Corporal Punishment
Legalities, Realities, and Implications

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For some time now, I have been talking to practitioners about corporal punishment in schools, especially middle and high schools. Practitioner responses to my questions about the legal status of paddling and other physical discipline in their states have fallen into two categories: surprise that I would ask about the subject as if practices such as paddling still existed anywhere, and surprise that I would ask about the topic as if paddling weren’t common in every school in the country. Most teachers appear to assume that the status of corporal punishment in their own school or state is a national standard—a perception that is far from contemporary reality. The following quiz will help readers determine the reliability of their own perceptions relating to this topic:

True or False?

- The issue of corporal punishment has reached the United States Supreme Court, which has upheld the practice as constitutional.
- Military personnel and criminals have the right to due process before corporal punishment can be imposed; as a matter of federal law, schoolchildren, on the contrary, do not.
- Early in his term in office, President George W. Bush promoted legislation that would protect educators who had beaten children from lawsuits. Both teachers’ unions, the NEA (National Education Association) and the NFT (National Federation of Teachers), opposed this legislation, intended to protect their members.
- Researchers have demonstrated that corporal punishment can constitute a form of sexual abuse.

However unlikely it may seem to many readers, the answer in every case is “true.”

U.S. Courts and Corporal Punishment

The Supreme Court case that now provides the foundation for corporal punishment policies is Ingraham v. Wright (1977). Two students, James Ingraham and Roosevelt Andrews, suffered severe paddlings in their Florida junior high school that left Ingraham needing medical attention for severe pain and bruising and Andrews unable in one instance to use his arm for a week. Their suit argued that the paddlings were unconstitutional, in violation of the Eighth Amendment’s prohibition of cruel and unusual punishment and also of the Fourteenth Amendment’s guarantee of due process. The Court, however, rejected both arguments. Because corporal punishment has long been common among parents and school officials alike, the Court found, it could not be classified as “cruel and unusual.” Moreover, the Court found that the Eighth Amendment is intended to protect criminals, not schoolchildren, and that children who suffered severe punishment could gain redress by prosecuting officials on such charges as assault and battery, a recourse thought to be sufficient protection for children.

Although many parents and students have indeed sought legal redress for severe beatings, they rarely win in court—making it especially difficult to understand why President Bush has supported a legislative effort to prohibit lawsuits against educators (Breaking 2001; Spare 2001). Courts have found in favor of schools and teachers even when the punishment they imposed included paddling a nine-year-old seven times within

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half an hour; sticking a straight pin into a student's arm; confining children in closets and other small, dark spaces; slamming them into walls; and stuffing and/or taping children's mouths (Hyman and Snook 1999). Parents have also been dismayed to lose cases filed after a child was paddled without parental permission. Unless a school chooses to abide by parental wishes, parents in states where corporal punishment is legal can protect their children from beatings only by removing them from schools that employ paddling.

Sometimes the offenses against children are so egregious that it seems unbelievable that courts would find for schools and against the family, but it routinely happens. For example, one seventeen-year-old female, who was both an honor student and a senior with no prior record of misbehavior, skipped school. This young adult was forced to bend over a desk and submit to several blows inflicted by an adult male coach whom she had trusted until the incident. For the girl, consequences included not only the physical pain of the beating, but also menstrual hemorrhaging and long-lasting emotional trauma. Despite arguments that the case involved not only physical but also sexual abuse, the school won the case (Hyman and Snook 1999). In fact, over and over again corporal punishment has been linked to sexual abuse, although many state legislators who could outlaw the practice apparently remain unmoved by such arguments (see Donahue 2001, for example, or Johnson 1994, and others listed on Project NoSpank's Web page "Spanking Can Be Sexual Abuse," available <http://nospank.net/101.htm>).

Nor is any special consideration offered to students with disabilities, for whom courts have upheld paddling, isolation, and mouth taping as punishments. In one case, a disabled student was forced to do exercise so rigorous that it led to his death (Hyman and Snook 1999). Rather than finding such incidents a cause for restraining corporal punishment, legislators have blithely moved forward toward solidifying educators' legal right to impose physical punishment on students with disabilities. In June 2001, a bill enabling discipline of the disabled was introduced by U.S. Senator Jeff Sessions of Alabama and passed the United States Senate.

As the following examples illustrate, courts rarely punish abusive educators in states that allow corporal punishment.

**Worldwide and Nationwide Legality**

It is perhaps telling that the United States is one of two countries worldwide that have not yet ratified the Convention on the Rights of the Child, adopted by the United Nations General Assembly in November 1989. The other is Somalia. The document calls for multiple protections of the human rights of children, including the right to be protected from violence.

As other countries of the world move toward greater and greater protection of their children, with Northern Ireland and Scotland strengthening laws against corporal punishment in 2001, the United States retains its dubious distinction of being one of very few developed countries whose national policy allows corporal punishment in schools. Over one hundred organizations joined forces to call this fact to national attention in a widely publicized letter to the president of the United States: "Throughout the developed, industrial world, and in many developing nations, the use of corporal punishment against schoolchildren is forbidden. No European country permits the practice" (Open Letter to the President, available <http://nospank.net/endcp.htm>). Organizations signing the letter included the American Academy of Pediatrics, the National Congress of Parents and Teachers Association, the National Mental Health Association, the American Psychological Association, the American Association of Physicians for Human Rights, the National Association of School Psychologists, the American School Counselor Association, and the National Committee for Prevention of Child Abuse.

However, the organizations' plea that the president "insist that the Secretary of the U.S. Department of Education to take expeditious and forceful action to deny federal assistance to any school, school district, or other educational entity that authorizes the use of corporal punishment" has fallen on deaf ears. The effort has also been undermined both by President Bush's support for legislation protecting those who beat children and by Senator Sessions's efforts to make sure that all children are equally subject to such beatings. A Houston Chronicle story reported the case of several Canadian parents who moved to Ohio and Indiana to escape the Canadian law prohibiting the use of such objects as paddles, sticks, and belts to inflict punishment on children. In Ohio and Indiana, parents (and others) are free to strike children with such instruments (Clairborne 2001).

For those concerned about the physical safety and mental health of children, the good news is that legislators in twenty-seven states and the District of Columbia have heeded the research and advice of pediatricians, parents, educators, and others and have passed state laws prohibiting corporal punishment in schools. However, that leaves children in nearly half of all states still subject to the abuses of corporal punishment with little or no practical means of prevention or redress. The box identifies states that continue to allow physical punishment of schoolchildren, despite its dangers.

Although defenders of corporal punishment argue that few incidents are excessive, a review of news reports indicates otherwise — and that the extreme cases are sufficiently horrifying to justify exclusion of corporal punishment, whatever the rate of incidence.
States That Allow Corporal Punishment

*Alabama
*Arizona
*Arkansas
Colorado
Delaware
Florida
*Georgia
Idaho
Indiana
Kansas
Kentucky
*Louisiana
*Mississippi
*Missouri
New Mexico
North Carolina
Ohio
*Oklahoma
Pennsylvania
South Carolina
*Tennessee
*Texas
Wyoming

Note: *States listed in the top ten pupil-battering states in both the 1996–97 and 1997–98 Elementary and Secondary School Civil Rights Compliance Reports.

The Realities of Corporal Punishment in the United States

All of the following incidents were reported in newspapers during 2001. In the context of cases with results as severe as death, some cases seem almost trivial by comparison. Still, it is likely that most parents would be greatly upset by the actions of a California teacher who, despite a ban on corporal punishment, taped a first-grader’s mouth shut and threatened to tie her up (McLellan 2001); and of an Arizona teacher who tried to force a sixth-grader to chew gum already chewed by others and saved in a jar for the purposes of this punishment (Mother 2001). Such bodily indignities, however, are the least of what a child may suffer in school, as other reported incidents nationwide reveal.

An Oklahoma Christian school teacher struck a 12-year-old with a 3-foot long dowel because he was passing notes in class and inflicted bruises that hospital doctors characterized as “severe” (Martin 2001). A parent in Louisiana was unsuccessful in filing a civil action against an assistant principal who broke a paddle on a 13-year-old (Shackleford 2001). A parochial school director in Florida was arrested after using a wooden board to paddle an 8-year-old, leaving a mark some 4 inches wide and 6 inches long and welled as high as a quarter of an inch (Port 2001). In another Florida incident, a dean at an elementary school was found guilty of misdemeanor battery for excessively beating an 8-year-old; he was required to take an anger-management course and subsequently returned to his role as school leader—although after this incident, the school did ban corporal punishment (Hustead 2001).

In Michigan, another state where corporal punishment is legally restricted, a 15-year-old freshman football player did not return to school for weeks after he received 10 blows with a paddle that eventually cracked. Some six or seven other players were also hit, one approximately 12 or 13 times (Potts 2001). In Tennessee, a school employee faced criminal charges after hitting a 15-year-old in the arm with a baseball bat (Armstrong 2001).

A national antispansking group called for a civil rights audit of students in Mobile, Alabama because black children in recent years have received 65 to 70 percent of all paddlings there, although they make up slightly less than half of all students. Statistics also indicated that on the whole, for the 1998–99 school year, 73 percent of paddlings administered statewide in Alabama were to the black students who make up only 41 percent of its total school population (Catalanello 2001).

If all reports related to religious schools and alternative “boot-camp” type schools were included, this list would be much longer.

Implications: What Teachers Can Do

When I work with education students, tomorrow’s teachers, I try to impress on them that becoming a professional educator means accepting responsibility for protecting the rights and interests of children in classrooms. To do less is to fall short of the trust placed in us by our students, their parents, and our profession. A classroom teacher who is willing to take even one of the following steps is, on the other hand, acting to meet professional responsibilities.

1. Become familiar with the information made available by Parents and Teachers against Violence in Education (PTAVE) and by Temple University’s National Center for the Study of Corporal Punishment and Alternatives (NCSCPA). Web sites sponsored by these organizations offer a complete library of resources, including news and research articles. The more teachers know about corporal punishment, the better they can counter arguments for it with evidence of the danger it poses to children.
• PTAVE’s Project No Spank, <http://www.nospank.net/>
• Temple University’s NCSCPA, <http://www.temple.edu/education/nescpa/NCSCPA.html>

2. Become familiar with print resources as well. Among the most important books on corporal punishment is Hyman and Snook’s Dangerous Schools: What We Can Do About the Physical and Emotional Abuse of Our Children. Although that book is possibly the most important print resource detailing the dangers of physical punishment, there are several others that also can be helpful:


3. Monitor Project No Spank. Because this is one of the most important sources of information for children’s advocates, signing on to its mailing list can be an important step in staying informed and involved.

4. Accept the need to be political in a variety of ways, in a variety of arenas. Develop relationships with colleagues, parents, administrators, school board members and politicians who have the power to help change policy and laws. Find allies and work with them to bring change on local and state levels, using voting power judiciously.

Educate your colleagues at every opportunity. Raise your concerns with other teachers and share what you know about the dangers of corporal punishment. Have them read what you have read, and try to enlist their support and build a strong core of opposition.

Promote efforts to be sure your school is safe for children. Research local policy. If corporal punishment is allowed, consider working for change; meanwhile, try to determine if guidelines are being followed and promote compliance if they are not. In schools where corporal punishment is not permitted, try to determine if the reality of classroom life conforms to regulations; if you find discrepancies, do what you can to spark awareness and promote adherence to policy.

Seek union support. If you are in a local union affiliated with the National Education Association (NEA), ask union representatives to begin publicizing the NEA stance against corporal punishment because of its dangers. The NEA was, in fact, the first major national education organization that called for banning corporal punishment in a 1992 resolution (NEA 1998). If you are affiliated with the American Federa-

tion of Teachers, work to persuade that union to join in the NEA public stance.

Enlist the help of your parents and teachers association. Be sure that local chapters are familiar with Corporal punishment: Myths and realities (National PTA, 1991) <http://nospank.net/pta.htm>. This National PTA document discusses the dangers of corporal punishment.

Parting Thoughts

As teachers, we must always act as advocates for children’s welfare. We have many avenues to help ensure that schools are safe for children—or to protest and publicize existing dangers loudly and frequently, seeking a change in policy. To help end the legal beatings of children in schools teachers must become thoroughly educated on the issue and then assume the role of change agents, pursuing restraint and reform at every opportunity. Certainly parents, administrators, and school board members share teachers’ commitment to the welfare of children. By learning and then sharing the extensive evidence against corporal punishment, teachers may be able to counter the ubiquitous argument that “a little sweat on the behind never hurt anybody.” Lawmakers and courts have failed to ensure that schools are safe places for the children entrusted to our care. Those children cannot afford teachers to fail as their advocates and protectors as well.

Key words: corporal punishment, teachers as advocates, abuse, child welfare

REFERENCES

Parents and Teachers Against Violence in Education (PTA/VE).
www.nospand.net>.
Port Charlotte school director arrested for paddling student. 2001.
Associated Press State & Local Wire. 3 July. Retrieved 28 January 28
2002, from Lexis-Nexis database.
Potts, L. February 5, 2001. Football coach accused of paddling stu-
dent is suspended. Associated Press State & Local Wire. Retrieved Jan-
Shackleford, C. 2001. Principal won’t face charges over paddling.
Chattanooga Times B2. 13 September.
Spare the rod: Washington shouldn’t encourage corporal punish-
n-h81.htm>.
n-i04.htm>.