devine, p. 21). The first view posits "closing the system (schools) down"; the second suggests that schools need to "reform its learning process." In other words, the view of schools from right-wingers is that schools are in a situation of hopelessness as a result of moral and behavioral decay. Consequently, not much can be done to correct the situation therefore warranting school closures. This view places the blame on the victims (i.e., students). Again, Watson (2012a) effectively demonstrates through her research that while education "places the blame on the victims" that through "activism" (pp. 86, 96, 112, 146, 164, 171) to find "social justice" (p. 156) using the pedagogies of communication, community, compassion, and commitment, agency for resistance and change can create conditions where "education is a gateway to survival" (p. 3).

A blog statement was chosen to illustrate to the interviewees how the term *social justice* is being treated in social media. The blog was written by Ms. Flanagan (2009) who had been heartened because she heard the new Secretary of Education Arne Duncan speaks about *social justice*. Secretary Duncan had said, "We have not served all communities equally and this is nothing less than a fight for social justice." Ms. Flanagan wrote the following on her blog:

So, I put the phrase *social justice* in the title of this blog for all the prickly folks who have their Google alerts set to snag any blogger with the temerity to write about equity and fairness in American education. I could come up with a dozen more interesting titles for this dispatch from D.C. –but the money quote in this blog is about *social justice*, a once-righteous phrase that has lately taken a licking and, one hopes, will come out ticking.

Here are some of the comments made by participants: A former superintendent commented after reading the blog statement said, “There isn’t much equity and fairness in many parts of America. It’s very disconcerting.” He went on to explain that NCLB requirements that now have districts competing with each other and now with charter schools too; it is a real dilemma. He continued:

Public Education has been its own worst enemy, we complain about the outcomes, yet, we tend not to reflect on what it is we have created... I have a philosophy about this, he said, the whole piece, No Child Left Behind was designed to destroy public education and charter schools are an intermediate step.

Another participant, an educational consultant, responded:

Statistically, NCLB was designed, albeit certainly not intentionally by all of its authors, for public schools to fail. Those of us here in the CDE tried to ask the question, how do these statistics add up? Eventually, every school will fail!

Another CDE consultant commented:

We hear from our charter school clients,...We are a charter; we don’t have to do that... Many charters are not doing as well as public schools for the at risk...We know this from the kinds of questions they ask, and many are now trying to obtain Title I funds and will have to be monitored.

Soon after these interviews was the California Civics Institute, for teachers, judges, district attorneys, and others spoke to educators about topics related to the function of the courts. Ironically, a few hours before one presentation, we learned that the California Legislature had voted to cut California’s Superior Courts budgets. Their calculation in San Francisco was that these cuts would force their Superior Court there to close 40 % of all courtrooms and lay off 41 % of staff. A judge explained that she is very concerned about the direction of society to undervalue collective responsibility as highlighted by the legislature’s recent budget cuts to reduce services of the Superior Courts. Juvenile cases, probate, and family cases involving homeless and foster youth, youth on probation, and other at-risk groups are all handled by the Superior Courts. Similarly, “drug courts” for youth and other programs sponsored by the courts are examples of a teaching and learning strategy to assist *at-risk* youth.

The relationship between the courts, *at-risk* youth, and the schools is central to understanding the case of the San Joaquin Valley. The following quote was sent days after I had asked questions about social justice. She reflected:

What I have found interesting about my work with the Administrative Office of the Courts (AOC) in partnership with California State University San Marcos, is the importance that the court has placed on education. They have funded the California On My Honor: Civics Institute for Teachers (among other amazing public programs for underserved populations) in response to the startling lack of understanding of the judicial branch by the general public. The AOC views this lack of understanding not only as a threat to the judicial branch, but to the democratic principles that were established by our Constitution. They have been doing their part to support teachers, as they believe that education is the answer...they believe teachers are a powerful resource and that they can play a pivotal role in the change that must happen in order to have an informed and responsible citizenry. It is disconcerting to say the least, to be “hit” by these budget cuts from all sides! (Chadwick, 2011)

When I commented that I had observed that administrators are silenced or discouraged from taking a stand on controversial, social issues, or on behalf of at-risk youth because they are seen as outcasts, one CDE consultant responded as follows:

We were set to put a Community Day School (CDS) into a district. One of the school board members went house to house and invited community residents to come to the board meeting to discuss placing the school in their neighborhood. The board member claimed to be OK or at least interested in the CDS, however, his actions effectively discouraged placement of a school in that neighborhood. Of course that was the neighborhood where those CDS students lived. The CDS was not approved, and expelled students continued to be referred to a county school far from the district, even though it was recognized that the great distance meant few would attend regularly.

Other administrators, too, said that the alternative measures are used by school districts to banish *at-risk* students. They also said that there is a financial tension too. On the one hand, districts want to keep their average daily attendance (ADA) state funding and direct control of students, but, on the other hand, they don't want the disruption in their schools. These tensions were alluded to in other contexts outside the study.

Teaching and Learning Disciplinary Processes vs. Enforcement and Control Disciplinary Processes

Discipline strategies that rely on control and enforcement such as assertive discipline and zero tolerance (Thornburg, 2001, pp. 5–8) were discussed with each interviewee. In an *Urban Education* article, “In the eyes of the beholder, Urban student perceptions of Zero Tolerance Policy,” McNeal and Dunbar (2010) explain:

Yet there is paucity of literature on zero tolerance policy from the voices for which the policy was designed to keep safe—that is, children who behave appropriately. A doctoral dissertation study titled “School-Wide Discipline in Urban High Schools” was conducted in an effort to provide insight on school staff and students’ perceptions of violence prevention strategies, including zero tolerance policies. In this study, the data revealed significant differences between fairness, impact on school safety, and overall utility (Thornburg, 2001), in (*Urban Education*, 2010, p. 296).

The interviewees were asked about the assertive discipline data file systems. The intent was to find out how this particular form of discipline became so dominant. During the interviews, control/enforcement discipline strategies in the form of the Zero Tolerance Policy and assertive discipline were discussed. Data systems track student behavior using these methods. Administrator’s wide use indicates acceptance of these strategies. A decade ago I wrote (Thornburg, 2001):

Despite the dissent and criticism about these measures aimed toward control, suppression, and avoidance of violence, advocates for the use of security and zero tolerance measures have convinced school boards, policy makers, and school administrators to adopt policies nationwide. Many have also been convinced that student fights and other problems need to be dealt with in a criminal-justice-like manner rather than by other traditional humanistic

systems of discipline. Criminal justice sanctions for offenses such as vandalism, theft, assault, and extortion that are associated with the presence of gangs have been one reason for the change (p. 7) ... and ... (T)he political rhetoric and random incidents cited seem to demonstrate that the country has moved in a direction that now accepts the premise that student transgressions previously handled by school officials should now be considered as criminal activity. Law enforcement tactics are becoming accepted as a necessary part of public school life. (p. 49)

One California Department of Education consultant spoke passionately about the need for alternative school leaders to demonstrate care by paying attention to student learning outcomes and by teaching in ways that help students to develop emotionally and socially in addition to academically. When discussing with him whether to name him personally in this article, he responded succinctly: "I'm not worried that people discover that I think that education should support successful youth development."

Alternative school educators throughout the last decade in California have been encouraged to view their students through the lens of resiliency research. Research tells us that resilience is a universal capacity, and all children have a natural, developmental capacity to thrive, even in the face of severe deprivation and adversity. The research also tells us that schools can make a tremendous difference using social justice initiatives as outlined by Bernard (2004):

As clear as it has become that all young people have the capacity for positive development, resilience research should never be used to justify social and political inaction on the grounds that, somehow, "Most kids make it." In the face of growing global poverty, abuse, violence, and other threats to children's development, the somehow can no longer depend on the luck of the draw. Increasingly, healthy youth development must depend on deliberate policies, practices, and interventions designed to provide young people with developmental supports and opportunities. As we are learning, young people are resilient, but they are not invincible. (Bernard, 2004, p. 10)

This same CDE consultant pointed out that educators must view students as having assets and not as problems. He went on to say that building resiliency includes recognizing that all students have, and need to build, both internal and external assets.

We must be forward looking and focus on what students can achieve...as opposed to emphasizing what they've done in the past...We are all at different stages of development and when educators focus on student's assets – in doing so, their actions support both learning and unlearning that needs to occur.

On the other hand, he also recognizes that school districts do not always pay attention to the teaching and learning and the caring when engaged in disciplinary hearings. He acknowledged that a myriad of (sometimes contradictory) California Educational Codes (2010) can prescribe action not suitable for building resilience.

Another CDE consultant concurred independently that zero tolerance, the data-driven assertive disciplinary file used to track students' behavior, is a potential pipeline to the justice system.

The system is followed as an exclusionary process. The Ed Code has it written in that there is supposed to be a plan to move kids back, however, what is typically written into the Expulsion Order (for example) or the SARB Referral, (for example) is very minimal.

It was acknowledged in different interviews with both CDE consultants that intervention is preferable. One was adamant and reiterated:

Zero Tolerance literally means that we must intervene. By definition, to tolerate something is to allow it to continue even though we don't particularly like it. Therefore, zero tolerance means that we must intervene, not just let it continue; but, these words do not imply punishment as the form of intervention.

Another administrator who is responsible for several alternative education sites, including a juvenile hall program, said, in contrast: "I hate zero tolerance; I just don't see where it does any good!" She went on to explain:

When I started as a dean of students I liked Zero Tolerance because it made my job easier. If a student was caught with marijuana, well ... you're expelled! Then I began to look at it differently, and I realized after some workshops and so forth that zero tolerance means no due process! Just because a student is below the age of 18 doesn't mean he or she shouldn't have rights!

While remaining optimistic and pointing out that while the rehabilitative Ed Code on discipline is often seen as a legal bureaucratic solution, one CDE consultant insisted on that essential not minimized, deemphasized, or even ignored. He said:

I usurp the language of zero tolerance to hook them, (teachers and administrators). My background is applied psychology and education, and part of my work here at the CDE is to read a lot of mission statements from school districts. The statements all have blah, blah, blah, to help the student learn, etc. and never bla, bla, bla, to punish or bla, bla, bla to castigate the student. The punishment, etc. is never in the mission statement! I use their mission statements and turn the conversation(s) around.

Another administrator, a principal at an alternative school in a different county, complained to me about the high number of special education students sent to her programs. Her analysis is that many of those students may have technically put themselves in a position to be sent to a county program by violating the Ed Code on "School Disruption and Defiance" more than 20 times. She explained:

I'm sorry...these (special education) students just don't belong here! Don't get me wrong, I get along well with the Special Education Director, and she knows how I feel. It's just that these students don't need to be exposed to an alternative school where other students who have committed serious offenses also come. I don't know the solution, but, administrators are starting to look at changes because Sacramento, the CDE, is looking at the statistics of the school district(s) that send these students.

A CDE consultant addressed the issues with respect to special education, foster and homeless youth, and the Ed Code on "School Disruption and Defiance" (the most common violation seen) in districts. According to him, the perception of many school districts is that 20 violations constitute a reason for expulsion. His comment was:

It's just the opposite...the law about not being able to suspend beyond twenty means, you can't suspend anymore. What I tell districts is what you are doing isn't working and you need to find new solutions.

Another CDE consultant believes that solutions can be found, even where things seem desperate.

I made a visit to some schools in the valley. The poverty levels are super high in those Valley schools. I expected to see a school in 5th year P.I. (NCLB Program Improvement) in shambles, but it was just the opposite. The school provided a good part of their nutrition, safe haven, essentially a second home. So, on P.I. they had to provide those supports and they had very few discipline problems. The reason for their success in my view was that they saw all the kids as their kids. They didn't have a "school on the hill" type of mentality, but rather, strived to take care of all of the needs of their students and not just preparation for testing. The problem is schools could do the same thing without putting a negative and punitive tag on them through Annual Yearly Progress. If you create an environment where kids tend to succeed, they succeed!

The reporting on at-risk youth, with the on-line Assertive Discipline and Zero Tolerance Policy tracking system, may contribute to an overuse of control and enforcement strategies. One administrator with decades of experience explained:

Yes, assertive discipline came into existence around the same time as zero tolerance. It may have helped lead to it. Since the zero tolerance laws passed, we, (administrators) have not had a lot of flexibility to help kids in trouble individually, to find ways to help them educationally.

Another administrator with years of experience as a hearing officer commented about some of the dilemmas that administrators face where criminality and discipline overlap.

Every major community in the central valley has a gang intervention unit, it drives school policy, and police departments work closely with the school because schools are a magnet for gang recruiting. Schools are recruiting grounds for gangs. Zero tolerance for gang signs, colors, apparel are created in policy and it goes on from there. In the foothills there's a large amount of poverty, but, mostly white. Racist, skin-heads don't see themselves as gang related but rather as a reaction to immigration. The Skin Heads would put up posters and signs against immigrants. In the foothills I would see some of that when I worked there.

While the prison commitment rates for adults in the San Joaquin Valley remain high compared with the rest of the state, the juvenile commitment rates for juveniles have dropped over the past decade. However, many alternative school youth move back and forth in and out of juvenile detention. I spoke with several interviewees about the high incarceration rates for adults. A Juvenile Court Community and Alternative School Administrators of California (JCCASAC) leader responded:

There's a disconnect! I know with NCLB about needing good teaching, but, many--most of these kids need more. Many are living with a single parent, grandparent, in foster care (group homes), and many have a parent who is in prison. It's been in the news a lot from Stockton that, the Catholic Charities has a program for Mother's Day. They make gift baskets and bus the kids down to Madera, the Woman's Prison to visit their moms. It's sad!

As acknowledged by several interviewees, youth previously housed in juvenile detention facilities in years past are now placed into the foster care system. Many

frequent flyers, as they are called, go in and out of juvenile hall. One of the teachers from a juvenile hall school commented in frustration:

In the Hall, I can't even wear clothing that is red, my favorite color, because of the gang reference. It's not officially against the rules, but is frowned upon. One also has to watch their language. One day I told a student, 'You better get your work done, Buster' and the students in the class all stopped and looked up with their mouths open. Buster is a negative term by Soreneos against Norteneos. On another occasion, a white student came in and made some vile racist remarks and identified himself as a 'Peckerwood' and we had to remove him to his room for everyone's safety. It's sad; one of my students says the gangs are his life. His mom is deported and his dad is dead.

One interviewee with extensive experience in the valley told me the following:

Once, while serving as a new Principal in one District on Highway 99, while driving home, I had a very frightening experience. I was pulled over, sandwiched between two pickup trucks in the almond orchards. Someone got out and said, 'I'm a representative of the local Nazi Party. We just want to have a conversation with you as the new Jewish principal.' They didn't say much, they just wanted me to know they were there. It was very frightening because they do a lot more in those orchards than grow fruit and nuts!

He then went on to tell about his experience as superintendent after I shared some information about racist and anti-government groups such as Christian Identity, Aryan Nation, Posse Comitatus, and sovereign citizen groups, all of which are or have been affiliated with each other. I shared information about the *Jubilee* magazine (ADL, 1996; SPLC, 2003) and he was not surprised. He went on about another community where he had served as district and county superintendent, and we discussed some instances where each of us had experience with anti-Semitism while attempting to perform our responsibilities as administrators.

Another interviewee, an agency director who works with a school district and manages an anti-bullying program, was equally discouraged in a different way. She is struggling with trying to satisfy the wishes of a high-level administrator who wants to turn her program into an enforcement and control system. The administrator wants the anti-bullying staff to report incidents of bullying to building level administrators and for the information to be placed into the assertive discipline data system. This is very problematic for the director because the essence of the teaching and learning anti-bully program is to teach peer support, empathy, and perspective taking to students. For the program to work, students must trust that they won't be punished for trying and can learn from their mistakes. The program is designed to be nonpunitive. In this case, the street-level bureaucracy is potentially undermining the program. Out of frustration she talked about the difficulty for students to develop the courage needed to act. She went on to tell about a personal experience to illustrate:

You know, it's difficult enough to gain respect and trust with the students. What we are asking them to do is very hard! We ask them to interject verbally and interrupt bullying. I had a recent experience the other day that shows how hard it can be. It was at the time of the Chavez state holiday, I had forgotten and the DMV was closed due to the state holiday. The next day I returned and along with some other men in the place, we were talking about the closure of state buildings the previous day. They were being very disrespectful of Cesar Chavez and were using foul language. I thought about the lessons we try and teach our

students. So, I tried to interject, using positive assertive language telling the men that I felt offended because Cesar Chavez stood up for justice. After a couple of verbal exchanges, and being called names, (under their breath), I realized it was hopeless. I realized how difficult this all really is for our students!

During the California On My Honor Teacher Institute and after a simulation lesson, I spoke with a teacher from the valley. The lesson involved the National Socialist Party of America vs. Skokie, 432 U.S. 43 (1977) case, an Appeals Court case involving freedom of speech decided by and upheld by the Illinois Supreme Court. The simulation raised many questions and created a lively discussion. One teacher I spoke with was born and raised in the San Joaquin Valley. During a previous informal conversation, she had mentioned specific communities where KKK marches used to occur, and she went on to tell me where the Grand Wizard of the KKK resides. She also mentioned the peckerwoods and other gangs that she knows about.

While walking back to the hotel after the session mentioned above, I struck up a conversation with her and other teachers. Another teacher from the valley, a teacher that had overheard the conversation, said, "I can't believe how many of my children's parents are in prison!" When I asked her about her comments to the group, she went on:

We collect Christmas baskets and hold other events. I have gone to their homes many times and some of these children are living in the back of camper trucks without heat and in outside makeshift sheds. NCLB is OK as far as it goes, but, there needs to be more!

As we discussed the ethic of *caring*, one administrator reminded me that I had once said something to him about his having left another district as principal earlier in his career. He seemed irritated! I think he thought that I was being critical of him! We were also discussing how sometimes communities and others in power effectively silence administrators. He went on:

I left, because I did speak up! In that case, I found that the Superintendent, (name withheld here) was refusing to initiate language learner programs when nearly 70 % of the student population was Latino, and many students clearly needed the interventions. I could see that he and I were not in the same place when it came to educating children! They, (higher level administrators and board members) don't really care what you think. They just want the job done according to their own precepts and ideas.

Analysis and Conclusion

I found evidence throughout the study that public servants, be they teachers, school or district administrators, or state-level administrators, feel they must operate with a *code of silence* about *social justice* issues in many professional settings. That is, they feel a need to keep to themselves when *critique* might be appropriate. I found that for the most part, except in trusting environments, *critique* is discouraged and sometimes even explicitly disallowed inside the circles of administrative discourse. On the other hand, *caring* and action with respect to individual *justice* are expected and rewarded. Over the past 30 years, there has been a shift away

from the issues of “Inequalities in physical resources” (Noddings, 1992) and toward zero tolerance and assertive discipline measures (Thornburg, 2001). It can be legitimately argued, I think, that in San Joaquin as elsewhere in the United States, a “school-to-jail pipeline” (Advancement Project, 2011) has become operational as libertarian processes, competition, and privatization in many areas of education have come to dominate.

I found evidence that leaders do see the “school-to-jail pipeline.” One of the administrators interviewed in this study remarked extemporaneously:

“Assertive discipline did certainly invade California schools and became an integral part of not only how discipline was applied but how records were maintained statewide. ... There weren’t any districts that were allowed not to have Zero Tolerance Policies because of legislation that gave no choice.” I asked if he saw any connection between assertive discipline and zero tolerance policies.

“My assumption is that assertive discipline was in place for years, and I’ve been in education for thirty-two years, but, Zero Tolerance took assertive discipline to a much higher level. It legitimized it and institutionalized it with expensive in-service. You know, three strikes and you’re out, green light, yellow light, red light, marbles in a jar, etc. and ... if you look at what the results have been over the last fifteen years, I believe it’s been disproportionately unfair to minorities. I’ve always believed in the more relationship orientated methods of discipline from Madeline Hunter and Fred Jones out of UCLA.

He then went on to conclude: I believe that if you look at the past thirty years or so, you’ll see that these (assertive discipline and zero tolerance) methods haven’t worked! If a kid is checked out of the system, then putting a marble in a jar isn’t going to change him!”

His comments echo the findings of a Harvard Civil Rights Study and other studies mentioned to interviewees (Ithaca College, 2012) – see on-line Charter Schools, Education Vouchers, and School Choice.

During the California On My Honor: Civics Institute for Teachers at the CA Office of the Courts, in San Francisco, many teachers openly discussed *social justice* issues. It was during that week of engagement that I personally began to believe that public servants, teachers, administrators, and even judges are constrained in the context of the postmodern world’s use of social media and cable news. Early on, and during the process of collecting data at the institute, I contacted a powerful court official after a keynote address that focused on legitimate concerns with California budget constraints. The address to us an audience of civics teachers was heartfelt.

The speaker complained about the libertarian political forces in America and how “individualism” is constraining legitimate social services for the poor and for “at-risk” youth in our society. The speaker said that society seems to be losing a common civic purpose. The comments of this high court official parallel comments made by Watson (2012a) in her new book: “*current push-pull dynamic between capitalism and democracy*” ... “*where “this country’s democratic principles fuel rhetoric about equal opportunity ... and, as a “contentious arena, --in K-12 schools-- where these ideologies (capitalism and democracy) collide”* (p. 3).

After the address, I spoke with the high court official and I asked if I might have permission to quote the statements made and explained that I would send a draft of my proposed quotes as I had written them down. Initially, there was an agreement.

However, when I sent the draft, I was asked not to quote the contents directly as ascribed to the court official. My interpretation of this exchange, early in the study, was that if a powerful state court official felt so constrained, then *silencing* was a concern that I needed to examine in this study.

I asked one educational leader directly what he thought about the questions of *critique* found in Starratt (1994) and if they'd have resonance with legislators, school boards, and other governmental officials, and he said, "*They don't care what we think! They just want us to manage, to follow the guidelines, the Education Code.*" This same leader then went on when I pressed him a little further about being *silenced* in a previous job he'd left before becoming a superintendent, where justice issues were at stake, "*I left, because I did speak up!*" As seen above, the interviewee clearly had a goal to achieve the learning objectives of the English language learner students he was concerned about; yet, apparently his boss, a former superintendent in the valley at the time, saw his students differently. His boss saw these farm worker students strictly from a "disciplinary" and control/enforcement perspective. Shortly thereafter, his former boss left education for the private sector. He joined a company that specializes in school safety through interdiction with drug sniffing dogs. When discussing *social justice* in the context of Rawls (1971) and Hayek (1976), he exclaimed, "*There isn't much equity and fairness in many parts of America. It's very disconcerting.*"

Another interviewee who works at the state level and occasionally sees legislators likewise demurred from *critique* questions; he'd made comments to legislators for which he'd been reprimanded by higher up state officials. He stressed the importance of *caring* through teaching for *resiliency* (Bernard, 2004) and the importance of *justice* by turning zero tolerance language on its head and carefully holding school districts to *all* aspects of educational code. "*Zero Tolerance means we must intervene with a viable alternative plan, not just suspend the student. Zero Tolerance means we don't accept the status quo, how we are educating the student*" he said. We shared several e-mail exchanges about my use of quotes and my interpretations from taped interviews. This procedure was a practice followed with all participants.

Another educational leader spoke about the difficulty in building trust with students in using *resiliency* strategies. She spoke about a negative experience with the Cesar Chavez state holiday where she'd personally experienced the difficulties students might have in challenging bullies. Then she expressed concern about the district's assertive discipline data system and its negative effects on her anti-bullying program. She explicitly asked to remain anonymous about her concern. She was fearful that her school program might be jeopardized by more powerful administrators known to use the data system as a device to move kids into alternative education.

At California's Third Annual Equity Summit, UC Davis (Watson, 2012b), the conference provided a climate that encouraged discourse and a *critical* perspective on "*larger social inequities*" (English, 1994, p. 15). I approached one of the keynote speakers at the conference, after she emphasized in her talk that minorities are underrepresented at higher levels of administration in the state of California. I

briefly explained this research effort and she said to me, “Tell me a little about your study and what did you find?” I explained that I had asked questions of interviewees based on Starratt’s (1994) thesis on *caring*, *justice*, and *critique*, and I said that I contend that all three constructs must work together to find *social justice*. I told her that alternative education students including incarcerated students had been the focus of the study. I explained that everyone interviewed seemed comfortable talking about *caring* for students in any context – libertarian, conservative, liberal, or progressive – and that everyone seemed to agree that *justice* or fairness, in terms of due process, was also important. When I mentioned that in my view, *critique* was absent or seemed to be discouraged and therefore *social justice* was discouraged, she quickly said, “*Nobody in educational administration wants to use critique, -Talk about critical issues!*” We both smiled and seemed to agree.

I sent an e-mail with a proposed quote. I was thanked for checking on accuracy, and it was clear from the response that the speaker needed to remain anonymous. As was the case with this Equity Summit speaker, all of the interviewees in this study are public servants they are all exceedingly cautious. I asked a former colleague who works for this person in alternative education, and he said, “One on one, a great person, a superintendent must play politics and image 95 % of the time.” With our current political climate where powerful corporate interests and ALEC now undermine public education, and public servants in general, the advocates for *libertarianism* and the privatization of schools (Apple, 2001; Swalwell & Apple, 2011) in my view discourage any public pronouncements that might fit with Starratt’s ethical *critique* questions. In the American postmodern world, I’ve noted that some political media outlets define *critique* – critical analysis – as “class warfare” and are dismissive of it.

According to studies, the typical school option for “at-risk” youth is a public alternative school, sometimes a prison school. Has the underlying political power shift in America toward *libertarianism* and the privatization of schools locked out opportunities for “at-risk” youth? Many *street-level bureaucrats* and some alternative schools work wonders against the odds (see JCCASAC), and other educators outside K-12 education for “at-risk” youth are leading the way (Watson, 2012a, b). In this study, a State of California Alternative Education consultant helps individual youth through counseling on his own time (Sackheim, 2009), and a new associate superintendent in Fresno (Tanner-McBrien & Tracz, 2011) has reduced the numbers of foster youth from being expelled. All have probably saved lives. I think ethical *street-level bureaucracy* is analogous to the work of Oskar Schindler in Poland during World War II. The question is as follows: Is this enough with America’s extreme incarceration rates and the school-to-prison pipeline? Can the leadership imperatives as shown in the framework for this study (English, 1994; Rawls, 1971) be met? My conclusion is that when public school leaders are *silenced* and must resort to *street-level bureaucracy* to help overcome injustice, rather than feeling empowered to use dialogic discovery (Shields, 2004), then *social justice* becomes severely curtailed and is difficult to find.

Recognitions

This qualitative research project truly represents the spirit of “grounded theory” as the interviewees and others participated throughout. Each read drafts throughout and approved them before the final draft was submitted. My perceptions and choice of quotes were commented on, discussed, criticized, and eventually agreed on collectively by interviewees and other participants.

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