

A DESCRIPTIVE LAW AND POLICY ANALYSIS OF CORPORAL PUNISHMENT  
IN FLORIDA PUBLIC SCHOOL DISTRICTS

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Dissertation Prepared for the Degree of  
DOCTOR OF EDUCATION

UNIVERSITY OF NORTH TEXAS

December 2012

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Goodson, Christopher B. A Descriptive Law and Policy Analysis of Corporal Punishment in Florida Public School Districts. Doctor of Education (Educational Administration), December 2012, 100 pp., 11 tables, 7 illustrations, references, 50 titles.

Corporal punishment is banned by state statute in 31 of the 50 U.S states. The 19 states that still allow the practice are largely located in the South and the Rocky Mountain West. However, data indicate that the practice of corporal punishment is still largely a Southern phenomenon. In the 19 states that allow the practice to continue in schools, many have seen the use of the disciplinary technique decline. Existing research documents the negative effects and very little research supports any positive benefits of corporal punishment. This study analyzes school board policies from the 67 public school districts in the state of Florida to determine if trends in policies and incidents of corporal punishment are similar Texas and North Carolina. Research on Texas and North Carolina indicate corporal punishment is used more frequently in districts with smaller enrollments, and in more rural areas. Data from this study suggests that the decrease in the number of incidents of corporal punishment as well as the concentration of the practice among school districts in Florida school follows the same trends of declining use that exist in Texas and North Carolina public schools. Findings illustrate a need for continued research of corporal punishment on a district-by-district and potentially a school-by-school basis.

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## ACKNOWLEDGEMENTS

From day one this has been called a journey. Truer words have never been spoken. I thank the Lord for the strength to never stop the journey. Thank you, Dr. Richard Fossey for your visionary leadership and consistent support.

Thank you to my beautiful wife, Kellie Goodson, for your encouragement and support throughout the entire journey. It would not have been possible without you. To my children, James, David and Winnie Goodson, you inspire me and I hope you realize that anything is possible.

Thank you, Katrin Goodson, for always being the burst of energy that your big brother needed. Lastly, Howard and Lorene Goodson, thank you for the love, caring and support. Most importantly, thank you for giving me the drive to always be better than I am. I hope I make you proud.

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## CHAPTER 1

### INTRODUCTION

The debate over the effects of corporal punishment on students in American public schools has continued well past the United States (U.S.) Supreme Court decision in the case of *Ingraham v. Wright* (1977). Although the U.S. Supreme Court decision established that corporal punishment cannot be considered cruel and unusual punishment under the Eighth Amendment, and does not infringe upon a child's Fourteenth Amendment right to due process or equal protection, the concern over children's emotional, physical, and psychological safety has continued to keep the issue of corporal punishment as a current topic of discussion.

Federal and state courts have supported the stance that corporal punishment does not infringe upon a student's constitutional rights as long as it is not excessive, or so excessive as to shock the conscience (Wasserman, 2011). If the effect of the punishment by a school employee rises to the level of being considered abusive, the criminal courts have the ability to address the situation. However, the onus falls on local school districts and local school boards to make the decisions as to whether or not corporal punishment is an acceptable form of discipline and whether it will be prohibited by local policy.

Regardless of the position of the federal courts, the existence of corporal punishment in schools remains an issue upon which individual states have acted.

Through state statutes, a clear majority of the states have determined that corporal punishment, as a means of student discipline, is not an acceptable option. As of 2012, 31 states have enacted laws that prohibit corporal punishment in public school. There are only 19 states that permit corporal punishment in schools (Center for Effective Discipline, 2010). Corporal punishment is largely a Southern phenomenon. With the exception of Virginia, all Southern states still permit corporal punishment, including the border states of Kentucky, Missouri, and Oklahoma.

Nevertheless, recent studies on corporal punishment in two Southern states (North Carolina and Texas) indicate a trend of fewer students being subjected to this form of discipline (Phillips, 2012; Phillips & Fossey, 2012). If the trend that was identified in North Carolina and Texas is present in other Southern states, then the day may be coming when corporal punishment may be barred by state law all across the South.

#### Statement of the Problem

The problem of the study is to describe the status of corporal punishment in Florida public schools by analyzing information from the 2009-2010 school year, as well as data collected by the Florida Department of Education over the last twenty years. The study also describes the status of corporal punishment with respect to local Florida school board policies as of the 2011-2012 school year, and compares trends in Florida versus Texas.

Corporal punishment has been an acceptable practice of child behavior modification since the earliest recorded history of Western cultures (Hyman, 1990). The origins of corporal punishment are evident in the societal norms existing in colonial times. The concept of corporal punishment can be seen in many aspects of religion as well (Hyman, 1990; Phillips, 2012). Nineteen states in the U.S. still allow corporal punishment under state statute, including Florida, Texas, and North Carolina. In Texas, the instances of students receiving corporal punishment are on the decline. Phillips (2012) found that although state law allows the practice of corporal punishment, “Texas has gone a long way toward banning corporal punishment in the State through the adoption of school board policies” (p. 88).

There are many factors supporting the call for a ban on corporal punishment. The fear of litigation, as well as the research supporting the detrimental effects of the practice, supports the need for a critical review by local and state policy-makers. In addition, concerns have been raised that minority children are disproportionately subjected to corporal punishment, raising questions about whether corporal punishment is being practiced in a discriminatory manner in some school districts.

#### Purpose of the Study

This study focused on the variance of the policies among the 67 public school districts in the state of Florida. The purpose of the study is to determine if similar trends exist in Texas and Florida public schools regarding the use of

corporal punishment. Texas data illustrate a decline in the use of corporal punishment overall since 2006-2007 (Philips, 2012). Texas data also indicated that students attending schools in the larger school districts were not subjected to corporal punishment, while students attending schools in smaller districts were subjected to corporal punishment more frequently. While a majority of the districts in Texas still use corporal punishment, 60% of the state's school students now attend public schools where corporal punishment is prohibited. This study analyzes data from Florida public schools, compares it to data from Texas, and offers insights into the decline in school-district sanctioned corporal punishment.

This study seeks to determine how many students were subjected to corporal punishment in Florida in 2006-2007 and 2009-2010. The study also reviews the local school board policies of the 67 public school districts in Florida and determines if corporal punishment was prohibited.

#### Significance of the Study

Corporal punishment as an acceptable method of disciplining children has its origins in the history of American schooling and religion as well. Considering that 19 states currently do not prohibit corporal punishment in state statutes, the misconception that it is an approved method of student discipline statewide is easily understandable. However, states like Florida and Texas delegate responsibility for taking a position on the issue to local school districts and their

governing school boards. Consequently, many students are not subjected to corporal punishment as a result of local board policy prohibiting the practice.

Only one study has been conducted to examine the variance in policies of school districts that permit corporal punishment. Stephanie Phillips studied data from Texas public schools and the difference of school board policies from the over 1000 school districts in the state. The study described in this dissertation seeks to extend the research by examining data from Florida. The study also provides information, through a review of literature, regarding similar trends of corporal punishment in North Carolina. Data from North Carolina suggests a move away from the use of corporal punishment even though it is still allowed by state law.

This study also illuminates several issues within the practice of corporal punishment in schools and whether people still believe the practice should exist in their local public school districts.

#### Limitations of the Study

The accuracy of the local board policies reviewed may be a limitation of the study as the most recently adopted school board policies may not have been posted online at the time of the study. Another limitation may be the lack of a uniform process in the way board policy is written in Florida. Almost all of the school districts in Texas use the Texas Association of School Boards (TASB) policy online programming, which gives researchers access to virtually every Texas school district's school board policy on corporal punishment and provides

a uniform structure to the way board policies are written. Florida uses no such programming.

### Research Questions

The following questions guided this study:

1. What was the status of corporal punishment in Florida Public Schools with respect to the percent of students attending schools in districts where corporal punishment is prohibited by local board policy in 2012, the percent of students attending schools in districts where no corporal punishment was administered in 2009-2010 and the number of districts with student enrollments of 40,000 or more prohibiting corporal punishment?
2. What was the status of corporal punishment in the 20 largest Florida public school districts in 2009-2010?
3. How do data trends regarding use of corporal punishment, including instances of the punishment delivered to students, compare between Florida and Texas?

### Definition of Terms

- Florida state statute defines corporal punishment as “the moderate use of physical force or physical contact by a teacher or principal to maintain discipline or to enforce school rule” (Florida Statute §. 1006.07(1)).

- Texas statute defines 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” (Sec. 37.0011(a), Texas Statutes).

### Summary of Chapters

The following summary of chapters briefly explains the contents of this dissertation. While a brief overview of the literature is described, a more in-depth level of discussion of the literature is provided in later chapters.

Chapter 2 provides a review of literature regarding corporal punishment. The review includes a brief history of corporal punishment in the United States and describes its origins in U.S. common law. Corporal punishment has existed since U.S. colonial times and has continued to be accepted as an appropriate means of disciplining children. Chapter 2 presents the research gathered over the course of many years that documents the harmful effects of corporal punishment is extensively documented in educational, psychological and medical research. Numerous professional organizations, ranging from the American Medical Association to the National Parents and Teachers Association (PTA), have condemned the practice and called for the elimination of corporal punishment in schools. Considerable research supports the stance of prohibiting corporal punishment in schools. This research not only supports the ineffectiveness of the practice, but also describes the harmful and lasting effects of corporal punishment. Conversely, there is little research supporting the

benefits of corporal punishment. However, in spite of the fact that corporal punishment is still legal in 19 states.

The review of literature includes an overview of state statutes from Florida and Texas. Florida state statute defines corporal punishment as “the moderate use of physical force or physical contact by a teacher or principal to maintain discipline or to enforce school rule” (§. 1006.07(1), Florida Statutes). While Florida state law does not prohibit corporal punishment, it specifically describes how local school boards shall proceed if they permit its use as a disciplinary technique in the schools.

Texas statute defines 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” (Sec. 37.0011(a), Texas Statutes). Texas law does not provide specific expectations to local school boards regarding the implementation of the practice. However, a Texas statute passed in 2011 gives parents or guardians the right to prohibit school authorities from administering corporal punishment on their children. Under the statute, all parents must do to invoke this right is to notify school officials in writing that they do not wish to have corporal punishment inflicted on their children.

Chapter 3 contains a discussion of the research findings and answers the proposed research questions including what percent of students in Florida public schools are in districts where corporal punishment is prohibited, what percentage of students attended schools in districts where they did not administer corporal



punishment in 2009-2010, how many Florida public school districts with student populations of 40,000 or more prohibit corporal punishment, how many of the largest 20 public school districts in Florida prohibit corporal punishment by policy, how many did not use corporal punishment in 2009-2010, and how data trends regarding use of corporal punishment policies compare from an examination of research on corporal punishment practices in the schools of Florida and Texas.

Chapter 4 reviews the implications of the findings reported in Chapter 3 and also contains recommendations for using the findings as part of the ongoing dialogue in policy and political discussions regarding corporal punishment. This chapter also provides suggestions for future research.

#### Overview of Methodology

This dissertation identifies and analyzes the corporal punishment policies of Florida school districts. The research methodology is similar to the methodology of Stephanie Phillips' 2012 dissertation, which examined the corporal punishment policies in the public school districts in Texas (Phillips, 2012; Phillips & Fossey, 2012). This dissertation builds upon Phillips' work by examining corporal punishment policies in Florida, as well as study school district corporal punishment policies in North Carolina.

This dissertation project uses legal research methods and document analysis to answer the research questions listed earlier in this chapter. Phillips identified and analyzed 1029 Texas school district policies, an enormous research task; but she was aided by the fact that 99% of the school districts in

Texas use the online school-board policy that is maintained by the Texas Association of School Boards (TASB). These policies are organized identically, which facilitates the process of finding and examining corporal punishment policies.

In contrast to Texas, which permits cities and towns to operate independent school districts, Florida organizes its school districts by county. Thus, while Texas has more than 1000 districts, Florida has only 67. On the other hand, Florida does not have a standardized school board policy system like the one operated by TASB; and thus each Florida school board's policy on corporal punishment must be located through the laborious process of searching individual school-district policies online or by contacting Florida school district headquarters directly.

After locating Florida school district corporal punishment policies, the researcher identified trends regarding school district policies and school districts' actual use of corporal punishment. Phillips found that all major urban Texas school districts had abandoned corporal punishment through local school board action by the time of her study, and that 32 of the 35 largest Texas school districts had abolished corporal punishment. Through the analysis of data collected by the U.S. Department of Education's Office of Civil Rights, Phillips also found that most of the Texas school districts included in the OCR data that still maintained corporal punishment policies were either not administering corporal punishment or administering less frequently than they did in the past.

As more fully explained in Chapter 2, corporal punishment in Florida has important legal implications, and it is necessary to understand the legal dimensions of corporal punishment in the U.S. and Florida in order to understand the legal context in which corporal punishment is administered in public schools. For example, the U.S. Supreme Court's only decision on corporal punishment in the schools involved a Florida school district (*Ingraham v. Wright*, 1971). Furthermore, Florida law has a particular provision that requires districts that still administer corporal punishment to reaffirm their corporal punishment every three years.

Legal research is the methodology used by judges, lawyers, and scholars to answer legal questions (Llewellyn, 1930; Alexander & Alexander, 2009; Walsh, Kemerer & Maniotis, 2010; Lacefield, 2010). Legal research can be approached from a variety of strategies, but a researcher generally begins the process by reading texts on a broad legal topic, like general treatises, law review articles, and other secondary sources in order to become generally familiar with a specific legal topic. This study analyzes corporal punishment policies in Florida school districts, and the research began by conducting a broad search of literature on the legal aspects of corporal punishment. For example, the *Restatement (Second) of the Law of Torts* (American Law Institute, 1965), a compendium of the common law principles of tort law in the United States, provided a valuable discussion of the common law principles that apply to corporal punishment. As more fully explained in the literature review, corporal punishment administered by

someone, without the authority to do so, would be battery under the common law, which could lead to criminal charges or a civil suit. Educators, however, have a common law privilege to administer corporal punishment as long as it is used reasonably and humanely. They can lose their privilege if the corporal punishment is excessive. Part of the background research for this study includes a review of Florida case law that has addressed corporal punishment in the schools.

In addition, research for this study includes an exploration of the constitutional dimensions of corporal punishment as federal courts have articulated them. As is more fully explained in Chapter 2, the Supreme Court rendered its seminal opinion on corporal punishment in the schools in *Ingraham v. Wright*, decided in 1977. The Court ruled that public school administrators do not violate the constitutional rights of students when they administer corporal punishment in the public schools so long as the punishment is reasonable. Since *Ingraham*, however, several federal appellate courts have ruled that school administrators may violate a student's constitutional right to substantive due process if they inflict corporal punishment that is so excessive as to be shocking to the conscience of the recipient. These courts have ruled that truly excessive corporal punishment may violate a school child's constitutional right to bodily integrity, which would be an infringement on the school child's constitutionally protected liberty interest under the Fourteenth Amendment. Lewis Wasserman's (2011) recent law review article is an exhaustive study of the constitutional

dimensions of corporal punishment as the federal appellate courts have defined it. Wasserman's article is a critical resource in the legal research for this dissertation just as it was a key resource for the Phillips dissertation (2012). Wasserman's article determined the position of all the federal circuit courts that have opined on the constitutionality of corporal punishment. For example, Wasserman determined that the Eleventh Circuit Court of Appeals, which includes the state of Florida, has ruled that brutal and excessive corporal punishment can be so hurtful that it constitutes a constitutional violation.

As the literature review narrowed to an examination of the legal aspects of corporal punishment in Florida, the researcher conducted a search of the LexisNexis® ([www.lexisnexis.com](http://www.lexisnexis.com)) database using standard research strategies similar to Google™ ([www.google.com](http://www.google.com)) searches. These searches are sometimes referred to as "Boolean" searches (named for George Boole, an English mathematician), which allow users to search a computer database to find a combination of words or phrases in court decisions, legal periodicals, or statutes (Lacefield, 2010, p. 10).

To determine how Florida courts have addressed corporal punishment in the schools, this study replicated LexisNexis search conducted by Stephanie Phillips in her study of corporal punishment in Texas schools, modifying it to focus on Florida rather than Texas. This study began this LexisNexis research exercise by searching for the broad search of "corporal punishment" in the published appellate court decisions contained in LexisNexis®

(www.lexisnexis.com) database of Florida published cases. This search was then adjusted to add the term “school!,” with an exclamation mark added to include variations of the word “school,” such as “schools,” “schooling” or “schooled” (Phillips, 2012). Using this refined search, I identified the title and citation for every published Florida court decision in which the terms “corporal punishment” and “school” (or variation of the word “school”) were contained in the text of the court decision.

In addition to court decisions, American law includes statutes passed by Congress or state legislatures, administrative regulations, city or county ordinances, and school board policies. For example, a Florida school district that adopts an official school board policy banning corporal punishment can legally discipline a teacher who disobeys the policy, and a school employee who practices corporal punishment in violation of the employee’s own school district policy may be sued by a student who was a victim of unauthorized corporal punishment.

The central focus of this dissertation research is the official school board policies of Florida’s school districts. These were identified by conducting a search of Florida school districts’ online school board policies. Where a district’s corporal punishment policy could not be determined by an online search, I made contact by telephone with a responsible school employee to verify whether the district has a policy in place regarding corporal punishment.

I analyzed Florida school board policies in much the same way as Phillips analyzed Texas school district corporal punishment policies in her 2012 dissertation. A focus of this research is to determine whether the pattern that Phillips discovered in her research—the abolition of corporal punishment in urban school districts—was also present in Florida. I also determined the overall percentage of Florida school students who attend schools where corporal punishment is prohibited.

Finally, I examined data gathered by the U.S. Department of Education's Office of Civil Rights about the practice of corporal punishment in Florida school districts to determine if there is a trend among Florida school districts to administer corporal punishment less frequently in recent years.

### Summary

Florida, Texas, and 17 other states still allow corporal punishment as a student disciplinary practice. The local school boards in these states have the authority to prohibit the practice under locally developed policy. Several Florida school districts have banned the practice and, consequently, students in these districts are not subjected to corporal punishment. Many students attend schools in districts where the practice is still allowed. Little research exists that appropriately describes the demographics of corporal punishment and how many students receive corporal punishment. The use of the practice among school districts in Texas varies considerably based on whether a student attends school in an urban or rural district. Educators, educational researchers, and education

policy-makers can benefit from understanding the demographics of corporal punishment. The details behind which districts prohibit the practice by policy, which districts allow the practice by policy, and what patterns exist regarding those districts and schools that either allow or prohibit the practice can be useful to policy makers in Southern states when considering whether to pass legislation that would ban corporal punishment, as it has been banned in 31 states to date.

Explicitly understanding how many students in Florida schools are subjected to corporal punishment and how many are not, as well as understanding any patterns in district policies that are evident, provides a deeper level of insight as to whether more states might consider prohibiting the practice by law rather than leave this decision up to the local school boards. If corporal punishment in Florida is largely confined to nonurban school districts, which is the case in North Carolina (*Action for Children North Carolina*, 2011) and Texas (Phillips, 2012), then corporal punishment opponents will be reassured by data that shows that corporal punishment is fading away in Florida through decisions by local school boards and that support for corporal punishment is on the wane.



## CHAPTER 2

### LITERATURE REVIEW

Although 19 states permit corporal punishment in the public schools as a means of maintaining order and discipline, considerable research suggests that corporal punishment is not beneficial to the learning process and can be harmful. In contrast, there is little literature describing the benefits of corporal punishment.

This review of literature is organized by several topics. The first section provides a brief description of the history of corporal punishment and its links to religion. The history of the practice dates back to Colonial America and even further into the early recorded history of many Western cultures (Hyman, 1990). This historical tradition of child rearing has extensive roots in the very culture of America. This serves as a possible explanation as to the continuing existence of the practice, in spite of the fact that a considerable body of research suggests that the practice is harmful to children.

A look into the cultural aspects of corporal punishment, as well as perspectives of corporal punishment from other countries is reviewed. Different cultures as well as different countries perceive corporal punishment differently. The disciplinary practice is outlawed in several nations across the world. Literature describes different effects of having the practice outlawed across various nations.

A brief review of literature regarding the effects of corporal punishment on children in the areas of academic performance, anti-social, and aggressive behavior is also included in this chapter. Literature includes testimony presented before the U.S. House of Representatives on corporal punishment and the effect of corporal punishment on academic success. The review then presents a summary of the effects of corporal punishment on future child behavior. Literature suggests a possible connection of corporal punishment to aggressive and delinquent behavior in the future. While the immediate effects of corporal punishment may result in compliance, the lasting effects of the practice are still current topics of debate.

The review of literature includes an overview of state statutes from Florida and Texas, followed by a detailed discussion of corporal punishment in the Texas public school districts. A description of corporal punishment in North Carolina is presented in an effort to compare patterns and trends between Texas and North Carolina. States that still allow corporal punishment in local public school districts may have similar declining patterns of use, which would in turn suggest a trend toward moving away from the practice.

The final section of the review describes the positions of various professional organizations on the topic of corporal punishment. Numerous organizations from across the United States of America as well as international organizations have taken a position on corporal punishment. As the concern over the impact of the disciplinary practice continues to grow, well-known

organizations and their respective positions can be influential in encouraging state legislators to take more aggressive actions towards outlawing corporal punishment

### History of Corporal Punishment

#### *Corporal Punishment in the United States: A Brief Overview*

Corporal punishment, broadly defined, includes any sort of physical pain inflicted on the body (Garner, 2009, p. 1353). Historically, corporal punishment was often administered to adults as a punishment for a crime. The practice included such practices as branding, mutilation, the use of the pillory, and whipping. For example, after the Boston Massacre of 1770, two British soldiers were convicted of involuntary manslaughter for their role in the affair, and both were branded on the thumb (Sanchez & Mills, 2005). Corporal punishment was largely eliminated as a form of criminal punishment in the United States with the passage of the Bill of Rights in 1791, which included the Eighth Amendment's prohibition against "cruel and unusual punishment." Although the United States began to reconsider corporal punishment for criminals and prisoners, the practice continued to occur. During the Mexican War of 1846-1848, American military authorities tried a number of Irish Catholic recruits who had deserted the American army to join the Mexicans. Some were hanged, and others were branded (Hogan, 2012).

As noted by the U.S. Supreme Court, corporal punishment as a means of disciplining students in the schools has been accepted since colonial times

(*Ingraham v. Wright*, 1977). As one court noted, “the touchtone of corporal punishment in schools appears to be the application of physical force by a teacher to punish a student for some form of school-related misconduct” (*Neal v. Fulton County Board of Education*, 2000, p. 1072). Usually, corporal punishment in the school setting involves striking a student on the buttocks or the hands with a board or switch. For example, McGreevy (2003) relates the story of the famous “Eliot School Rebellion” of 1859, in which a Boston school official repeatedly struck a Catholic schoolboy on the hands with a “rattan stick” for refusing to read the Ten Commandments from the King James Bible. (The boy’s priest had instructed him not to read from that version of the Bible, which had not been approved by the Catholic Church.) According to McGreevy, the administrator announced: “Here’s a boy that refuses to repeat the Ten Commandments, and I will whip him till he yields if it takes the whole forenoon” (McGreevy, 2003, p. 8). He then beat the young boy on the hands for half an hour. The incident enraged Boston’s Irish Catholic population, and hundreds of Catholic school children engaged in a mass walkout from the public schools.

Although paddling and whipping constitute the most usual form of corporal punishment in the schools, the courts have ruled that a variety of activities involving the application of physical pain on a student can constitute corporal punishment. For example, the Eighth Circuit Court of Appeals ruled that a school official who dragged a student across the room and banged the student’s head against a metal pole had inflicted corporal punishment (*London v. Directors of*

*DeWitt Public Schools*, 194 F.3d 873 (8th Cir. 1999); and the Eleventh Circuit concluded that a coach had administered corporal punishment when he struck a football player in the eye with a metal lock (*Neal v. Fulton County Board of Education*, 2000).

On the other hand, some courts have distinguished between a school official's use of force to administer a punishment and the use of force to maintain control of the school environment or to break up an altercation between students. For example, in *Doria v. Stulting* (1994), a Texas court concluded that a teacher had not been engaged in disciplining a defiant student when he dragged the student down the hallway by the hair in order to deliver him to the vice principal's office. Rather, the court ruled, the teacher had merely delivered the student to the vice principal, who disciplined the student by remanding him to an alternative school setting. The teacher "acted only to protect the school learning process from disruption by a wrongdoer by physically removing the wrongdoer from the classroom and thereafter escorting the wrongdoer to the public official designated by rule, regulation or law to impose the necessary and proper 'discipline-punishment' " (p. 567) the court ruled.

#### *Influence of Religion on the Perspectives of Corporal Punishment*

The origins of corporal punishment in colonial American times, not only in schools, but in religious institutions as well, perhaps speak as to why the practice has persisted over the years. Corporal punishment is thought to be supported by religious doctrine and literature. However, research finds that specific advocacy

of corporal punishment in religious literature is not as evident as presumed (Hyman, 1990; Phillips, 2012; Center for Effective Discipline, 2009). The old adage of “spare the rod, spoil the child” is believed to be articulated in the Bible. Surprisingly the phrase does not exist in either the Old or New Testament of the text. However, it is possible that the phrase was derived from several separate verses that appear to reference the disciplining of a child. In the book of Proverbs chapter 13 verse 24, Solomon provides the following warning, “He that spareth his rod hateth his son: but he that loveth him chasteneth him betimes” (The Holy Bible: King James Version). Chapter 23, verses 13-14, also seem to support the call for corporal punishment. “Withhold not correction from the child: for if thou beatest him with the rod, he shall not die. Thou shalt beat him with the rod, and shalt deliver his soul from hell” (The Holy Bible: King James Version).

Hyman (1990) discussed the actual source of the often-used quote. “This well-known defense of corporal punishment is, in fact, not in the Bible. It was first used by the English author Samuel Butler in a satirical poem ‘Hudibras,’ published in 1664” (p. 30). Regardless of the actual origin of the sentiment, the connection of punishment and religion provides an influence on child discipline that is difficult to minimize. As towns developed and religious influences shaped local communities, the common acceptable practices in schools began to follow suit. The goal of schools in earlier colonial times was to provide the community with citizens who would be able to support the further development of the

community itself and, perhaps more importantly, continue the traditions and beliefs practiced by the community.

The religious influence on the development of early towns and communities, as noted by Hyman (1990), is significant. A focus on punishment, rather than discipline, altered the fundamental beliefs of how schools should be run. The belief that children needed to have the “bad” beat out of them existed in schools, churches, and homes. Corporal punishment was modeled in homes as well as schools and continued from generation to generation. Authors like Hyman (1990) describe the practice of corporal punishment, as an act of aggression toward children who misbehave that has become a learned behavior. Children who watched adults model the practice subsequently internalize the learned behavior.

#### Corporal Punishment in the Schools and the Common Law

In *Ingraham v. Wright* (1977), the Supreme Court acknowledged that public school officials had long been afforded a privilege under the common law to administer physical punishment on students in their charge. “Teachers may impose reasonable but not excessive force to discipline a child,” the Court noted (p. 661). So long as teachers and administrators administered corporal punishment in moderation, they “enjoy a privilege to use such force as they deem reasonably necessary for the proper control, training, and education of the child” (p. 662).

In fact, the Supreme Court's recognition of an educator's right to inflict corporal punishment on students in its 1977 decision fully accorded with the common law in the United States as it was expressed in the *Restatement (Second) of Torts*, which is a codification of the common law of torts in the United States. As set forth in Section 147 of the *Restatement*, a parent has a legal right use reasonable force or confinement of a child if the parent reasonably believes that force or confinement is necessary to control the child or to educate or train the child (American Law Institute, 1965). At common law, this parental privilege extends to anyone who is been given legal authority to train, control or educate a child, including teachers. Section 147(2) states the following:

One other than a parent who has been given by law or who has voluntarily assumed in whole or in part the function of controlling, training, or educating a child, is privileged to apply such reasonable force or to impose such reasonable confinement as he reasonably believes to be necessary for its proper control, training, or education, except in so far as the parent has restricted the privilege of one to whom he has entrusted the child (American Law Institute, 1965).

Nevertheless, although parents and teachers enjoy a legal privilege to administer corporal punishment on children or youth in their charge, they must exercise that privilege in a reasonable manner. *Restatement (Second) of Torts* § 150 lists several factors to be considered when determining whether the corporal punishment inflicted on a student is reasonable. For example, the age, sex, physical condition and mental status must be taken into account. In addition, the punishment must be appropriate to the offense and not excessive. In addition, the common law requires one who administers corporal punishment to do so in a



manner proportionate to the offense and not in a way that is unnecessarily degrading or that causes permanent harm.

Under the common law, a teacher's privilege to administer corporal punishment could be lost if the punishment was excessive or rendered with malice. In fact, the American law has long recognized that a student can sue a teacher in tort for excessive corporal punishment. Moreover, students have the right to defend themselves against teachers or school administrators who use excessive force when imposing corporal punishment (American Law Institute, *Restatement (Second) of Torts* § 155, 1965).

In addition to the right to sue in civil court, student victims of excessive corporal punishment have the right to file criminal charges for battery. As the Supreme Court observed in *Ingraham v. Wright*, 1977), in almost every state, "an educator who inflicts excessive corporal punishment can be criminally prosecuted" (*Ingraham v. Wright*, 1977, p. 661).

Several venerable court cases illustrate these common law principles. In *Harris v. State* (discussed in Phillips, 2012), decided in 1918, a Houston schoolteacher was convicted of aggravated assault and fined \$25 after she whipped a schoolboy with a leather strap described to be about two inches wide and fourteen inches long. The teacher admitted hitting the boy approximately 25 "licks" with the strap, but she maintained that she had not acted out of malice—only the desire to "conquer" the student. The school principal also whipped the student, and he admitted that he continued whipping the boy "until the child was

conquered.” At trial, a county health official testified that he had seen 25 stripes on the student’s back. “The wounds that had ruptured the skin showed clotted blood on the surface and there was swelling and contusions,” the health official stated, and the marks were blue and inflamed (*Harris v. State*, 1918, pp. 1089-1090).

Harris appealed to the Texas Court of Criminal Appeals, but the court upheld her conviction. According to the Court of Criminal Appeals, Texas law allows teachers to administer corporal punishment to a school child so long as it is moderate. In the court’s view, the evidence showed that the teacher administered corporal punishment that was excessive.

In another Texas case, a teacher took a 14-year-old student to the edge of some woods to administer corporal punishment for what the court described as the student’s “obstreperous” behavior (*Dill v. State*, 1920, p. 482). The student responded by stabbing the teacher with his pocketknife. The teacher fell on a rock and died a few days later from his injuries. The student was charged with manslaughter, and he pled self-defense.

In stating the law of the case, the Texas Court of Criminal Appeals had this to say: “[A Texas] statute authorizes the school teacher to punish moderately his pupils. If it passes beyond that and the punishment is immoderate, or for the purpose of revenge or is maliciously done, then the right does not exist, and the right of self-defense obtains.”

The court stressed that the jury was required to review the facts based on what the schoolboy believed at the time of the incident. “If he believed that [the teacher] took him out there not to chastise him as a student for a violation of the rules of the school, but out of revenge or to inflict unnecessary and immoderate punishment upon him in a cruel way, then [the student’s] right of self-defense did inure...” (p. 482). Furthermore, the court ruled, the jury was not entitled to presume that the boy intended to kill his teacher based on the fact that he stabbed him with a pocket knife, since the knife was not a deadly instrument per se. As a result of errors on the part of the state, the Texas Court of Appeals reversed the initial ruling and the case was remanded to lower courts.

On the other hand, in *Balding v. State* (1888), a nineteenth-century case, a Texas court upheld the conviction of a student for assault after he stabbed his teacher with a butcher knife when the teacher tried to punish him for failing to do his homework. The court ruled that the teacher had the legal right to physically punish the student for failing to complete his homework assignment, even though, technically speaking, the student had been punished for an offense that had taken place outside school hours.

Teachers have the right, the same as parents, to prescribe reasonable rules for the government of children under their charge, and to enforce, by moderate restraint and correction, obedience to such rules. This authority of the teacher over his pupils is not, in our opinion, necessarily limited to the time when the pupils are at the schoolroom, or under the actual control of the teacher. Such authority extends, we think, to prescribing and enforcement of reasonable rules and requirements, even while the pupils are at their homes (pp. 175-176).

In general, courts will uphold the right of school officials to inflict corporal punishment, even when it is quite severe. For example, in *Vanvactor v. State* (1888), the Indiana Supreme Court reversed a teacher's conviction for assault and battery after he beat a 16-year-old boy so severely with a switch that the punishment left marks and abrasions on the boy's body. In reversing the conviction, the Indiana Supreme Court ruled that the law should presume that the teacher had acted reasonably.

[A] teacher may exact a compliance with all reasonable commands, and may, in a kind and reasonable spirit, inflict corporal punishment upon a pupil for disobedience. This punishment should not be either cruel or excessive, and ought always to be apportioned to the gravity of the offence, and within the bounds of moderation. But, plainly, when complaint is made, the calm and honest judgment of the teacher, as to what the situation required, should have weight, as in the case of a parent under similar circumstances; and where no improper weapon has been employed, the presumption will be, until the contrary is made to appear, that what was done was rightly done (*Vanvactor v. State*, 1888, p. 280).

The court expressed some sympathy for the teacher, who had “acted with much caution, forbearance and deliberation” and the “weapon” that the teacher chose—a switch—did not seem overly harsh for use on a 16-year-old boy.

#### Corporal Punishment under State Law

In *Ingraham v. Wright* (1977), the U.S. Supreme Court upheld the right of public school officials to administer reasonable corporal punishment to students against a constitutional challenge by two Florida high school students. The Court ruled that the Eighth Amendment's prohibition against cruel and unusual

punishment had no application in the schools and that students were not entitled to a due process hearing before corporal punishment was administered to them.

At the time the Supreme Court ruled, only four states—New Jersey, Massachusetts, Hawaii, and Maine—prohibited corporal punishment in the public schools. In the years after the *Ingraham* decision, however, states began an accelerating trend of abolishing corporal punishment. Fourteen states abolished corporal punishment in the 1980s, and eight more banned the practice in the 1990s. More states abolished corporal punishment during the early years of the 21<sup>st</sup> century, with New Mexico’s being the most recent state to ban the practice. Table 1 shows the states that have adopted laws banning the practice of corporal punishment; the year the statute went into effect, and the corresponding specific statute.

Table 1

*States Banning Corporal Punishment (Center for Effective Discipline, 2010).*

STATE	YEAR	PRESENT STATUTE
New Jersey	1867	NJ Permanent Statutes, Education 18A:6-1
Massachusetts	1971	MA General Laws, Education Sec. 37G
Hawaii	1973	HI Rev. Statutes Sec. 302A-1141
Maine	1975	ME Criminal Code Sec. 106
Rhode Island	1977	Wolfweseder v. Woonsocket, Commissioner of Education
New Hampshire	1983	NH Rev. Statutes Ann. Sec. 627:6
New York	1985	NY Regulations of the Board of Regents, 8 NYCRR 19.5
Vermont	1985	VT Statutes, Education Sec. 1161a
California	1986	CA Education Code Section 49000-49001
Wisconsin	1988	WI Statute Sec. 118.31

*(table continues)*

Table 1 (continued).

STATE	YEAR	PRESENT STATUTE
Nebraska	1988	NE Rev. Statutes Sec. 79-295
Alaska	1989	AK Statutes Section 04AAC 07.010
Connecticut	1989	CT Penal Code Sec. 53a-18
Iowa	1989	IA School Code Sec. 280.21
Michigan	1989	MI Compiled Laws, Rev. School Code Sec. 380.1312
Minnesota	1989	MN Statutes Sec. 121A.58
North Dakota	1989	ND Century Code, Elem. and Sec. Education Sec. 15.1-19-02
Oregon	1989	OR Rev. Statutes Sec. 339.250
Virginia	1989	VA Code, Education Sec. 22.1-279.1
South Dakota	1990	SD Codified Laws, Sec. 13-32-2
Montana	1991	MT Code Annotated Sec. 20-4-302
Utah	1992	UT Administrative Rule R277-608
Illinois	1993	IL Compiled Statutes, School Code Sec. 5/24-24
Maryland	1993	MD Code Education Sec. 7-306
Nevada	1993	NV Rev. Statutes Sec 392.4633
Washington	1993	WA Administrative Code 180-40-235
West Virginia	1994	WV Code Sec. 18A-5-1 (e)
Delaware	2003	DE Education Code Sec. 702
Pennsylvania	2005	22 PA Code CHS. 7 and I2, Sec. I2.5
Ohio	2009	Oh. Rev. Code Sec. 3319.41
New Mexico	2011	N.M. STAT. ANN. Sec. 22-5-4.3

Today, only 19 states still permit school administrators to administer corporal punishment against students in the schools. As the map below from the Center for Effective Discipline (2010) reflects, corporal punishment still predominates as an accepted means of punishing students in the South along with parts of the Rocky Mountain West and the Midwest. Thus, the trend to eliminate corporal punishment in public schools that manifested itself during the 1980s and 1990s had almost no impact on the practice in the Southern states. With the exception of Virginia, which banned corporal punishment in 1989, no

Southern state has outlawed corporal punishment in the years since the *Ingraham* decision.

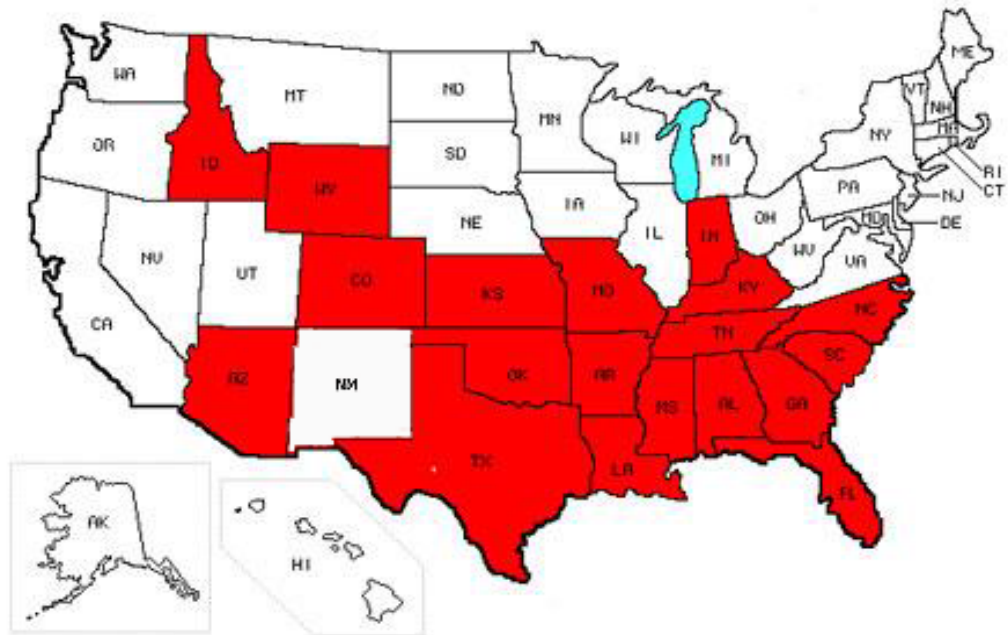


Figure 1. U.S. states allowing corporal punishment (Center for Effective Discipline, 2010).



### Constitutional Dimensions of Corporal Punishment in Schools: *Ingraham v. Wright*

The Fourteenth Amendment to the United States Constitution prohibits the states and local governments from depriving individuals of their life, liberty, or property without due process of law. Corporal punishment in the schools, involving the infliction physical pain on school children, clearly raises

constitutional issues because the practice infringes on a child's constitutionally protected liberty interest in personal security. Thus, it is not surprising that the Supreme Court agreed to hear a constitutional challenge to corporal punishment in the schools in the 1977 case of *Ingraham v. Wright*.

In *Ingraham*, two middle-school students sued the Dade County, Florida school system, arguing that the corporal punishment that they received constituted a violation of the Eighth Amendment's protections against cruel and unusual punishment and the Fourteenth Amendment's guarantee of due process.

As the two boys described it, the corporal punishment the boys received was quite severe. "One student was subjected to 20 licks with a paddle while being bent over a table in the principal's office; this paddling was so severe that the student suffered a hematoma requiring medical treatment and causing the student to be out of school for several days" (p. 657). The other student received corporal punishment several times for minor offenses. Twice, he alleged, he was struck on the arm, including one occasion that deprived him "of the full use of his arm for a week" (p. 657).

The two boys filed a federal lawsuit against the Dade County school system, but a federal trial court dismissed their case. They appealed to the Fifth Circuit Court of Appeals, where a three-judge panel ruled that excessive corporal punishment violated the Eighth Amendment. The panel also ruled that the Fourteenth Amendment required that the boys receive some kind of a hearing prior to the administration of corporal punishment. Upon *en banc* review,



however, the entire panel of Fifth Circuit judges, which affirmed the trial court's decision in favor of the school district, vacated this decision.

On appeal to the U.S. Supreme Court, the Supreme Court was presented with two constitutional questions: First, did corporal punishment violate the Eighth Amendment's prohibition against cruel and unusual punishment when it was administered in the schools? Second, did the due process clause of the Fourteenth Amendment entitle students to a due process hearing prior to the infliction of corporal punishment?

In a 5 to 4 decision, the Supreme Court ruled against the boys on both their constitutional issues. First, the Court ruled that school students are in different from incarcerated criminals. "The prison and the schoolchild stand in wholly different circumstances," the Supreme Court ruled, "separated by the harsh facts of criminal conviction and incarceration" (p. 669). Unlike prisoners, who are separated from family and friends and may need constitutional protection from cruel and unusual punishment, students are not confined. They generally attend school in an open environment and have access to friends and families. "The schoolchild," the Court reasoned, "has little need for the protection of the Eighth Amendment." Even though the child may be required by law to go to school, the public schools are still open institutions. "Except perhaps when very young, the child is not physically restrained from leaving school during school hours; and at the end of the school day, the child is invariably free to return home" (p. 670). Even while attending school, the Court observed, children

generally have the strong support of family and friends and are rarely isolated in such a way they could be subjected to serious mistreatment without someone witnessing it.

Thus, the Supreme Court ruled:

The openness of the public school and its supervision by the community afford significant safeguards against the kinds of abuses from which the Eighth Amendment protects the prisoner. In virtually every community where corporal punishment is permitted in the schools, these safeguards are reinforced by legal constraints of the common law. Public school teachers and administrators are privileged at common law to inflict only such corporal punishment as is reasonably necessary for the proper education and discipline for the child; any punishment going beyond the privilege may result in both civil and criminal liability . . . As long as the schools are open to public scrutiny, there is no reason to believe that the common-law constraints will not effectively remedy and deter excesses such as those alleged in this case (p. 670).

In short, the Court made clear; the Eighth Amendment does not apply to the schools no matter what the factual circumstances, even if students were subjected to punishment that might objectively be considered cruel.

The Supreme Court then turned its attention to the students' due process claim. The Court began by admitting that the infliction of corporal punishment on a school child implicates a constitutionally protected liberty interest under the due process clause of the Fourteenth Amendment. "[W]here school authorities, acting under color of state law, deliberately decide to punish a child for misconduct by restraining the child and inflicting appreciable physical pain, we hold that Fourteenth Amendment liberty interests are implicated" (p. 674).

In spite of ruling that the corporal punishment implicated the due process clause, however, the Supreme Court concluded that school officials are not

required to give students a due process hearing before administering corporal punishment. Instead, the Court reasoned, common law remedies against excessive corporal punishment—criminal charges or civil lawsuit for money damages—were adequate to protect students from excessive corporal punishment. Although the risk of erroneous punishment might be reduced if students were given a hearing before corporal punishment was administered, the Court concluded that the value of such a hearing was not very great. “In view of the low incidence of abuse, the openness of our schools, and the common-law safeguards that already exist, the risk of error that may result in violation of a schoolchild’s substantive rights can only be regarded as minimal,” the Court ruled (p. 682). In addition, the Court believed that imposing a hearing requirement in the corporal punishment process “would ...entail a significant intrusion into an area of primary educational responsibility.” In short, the Supreme Court ruled, “the Due Process Clause does not require notice and a hearing prior to the imposition of corporal punishment in the public schools, as that practice is authorized and limited by the common law” (p. 682).

#### Excessive Corporal Punishment Can Violate Students’ Right to Substantive Due Process

After the Supreme Court ruled in *Ingraham*, several federal circuit courts considered whether excessive corporal punishment might violate a child’s substantive right to bodily integrity that is protected by the Fourteenth Amendment. In a 2011 law review article, Professor Lewis Wasserman

conducted a detailed analysis of these decisions. In addition, Phillips (2012), relying heavily on Wasserman (2011), reviewed federal appellate decisions on this topic. With the exception of the Fifth Circuit, all federal appellate courts that have considered the topic have concluded that corporal punishment in the schools can be a violation of a student's substantive right to due process if it reaches a level of excessiveness that shocks the conscience of the court.

The Fourth Circuit Court of Appeals was the first federal circuit court to rule on this issue. In the 1980 case of *Hall v. Tawney* (1980), the court considered the case of Naomi Hall, a grade-school student who was allegedly beaten excessively by her teacher. Her injuries were reportedly so severe that she was hospitalized for ten days and treated for "traumatic injury to the soft tissue of the left hip and thigh, trauma to the skin and soft tissue of the left thigh, and trauma to the soft tissue with ecchymosis of the left buttock" (p. 614).

Although a federal trial court dismissed Naomi's lawsuit, the Fourth Circuit Court reversed on the important issue of whether Naomi had made out a constitutional cause of action for the severe punishment that had been inflicted upon her. According to the court, school children have a constitutional right to "ultimate bodily security" that is protected by the Due Process Clause of the Fourteenth Amendment (p. 613).

The Fourth Circuit then spelled out a detailed standard for determining when corporal is so excessive that it constitutes a violation of a school child's constitutional rights:

In the context of disciplinary corporal punishment in the public schools, we emphasize once more that the substantive due process claim is quite different than a claim of assault and battery under state tort law. In resolving a state tort claim, decision may well turn on whether “ten licks rather than five” were excessive, so that line-drawing this refined may be required. But substantive due process is concerned with violations of personal rights of privacy and bodily security of so different an order of magnitude that inquiry in a particular case simply need not start at the level of concern these distinctions imply... [T]he substantive due process inquiry in school corporal punishment cases must be whether the force applied causes 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. Not every violation of state and criminal assault laws will be a violation of this constitutional right, but some of course may be. (Quoted in Wasserman, 2011, p. 613)

Other federal appellate courts have followed the Fourth Circuit’s lead in *Hall v. Tawney*.

*Garcia v. Miera* (1987), a Tenth Circuit decision is particularly noteworthy because the corporal punishment that was alleged is described as excessively brutal. The suit described two incidents.

In the first incident, a teacher allegedly reportedly punished an elementary-school girl as follows:

Sanchez held Garcia upside down by her ankles while Miera struck Garcia with a wooden paddle. The paddle “was split right down the middle, so it was two pieces, and when it hit, it clapped [and] grabbed.” Miera hit Garcia five times on the front of the leg between the knee and the waist. After the beating, Garcia’s teacher, Ruth Dominez, “noticed blood coming through [Garcia’s] clothes,” and, on taking Garcia to the restroom, was shocked to see a “welt” on Garcia’s leg. The beating made a two-inch cut on her leg that left a permanent scar. Shortly after this incident, Garcia’s mother and father told Miera “not to spank Teresa again unless we were called, to make sure it was justified, and [Miera] said okay, no problems...” (p. 653).

A second incident also allegedly occurred, which was also quite brutal.

Miera proceeded to strike Garcia two times with the paddle on the buttocks. Garcia then refused to be hit again. Miera responded by calling defendant Edward Leyba, an administrative associate at the school. Leyba pushed Garcia toward a chair over which she was to bend and receive three additional blows. Garcia and Leyba struggled and Garcia hit her back on Miera's desk, from which she suffered back pains for several weeks. Garcia then submitted to the last three blows. The beating caused severe bruises on Garcia's buttocks, which did not stop hurting for two to three weeks. The report of the school nurse indicates that as a result of the beating Garcia's "buttocks [were] bright red with [a] crease across both." Dr. Albrecht, a physician who treated Garcia, stated: "I've done hundreds of physicals of children who have had spankings...and I have not seen bruises on the buttocks as Teresita had, from routine spankings...They were more extensive, deeper bruises..." Betsy Martinez, a nurse who examined Garcia, stated that if a child had received this type of injury at home she "would have called [the police department's] Protective Services" (*Garcia v. Miera*, p. 653).

In the Tenth Circuit's opinion, these incidents, if proven, constituted a violation of the victim's constitutional right to bodily integrity. Indeed, the Tenth Circuit observed, the Supreme Court's opinion in *Ingraham* "clearly signaled that, at some degree of excessiveness or cruelty, the meting out of such punishment violates the substantive due process rights of the pupil" (p. 654). The Tenth Circuit stressed that the "threshold for recovery on the constitutional tort for excessive corporal punishment is high" (p. 658). Nevertheless, under the facts that were alleged in *Garcia v. Miera*, the court concluded that a constitutional cause of action had been pled.

[T]he allegations with respect to the first beating, that this nine-year-old girl was held up by her ankles and hit several times with a split board of substantial size on the front of her legs until they bled -- supported by evidence of a permanent scar -- are sufficient. The

allegations with respect to the second beating, that the punishment was severe enough to cause pain for three weeks -- supported by pictures of the injured buttocks, an affidavit from an examining doctor that in his long experience he had not seen bruises like that from routine spankings, and an affidavit from an examining nurse that if a child had received this type of injury at home she would have reported it as child abuse -- are also sufficient. (p. 658)

The Tenth Circuit cautioned that the New Mexico school child's allegations might not "survive the crucible of the trial." Nevertheless, in the court's view, she had definitely stated a constitutional claim for excessive corporal punishment.

In the 2000 decision of *Neal v. Fulton County Board of Education*, the Tenth Circuit Court of Appeals, which has jurisdiction over Florida, joined other federal circuits in recognizing a constitutional cause of action for excessive corporal punishment. In that case, a coach was accused of throwing a metal lock at a varsity football player, hitting him in the eye and causing "the utter destruction of [the student's] eye" (p. 1076).

The Tenth Circuit emphasized that students could only bring a constitutional claim for excessive corporal punishment "where the alleged corporal punishment truly reflects the kind of egregious official abuse of force that would violate substantive due process protections in other non-school contexts. We do not open the door to a flood of complaints by students objecting to the traditional and reasonable corporal punishment" (p. 1076). The Tenth Circuit panel was satisfied; however, that the allegations made by the injured football player described a level of excessiveness in administering corporal punishment that was excessive and conscience shocking. In the Tenth Circuit's view, the

coach's alleged act of throwing a metal lock at a student in order to punish him, constituted corporal punishment.

Of the federal circuit courts that have considered the issue, only the Fifth Circuit Court of Appeals has refused to recognize a constitutional cause of action for excessive corporal punishment in the schools. In the Fifth Circuit's opinion, a victim of excessive corporal punishment has no constitutional cause of action "if the forum state affords adequate post-punishment civil or criminal remedies for the student to vindicate legal transgressions" (*Fee v. Herndon*, 1990, p. 808). In other words, if a student can bring a civil suit for damages or file criminal charges for excessive corporal punishment, the state has provided all the due process that the student is entitled to receive under the Fourteenth Amendment. The Fifth Circuit expressed this view again in a 2000 decision involving a 14-year-old middle-school student who reported being injured after being ordered to do 100 squat thrusts (*Moore v. Willis Independent School District*, 2000; Wassermann, 2011, Phillips, 2012).

#### Cultural Perspectives on Corporal Punishment

The impact of a cultural perspective on corporal punishment is also a significant factor that keeps the practice moving from one generation to the next. Cultural differences account for the variations in traditions and customs in a way that cannot easily be defined. The same can be applied to the case of corporal punishment. When studying the impact of corporal punishment on children, particularly in a multi-cultural arena such as the United States, acknowledging the



differences in perspectives on the issue is important. In a study of nine low-income African American mothers, Ispa and Halgunseth discovered how corporal punishment and cultural perspectives are connected. Rather than viewing the practice from a single philosophical perspective and applying it to all situations, the authors suggest a more practical approach to educators and researchers alike. "(P)ractitioners might better serve parents and children if they understood that corporal punishment exists within a complicated system of relationships and influences" (Ispa & Halgunseth, 2004).

Renteln (2010) studied differences in cultural perspectives on corporal punishment. For many, corporal punishment is viewed as an inappropriate means of controlling child behavior. Renteln suggests that the cultural connections to the practice reach far deeper. Child rearing does not follow a universal set of principles. It changes with the predominant aspects of the culture within which the child is raised (Renteln, 2010). The challenge of removing corporal punishment from the customs of some cultures is more difficult than simply purporting that a better way exists.

Parents are generally thought to have the right to raise their children as they wish, subject to limits based on cultural rights, religious liberty, and privacy. They may pass their beliefs and traditions on to those children, for the continuation of cultural communities depends on it. If corporal punishment becomes a thing of the past, then what alternatives will enable parents to bring up their children to be upstanding moral citizens instilled with civic virtue? (Renteln, 2010, p. 277).

A study by Ripoll-Nunez and Rohner (2006) provides literature on corporal punishment and the impact of the practice across cultural lines. One aspect

considered in this study is the perception of children regarding corporal punishment. The authors present the importance of this perception being highlighted in research on the controversial topic. Children develop an understanding of what corporal punishment is about and why it occurs. The authors suggest that children's perceptions connect the punishment to aspects of their parent's love and can contribute to negative effects of the disciplinary practice (Ripoll-Nunez & Rohner, 2006). This possibility exists in research across various cultures. As continuing studies focus on the possible differences between cultures in child rearing practices, the resulting findings support the possibility that cultural perspectives on raising children is connected to prevailing beliefs about corporal punishment. Ripoll-Nunez and Rohner describe the research conducted among African-Americans and European Americans on child-rearing practices and believe that the research findings illustrate an important issue that should be considered when conducting future research on corporal punishment.

[T]his line of research tends to highlight the role of the normative context of culture in determining the meaning of physical discipline to parents and children. In other words, the constellation of beliefs, cultural norms, and values that predominate in societies-and in selected groups within societies-tend to shape the meanings attributed to parent-child relations and to the disciplinary techniques that parents use (p.228).

Realizing the cultural connections to child discipline and corporal punishment may provide a better starting point to the discussion of finding a better alternative.

## An International Perspective on Corporal Punishment

The international perspective on corporal punishment further illustrates the difference a cultural perspective can have on how to deal with the issue. As of 2009, twenty-three countries banned the use of corporal punishment in all areas including the home and school (Renteln, 2010). Studies on Canada, Germany, and Taiwan provide various perspectives on corporal punishment from countries that have outlawed the practice in not only schools but homes as well.

Corporal punishment in Canadian school was outlawed in 2004 (Axelrod, 2010), yet the similarities between Canada and the United States are considerable when reviewing the common arguments for and against the practice. Literature suggests that the debate over corporal punishment revolved around two spectrums of thought.

At one end of the spectrum were adults and educators who believed that social order, good behaviour, and moral development required the regular use of disciplinary instruments such as the rod and the strap. At the other end were those who felt that physical discipline constituted, or would lead to, the abuse of children. Classroom instruction and school management, instead, should draw from 'positive' and empathetic forms of teacher-student interaction; in the modern era, the incentive to learn should not be built on the fear of physical punishment (Axelrod, 2010, p. 284).

These two dramatically different perspectives on corporal punishment are seen in the United States as well with strong regional variations. As clearly shown by the a map depicting the states that still permit corporal punishment, corporal punishment is more widely accepted in the South and parts of the Rocky Mountain West.

In order to understand the potential impact of corporal punishment across cultural boundaries, it is important to study the potential consequences of outlawing the practice. Literature suggests implications on families as well as teachers. After Germany outlawed corporal punishment in the family in 2000, a study on the subtle impact of the ban found that families communicated on a more consistent basis to stay informed about the logistics of the law.

The symbolic impact of law is often underestimated because its function as a medium of communication is overlooked. While a legal ban defines the interpretations and reality constructions of the targeted legal recipients, it is also responsible for many changes in parenting and legal attitudes, framings and definitions of violence, and additionally in family communication (Bussman, 2004, p. 309).

Although the primary goal of banning corporal punishment was to protect children in the home, a beneficial side effect was the increase in communication regarding disciplinary techniques.

Similarly, Taiwan banned corporal punishment in 2006 (Lwo & Yuan, 2011). When compared to Germany and Canada, the purpose of the ban was to protect children. However, literature suggests that after the law was put in place, teachers began to express concerns over the difficulty in disciplining students. As Hyman (1990) noted, a concern over the expertise of teachers and their ability to find alternative methods of discipline seriously hinders the progress in America towards banning corporal punishment. In the study by Lwo and Yuan (2011), teachers were surveyed using a questionnaire that assessed their understanding of the law banning corporal punishment and their perceptions on disciplinary strategies that did not include corporal punishment. Findings suggested that

teachers had concerns over how the banning of corporal punishment made discipline more difficult and potentially caused teachers to ignore student misbehavior (Lwo & Yuan, 2011). Understanding the implications of using statutes to ban a disciplinary practice will assist lawmakers in making the appropriate decisions for children. The debate over corporal punishment crosses both cultural and international lines, reinforcing the delicate nature of doing what is best for children.

#### Effects of Corporal Punishment

The impact of corporal punishment on academic performance continues to be a significant factor identified in current literature against the use of the disciplinary technique. In his testimony and report presented before the subcommittee on healthy families and communities, for the committee on education and labor before the U.S. House of Representatives, Dr. Donald Greydanus spoke in detail about the negative effects of corporal punishment on student achievement. As previously noted by Phillips (2012) regarding the demographics of corporal punishment in Texas, the trend of more students in rural schools being subjected to corporal punishment exists nation-wide according to Greydanus (2010).

Literature suggests that corporal punishment is not only an ineffective tool for student discipline, but that it actually has harmful effects on children as documented by an overwhelming number of organizations dedicated to the education and well-being of children (American Medical Association, 2012;

American School Counselor Association, 2012; The Center for Effective Discipline, 1990; Council for Exceptional Children, 2012; Hyman, 1990; National Association of School Nurses, 2011; National Association of Secondary School Principals, 2012; National Association of Social Workers, 2012; National Education Association, 2012). It can be argued that the goal of corporal punishment is to change a child's behavior in an effort to teach the child a lesson. Literature supports a longer lasting impact that exists past this immediate goal.

Studies suggest that one long-term impact on students is an increase of aggressive and anti-social behavior on the part of the children who are subjected to corporal punishment (Grogan-Kaylor, 2005; Morris & Gibson, 2011; Straus & Stewart, 1999). Other literature suggests that children can develop depressive symptoms as they grow to be young adults (Straus & Stewart, 1999; McCarthy, 2005; Turner, 2003; Turner & Muller, 2004).

Effects of corporal punishment have been studied to determine how the physical aspect of the practice impacts a child. One study of corporal punishment describes the possible relationship between the uses of the practice along various forms of communication. Roberto, Carlyle and McClure (2006) conducted a two-part study to analyze the relationship between physical aggression, corporal punishment, and verbal aggression from the parent. By administering surveys to college students and parents, the authors gained insight into the additional factors that can be connected to corporal punishment.

College students were surveyed to measure their father and mother's verbal aggression and corporal punishment practices. The feedback from the survey measured not only the type of corporal punishment but the frequency and intensity as well. In order to provide a second source of data for the study, the authors collected surveys results from the students who responded and then sent surveys to their respective parents.

Roberto, Carlyle and McClure (2006), using data collected from the surveys, provide insight into the reasons adults use corporal punishment as a tool for disciplining children. The findings of their research describe the connection between verbal aggression, physical aggression (corporal punishment), and the possibility that these practices may result from the inability of an adult to communicate effectively.

The authors purport two hypotheses on the results and analysis of the data gathered during their study. Hypothesis one purposes that the child's perception of a parent's verbal aggression was correlated with all measures of corporal punishment (Roberto, Carlyle & McClure, 2006). The data gathered from the study consistently supported hypothesis one.

Hypothesis two concerned data gathered from parents and hypothesis two was not supported. Parents, in contrast to what the students indicated, found that verbal aggression was unrelated to corporal punishment (Roberto, Carlyle & McClure, 2006). This study indicated the need for future literature and discussion about corporal punishment to connect with more than just adult

perceptions of corporal punishment. This study incorporated the view of the child and the parent on the controversial topic in an effort to highlight a variable not typically considered. Literature continues to suggest that corporal punishment may have a detrimental impact on a child. Roberto, Carlyle and McClure provide compelling information to be considered for future studies.

The unintended consequences of corporal punishment on children continue to be a lasting concern among those seeking to have the practice banned in schools and replaced by alternative methods in the home. These unintended consequences are well-documented in current and past literature and include physical aggression on the part of the child, increased anti-social behavior and a poorer quality of the relationship between a child and parent (Zolotor et.al. 2008).

The findings of a 2008 study present findings that suggest there are unintended consequences not thought to be originally considered by most literature. Many supporters of corporal punishment report that it is a useful tool in disciplining children. Consequently, many supporters who use the practice would not be thought to consider their practices to be equivalent to that of physical abuse. Zolotor et.al. (2008) gathered data from a random selection of mothers, and conducted anonymous phone interviews, to determine if there was a connection between corporal punishment and physical abuse. Participants reported on their own disciplining practices and described the intensity as well as the frequency. For the purposes of the study, different levels of corporal



punishment were categorized according to severity and frequency. For example, corporal punishment without an object delivered to the buttocks was not as serious as corporal punishment with an object delivered to another part of the body. The study also provided data from participants on practices considered to be abusive. "The physical abuse inventory included parents who reported one or more of the following in the last year: beating, burning, kicking, hitting with an object somewhere other than the buttocks, or shaking a child aged <2 years" (Zolotor et.al, 2008, p. 266).

Responses to the questions asked during the study provide insight into how parents who practice corporal punishment can sometimes abuse their own children during the practice. Findings of this study indicated the following.

Two percent of mothers who report that neither they nor their partner has spanked the child report physical abuse. Six percent of mothers who report spanking also report physical abuse. Twelve percent of mothers who report spanking with an object report physical abuse...Twelve percent of mothers reporting total spanking of 50 episodes in the last year report physical abuse (Zolotor et.al, 2008, p.367).

In other words, the parents who reported more frequent and intense corporal punishment also reported actions associated with abuse.

Although a majority of the research literature opposes the use of corporal punishment, there is support for the practice. Benatar (1998) addresses various questions in the debate of corporal punishment and notes that many beliefs behind the practice are not as simple as they appear. Moreover, he suggests that researchers arguing for a ban of corporal punishment often do not ground their research in theory.

Those who oppose corporal punishment do not normally do so on the basis of a single argument. Usually they mutter a battery of reasons to support their view. They do not root their arguments in particular theories of punishment - theories that justify the institution of punishment - and say why corporal punishment fails to meet theoretical requirements (Benatar, 1998, p. 239).

In spite of this admonition, Benatar also finds that a simple connection to theory does not adequately justify an answer to what, in essence, is a moral question.

As stated earlier in this review, the origins of corporal punishment in religion provide a challenging obstacle to changing perceptions of the practice. In a comparison of the effects of socioeconomic status and religion on support for corporal punishment, literature suggests that religion is likely to be a strong component that influences perceptions of corporal punishment among people who support the practice (Grasmick, et al, 1992). Both aspects were found to be important to those responding to surveys conducted by researchers. However, as noted by the authors of the study, "It is more likely that religious differences will serve as the mobilizing factor in community conflict over the role of corporal punishment in the schools" (Grasmick, et al, 1992, p185).

#### Florida and Texas State Statutes

Florida state statute defines corporal punishment as "the moderate use of physical force or physical contact by a teacher or principal to maintain discipline or to enforce school rule" (Florida Statute §. 1006.07(1)). While Florida statute allows the use corporal punishment, it specifically describes how local school boards shall proceed if they support the use of the disciplinary technique.

(k) Use corporal punishment according to school board policy and at least the following procedures, if a teacher feels that corporal punishment is necessary:

1. The use of corporal punishment shall be approved in principle by the principal before it is used, but approval is not necessary for each specific instance in which it is used. The principal shall prepare guidelines for administering such punishment which identify the types of punishable offenses, the conditions under which punishment shall be administered, and the specific personnel on the school staff authorized to administer the punishment.

2. A teacher or principal may administer corporal punishment only in the presence of another adult who is informed beforehand, and in the student's presence, of the reason for the punishment.

3. A teacher or principal who has administered punishment shall, upon request, provide the student's parent with a written explanation of the reason for the punishment and the name of the other adult who was present (Florida Statute §1003.32(1)).

Florida statute specifically describes the parameter in which corporal punishment is to be conducted if a school board chooses to use the disciplinary practice.

However, an additional requirement within the statute provides a strict consequence should protocol not be maintained.

2. A district school board having a policy authorizing the use of corporal punishment as a form of discipline shall review its policy on corporal punishment once every 3 years during a district school board meeting held pursuant to s. 1001.372. The district school board shall take public testimony at the board meeting. If such board meeting is not held in accordance with this subparagraph, the portion of the district school board's policy authorizing corporal punishment expires (Florida Statute §1002.20(4)).

This requirement serves as a reminder to all school boards in Florida that permit corporal punishment to, at a minimum, hold a public meeting every three years to review the policy and ensure that public testimony is taken.

Texas statute defines 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” (Texas Education Code §37.0011(a), Texas Statutes). Texas law does not provide specific procedures to local school boards regarding the implementation of the practice. However, a Texas statute adopted in 2011 allows parents or guardians the right to prohibit the disciplinary practice for their child in writing.

#### Florida Perspectives on Corporal Punishment

In March, 2012, an article by Sarah Gonzalez reports that the issue of corporal punishment continues to be a major focus for people in the state of Florida. Adults in every state can speak to the way they were disciplined using corporal punishment and the article reported that Florida has citizens who believe that it is completely appropriate. Although the state still allows the practice, Gonzalez reports that in 2011, a state representative sponsored a bill to ban the practice statewide. When speaking to why the legislator attempted to ban the practice, the answer is indicative of the concern regarding the demographics of the students receiving the punishment. “[W]here students live should not determine whether they get spanked at school” (p.1).

Even when a process exists to specify how the act of corporal punishment is to be delivered, concerns and potential litigation can arise. A Florida mother whose child attends school in Levy County schools reported that she did not sign a waiver to allow her son to be paddled, but he was paddled nonetheless.

Gonzalez (2012) reported that the mother is in the process of suing the school district although by law the district is not required to obtain parent permission prior to delivering the consequence.

#### The Demographics of Corporal Punishment in Texas

In a recent 2012 study from the University of North Texas, Stephanie Phillips provides research into the demographics of corporal punishment in Texas. By reviewing the policies of the more than 1,000 school districts in Texas, Phillips provides data to answer the questions of how many Texas public school systems have prohibited the practice, how many continue to allow it, and how many students in Texas are subjected to the practice.

Phillips analyzed the policies in the 1,029 school districts in Texas, the number of students attending schools in those districts and considered the size of those districts by using the eight categories used by the Texas Education Agency (TEA). The TEA categorizes school into the following eight categories: Major Urban, Major Suburban, Other Central City, Other Central City Suburban, Independent Town, Non-Metropolitan: Fast Growing, Non-Metropolitan Stable, and Rural (TEA, 2012). The questions targeted in her study along with the subsequent findings, provide insight into a compelling trend regarding the use of corporal punishment in the State of Texas.

One research question targeted by Phillips studied the thirty-five largest school districts in Texas and noted that the student enrollment in these districts accounted for 44% of the total student enrollment in the state (2012). Among the

thirty-five largest districts, only three had not adopted a school board policy prohibiting corporal punishment. One finding from Phillips was that although three of the districts in this group of the thirty-five largest in Texas allow corporal punishment, the documented instances of the punishment had drastically declined.

According to the U.S. Department of Education's reports, Pasadena Independent School District, which has a student population of around 52,000, saw a decline in the use of corporal punishment from 470 in 2000 to 140 in 2006. Killeen Independent School District, with an enrollment of approximately 40,000 students reported no incidents of corporal punishment in 2000, 2004, and 2006. Edinburg Independent School District, a school system with a student enrollment of slightly more than 33,000, reported that its use of corporal punishment dropped from 140 in 2000 to zero in 2006 (Phillips, 2012).

Phillips' finding that the majority of the largest school districts in Texas no longer use corporal punishment led to an additional question of how many students in the State of Texas are subjected to corporal punishment.

In looking at the overall number of Texas school districts that allowed corporal punishment, Phillips found that 82% of the school districts in Texas still allowed the disciplinary practice. Although 82% of the school districts in Texas still permit corporal punishment, Phillips found that a majority of the students enrolled in Texas public schools are in the districts that do not allow corporal punishment. By looking at the School Board Policies across the State of Texas, Phillips was able to determine "(T)he total number of students that could possibly even be subjected to corporal punishment was 1,870,890. This number is

opposed to the 2,907,305 students who attended schools in districts that don't permit it" (2012).

Several trends are evident in the findings of the study conducted by Phillips. As earlier noted, the more populated school districts with higher student enrollments have tended to move away from the use of corporal punishment. Phillips (2012) also finds that within the districts that still permit the practice, the use is varied and declining in frequency. The status of demographics among the school districts that either permit or prohibit corporal punishment is also worth noting. Texas student enrollment is approximately one half Hispanic, and data from the study conducted by Phillips indicate that the majority of the school districts that do not allow corporal punishment have a high Hispanic student population. Additionally, African-American populations were high in districts that allowed corporal punishment (Phillips, 2012).

Phillips and Fossey (2012) provide research supporting the ban of corporal punishment in Texas schools. *Ingraham v. Wright* (1977) established the foundation for a deeper level of discussion regarding corporal punishment, as the decision of the U.S. Supreme Court sided with the local school district in Florida. At the time of the decision, forty-seven states still allowed corporal punishment. The ruling in the *Ingraham* case left the decision to adopt corporal punishment in schools to the states and their respective school districts. In the years after the *Ingraham* decision was issued, states began to abolish the practice by state law. Fourteen states banned the practice by 1990, and eight

additional states stopped the practice during the 1990s. Since 2000, four more states have prohibited corporal punishment in schools (Phillips & Fossey, 2012; Center for Effective Discipline, 2012).

While this pattern indicates a trend away from the use of corporal punishment, several states continue to support the practice. States continuing to legalize the practice of corporal punishment tend to be in the South and the Rocky Mountain West (Phillips & Fossey, 2012). Table 2 lists the 19 states still allowing corporal punishment.

Table 2

*States Allowing Corporal Punishment in 2012.*

Alabama	Arizona
Arkansas	Colorado
Florida	Georgia
Idaho	Indiana
Kansas	Kentucky
Louisiana	Mississippi
Missouri	North Carolina
Oklahoma	South Carolina
Tennessee	Texas
Wyoming	

Although these nineteen states still allow corporal punishment in schools, it is misleading to think that all of the students within these states are subjected to the disciplinary technique. This question of how many students are subjected to corporal punishment is also discussed in the study by Stephanie Phillips (2012). There is a declining trend in the use of this disciplinary practice. In spite



of the practice being legal in the state of Texas, for example, a majority of the students in Texas are not attending schools in districts that allow the practice.

The districts that outlawed the practice were the urban districts that have large enrollments. The data from Texas illustrates the possibility that corporal punishment, as an appropriate disciplinary action, may not be as strongly supported in the South as in years past. In states where legislators continue to support corporal punishment by not strictly banning it in state statute, it's possible that there are state legislators and policy makers are under the misconception that a majority of people in their states still support corporal punishment. Phillips and Fossey (2012) suggest that although many Southern states still allow corporal punishment, Southern constituents may not be as eager to support the practice as evidenced by recent studies.

#### The Demographics of Corporal Punishment in North Carolina

Literature regarding other states where corporal punishment is not prohibited by law also supports the trend toward a decline in the use of the disciplinary practice. In an education brief from Action for Children North Carolina, the discussion of why the state should prohibit corporal punishment is supported by data that illustrates a decline of occurrences. Of the 115 local school districts in the state of North Carolina, only 18 still practice corporal punishment (*Action for Children North Carolina*, 2011). North Carolina's state legislature approved local school districts incorporating corporal punishment as a disciplinary technique in 1985. At that time, North Carolina was one of

approximately 42 states that allowed the use of corporal punishment (Center for Effective Discipline, 2011; *Action for Children North Carolina*, 2011).

As of 2011, the occurrences of corporal punishment in North Carolina had decreased. *Action for Children North Carolina* suggests that one reason for the decline is the increasing body of research supporting the detrimental effects of corporal punishment on children as well as the lack of effect it has on changing student behavior. Another suggested reason is the lack of an endorsement from the State Board of Education and the State Superintendent of Public instruction. The use of disciplinary techniques that incorporate more positive behavioral supports is used in more than 800 schools across the state (*Action for Children North Carolina*, 2011). This finding supports the use of alternate disciplinary practices that do not involve striking students.

*Action for Children North Carolina* reports that although 18 local districts still allow corporal punishment, the practice is on the decline. "Four years ago, corporal punishment was administered more than 2,700 times; two years ago that number dropped to about 1,400. Last school year, the number dropped to less than 700!" (*Action for Children North Carolina*, 2011, p.1). *Action for Children North Carolina* reports that although these numbers are small and dropping, there is still a need to do more. The possibility of state legislators banning corporal punishment in North Carolina, according to *Action for Children North Carolina*, is not likely. North Carolina state legislators, along with state leaders from other states that allow corporal punishment, support the right of

local school districts to make independent decisions regarding this practice. In the case of North Carolina, even though the school board association itself does not endorse corporal punishment, the authority local districts maintain in making decisions is still strongly supported.

With the strong support for local authority in place in many states and school districts, groups supporting the prohibition of corporal punishment look to other options. Action for Children North Carolina asks that parents have the right to prohibit corporal punishment for their children in schools. Parents of children in special education already have the ability to exempt their children from corporal punishment by way of a written form. Action for Children North Carolina takes the following position,

Indeed, students cannot attend field trips without parental consent; they cannot participate in athletics or band without parental consent; they cannot receive so much as an aspirin without parental consent. Thus, it makes sense that parents have the opportunity to consent to allowing their children to be hit by school officials (*Action for Children North Carolina, 2011*).

The recommendation from Action for Children North Carolina is for parents to have the right to exempt their child from corporal punishment.

#### Professional Organization Positions

In addition to the research supporting the need to end corporal punishment, numerous professional organizations have taken a position on the issue. These organizations support the ban of corporal punishment in schools by issuing position statements at the nation and state level. A common theme that exists across the many position statements is the belief that corporal punishment

is not an effective method of discipline (American Civil Liberties Union, 2012; American Medical Association, 2012; American Academy of Child-Adolescent Psychiatry, 1988; American Humane Association, 2012; American Academy of Family Physicians, 2007; American Academy of Pediatrics, 2010).

Over forty professional organizations have published position statements on the issue of corporal punishment. Table 3 provides a list of national and state organizations that do not support the use of corporal punishment in schools and call for a ban of the practice.

Table 3

*Organizations Opposing the Use of Corporal Punishment*

American Academy of Family Physicians	National Association of Pediatric Nurse Practitioners
American Academy of Pediatrics	National Association of School Nurses
American Bar Association	National Association of School Psychologists
American Civil Liberties Union	National Association of Secondary School Principals
American Humane Association	National Association of Social Workers
American Medical Association	National Association for State Boards of Education
American Psychiatric Association	National Council of Teachers of English
American Psychological Association	National Association for State Departments of Education
American School Counselor Association	National Education Association
Council for Exceptional Children	National Foster Parents Association
Florida Parent Teacher Association	National Indian Education Association

*(table continues)*

Table 3 (continued).

National Association for State Departments of Education	National Mental Health Association
National Association for the Advancement of Colored People	National Organization for Women
National Association for the Education of Young Children	National Parent Teachers Association
National Association of Elementary School Principals	Society for Adolescent Medicine

During the course of the literature review, all were categorically against the use of corporal punishment. As an example, The Society for Adolescent Medicine (2003) takes the following position.

The Society for Adolescent Medicine concludes that corporal punishment in schools is an ineffective, dangerous, and unacceptable method of discipline. The use of corporal punishment in schools reinforces physical aggression as an acceptable and effective means of eliminating unwanted behavior in our society (p. 391).

The American Bar Association (1985) resolved their opposition to the act of corporal punishment, as did the American Medical Association (2012).

Numerous organizations in areas education, medicine, law and religion have all supported a ban of corporal punishment (American Bar Association, 1985; American Medical Association, 2012; United Methodist Church General Assembly, 2004; National Education Association, 2012). Utilizing the findings in research that exist regarding corporal punishment will provide a more solid foundation for an effective debate.

## Conclusion

The number of local school districts prohibiting corporal punishment is increasing not only in Texas and Florida, but in North Carolina as well. The perception that corporal punishment is an inappropriate and ineffective disciplinary practice for schools appears to be increasing across states, in school districts, and among professional organizations. The concern over the lasting harmful effects of corporal punishment on children subjected to the practice continues to drive the call for the prohibition of the practice. While advocates in states like North Carolina propose giving parents the right to exempt their children from corporal punishment in writing, literature suggests that a more aggressive move towards the outlawing of the practice may be warranted. As Hyman (1990) observed, "(I)f we want to eliminate punitiveness [sic], especially corporal punishment in society, we need to convince parents and teachers of one generation to use other techniques to shape and change children's behavior" (p. 41). Although the initial effect of corporal punishment on a child may be compliance, the lingering effect on a child from being struck, spanked, or otherwise physically hit do not appear to provide lasting improvement of behavior.

## CHAPTER 3

### DATA ANALYSIS AND FINDINGS

Most states have outlawed the use of corporal punishment through adopted statutes. However, there are 19 states, including Texas and Florida, which still allow the use of the disciplinary consequence. Within the states that allow the practice to continue, the final decision has been left to the local school districts and their school boards as to whether corporal punishment will continue in their school systems.

As of the beginning of this study, no district-by-district comparison of local school board policies regarding corporal punishment in Florida had been conducted. This study examined 67 public school districts, excluding charter schools and University Laboratory schools in the state of Florida. Each of the public school districts' board policies was reviewed to determine if they addressed corporal punishment and either permitted or prohibited the practice. Enrollment data from the years 2009-2010 and 2011-2012 reported to the Florida Department of Education was also reviewed for those districts allowing and prohibiting corporal punishment and instances of corporal punishment being administered in those years respectively.

## Florida Local School Board Policies

In a study of Texas corporal punishment, Phillips (2012) reviewed the local school board policies of over 1,000 Texas public school districts. Approximately 99 percent of the school districts in Texas use a template for board policy that is maintained by the Texas Association of School Boards. This template ensures that policies are organized identically and therefore, facilitated the process of examining corporal punishment policies. Florida school board policies follow no particular template, which required the researcher to access each of the 67 studied districts' school board policies individually. This study found similarities in board policies that allowed and prohibited corporal punishment alike.

### Findings of Board Policies Allowing Corporal Punishment

Florida public school districts do not use a standardized framework for developing board policies. This study found that, in several districts, corporal punishment was addressed in a section of board policy devoted to "students" and often these policies were designated as "chapter 5." This study found that 20 of the districts that permit corporal punishment provide policy regarding the practice specifically in chapter 5 of the corresponding documentation or board policies.

Variations among policy numbers and categorization were found in this study. Specific policies were documented, but the location of the policies was different depending on the local board policy reviewed. For example, Clay County schools include the policy on corporal punishment in chapter 4 of their



board policy entitled “Instruction” but Bay County schools addresses corporal punishment in chapter 7 of the board policy entitled “Student Personnel.” Yet another example of differing policy locations is provided by Desoto County schools, where the policy on corporal punishment is included in section 194.01 of the respective documentation.

Franklin County school board policy requires prior written approval from a parent before corporal punishment may be administered. The policy briefly describes the expectations for corporal punishment as a consequence and explains the statute in Florida state law that requires school districts to review the provisions for corporal punishment every three years and take public testimony at the meeting (Franklin County School District, 2012). The Franklin County schools Student Code of Conduct provides a more detailed description of corporal punishment as a disciplinary consequence and how it may be used. Various class levels delineate infractions, with class 1 offenses categorized as minor infractions, and class 4 offenses categorized as major infractions. Parents are able to see when corporal punishment is an option as a consequence.

Gilchrist County school district board policy provides even more specificity to the way corporal punishment is to be administered to students. Policy specifies the dimensions of the instrument to be used for corporal punishment ensuring that the instrument is not more than two feet long, has no sharp edges or holes, and does not strike the child above the waist (Gilchrist County School

District, 2012). According to the board policy of Gilchrist County corporal punishment should not be administered in the presence of other students, should not exceed a certain number of strokes per day depending on the grade of the child (Gilchrist County School District, 2012). The 2012 policy provides continued expectations for the district by requiring principals to keep a detailed record of when and how corporal punishment was administered.

Each principal shall maintain a record of all instances where corporal punishment has been administered. This record shall contain the name of the student, the date, the time, the number of strokes administered, the infraction of rules which caused the punishment, who administered the punishment, and the name of the adult witnesses (Gilchrist County School District, 2012, p151).

Beyond the specific rules for the administration of corporal punishment, the Gilchrist County 2012 school board policy also provides consequences for employees if policies for corporal punishment are not strictly followed. "Dismissal during the term of a contract of a staff member shall be for cause. Such dismissal shall include...misuse of corporal punishment or inappropriate method of discipline" (Gilchrist County School District, p283).

This study found that several other districts including Holmes, Madison, Lafayette and Jackson County school districts provide similar specific guidelines that included number of times a student may be struck or receive a "swat" or consequences for staff members who misuse corporal punishment. This stringent expectation for how corporal punishment is to be administered was not

consistently documented among the school district policies that permitted the practice.

Findings illustrate that six of the districts reviewed provide guidelines in a student code of conduct. Although no specific board policy regarding corporal punishment was found, the documentation found in these codes of conduct provides guidelines regarding the practice and in each of these situations, the local school board adopted the respective code of conduct.

#### Findings of Board Policies Prohibiting Corporal Punishment

This study found variations among district policies that prohibit corporal punishment. Most of the policies reviewed documented the prohibition of corporal punishment specifically in chapter 5, section 5630 of the local school board policy. Districts also prohibited corporal punishment in their respective student code of conduct documents.

A specific policy prohibiting corporal punishment in Duval County schools was not found. However, a search of the school district website using the search term “corporal punishment” provided a link to a formerly used board policy regarding corporal punishment that had been stricken through and had an amend/repeal date of August 2, 2005.

The findings of this study illustrate a need to standardize how board policies are organized in order to provide consistent documentation regarding

this disciplinary practice. For example, Volusia County school district (2012) policies, by way of the student code of conduct, state the following. “Paddling, corporal punishment or other punitive physical contact are [sic] not permitted responses to a disciplinary offense” (Volusia County School District, p.9). However, upon further review of board policies, not included in the code of conduct, specific policies, revised in 1990, exist that describe the authority a campus principal or other instructional personnel to administer corporal punishment according to school board policy (Volusia County School District, 1990).

Hernando County school district policy revised in 2009 indicates liability coverage for school administration for issues including corporal punishment. However, the term “corporal punishment” is not located in any other chapter of the board policy. A review of the 2012-2013 student code of conduct for Hernando County School District to determine if corporal punishment was addressed revealed, as with the Hernando school board policy, the term “corporal punishment” was not found in the student code of conduct. The code of conduct does provide a review of various offenses that will result in disciplinary consequences and corporal punishment was not listed as an option.

Lee, Osceola, Polk, and Palm Beach County school districts provided additional examples of variance in the way districts approach corporal punishment. This study was not able to find specific mention of corporal

punishment in either board policy or code of conduct for these districts. Florida Department of Education data documents reveal that Lee, Osceola and Palm Beach County school districts reported no instances of corporal punishment in either of the 2006-2007 or 2009-2010 school years. Polk County school district reported no instances of corporal punishment in the 2009-2010 school year, and only 21 in the 2006-2007 school year. In a review of the student code of conduct for both districts, this study found that corporal punishment was not listed as a consequence for any infraction.

The 67 school districts in Florida do not use a standardized framework for developing school board policy. This study found that these 9 districts prohibiting corporal punishment use a policy development service similar to that of the Texas Association of School Boards (TASB). NEOLA® provides a similar service to school districts in Florida, Indiana, Ohio, Michigan, Wisconsin and West Virginia (NEOLA, 2012). When reviewing the district policies of school districts allowing corporal punishment, this study found that none of the districts used an outside service to standardize the format of the policies. However, 22 of the 34 districts that allow the practice share almost identical formatting for their respective policies. All provide the policy for corporal punishment in chapter 5 of their respective documentation, which is the “students” section. Among those various policies, the specific section was either titled “corporal punishment” or “student control.” Districts including Levy, Columbia, and Suwannee use almost identical language when describing the policy for corporal punishment.

The use of corporal punishment shall be approved in principle by the principal before it is used, but approval is not necessary for each specific instance in which it is used. The principal shall prepare guidelines for administering such punishment which identify the types of punishable offenses, the conditions under which the punishment shall be administered, and the specific personnel on the school staff authorized to administer the punishment (Columbia County School District, 2010).

The verbiage used in these common school board policies is taken directly from the Florida state statutes regarding corporal punishment.

Patterns found in data regarding corporal punishment in addition to school board policies were analyzed to determine if similar patterns existed between Florida and Texas. Additional results of the study are organized around the five guiding questions presented in Chapter 1.

#### Percent of Students in Schools Prohibiting Corporal Punishment

With respect to Research Question 1, what was the status of corporal punishment in Florida Public Schools with respect to the percent of students attending schools in districts where corporal punishment is prohibited by local board policy in 2012, this study made the following findings.

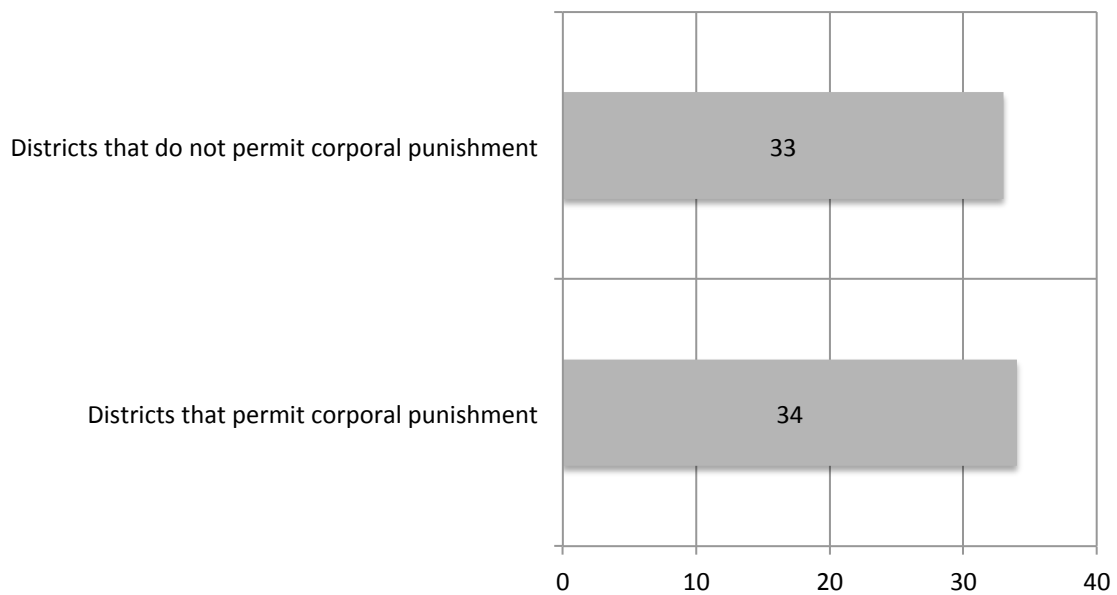
As shown in Table 4 using data reported from the Florida Department of Education (2012), the total student enrollment for the end of the 2011-2012 school year was 2,633,569.

Table 4

*2011-2012 Florida Student Enrollments by School District (Florida Department of Education, 2012)*

District	April 2012 Total Enrollment	District	April 2012 Total Enrollment
Alachua	26,877	Lake	40,589
Baker	4,878	Lee	82,702
Bay	25,525	Leon	33,044
Bradford	3,182	Levy	5,624
Brevard	71,057	Liberty	1,415
Broward	257,445	Madison	2,641
Calhoun	2,160	Manatee	44,100
Charlotte	16,252	Marion	41,689
Citrus	15,173	Martin	17,965
Clay	35,544	Monroe	8,039
Collier	42,849	Nassau	11,085
Columbia	9,719	Okaloosa	29,340
Dade	347,553	Okeechobee	6,560
Desoto	4,775	Orange	178,972
Dixie	2,022	Osceola	54,182
Duval	126,144	Palm Beach	175,082
Escambia	40,108	Pasco	65,799
Flagler	12,813	Pinellas	102,637
Franklin	1,260	Polk	94,920
Gadsden	5,668	Putnam	10,789
Gilchrist	2,549	St. Johns	31,353
Glades	1,520	St. Lucie	38,763
Gulf	1,896	Santa Rosa	25,265
Hamilton	1,595	Sarasota	40,924
Hardee	5,077	Seminole	63,909
Hendry	6,783	Sumter	7,572
Hernando	22,496	Suwannee	5,931
Highlands	11,967	Taylor	2,745
Hillsborough	195,586	Union	2,196
Holmes	3,218	Volusia	61,431
Indian River	17,722	Wakulla	5,073
Jackson	6,737	Walton	7,497
Jefferson	1,025	Washington	3,411
Lafayette	1,150	Florida Total	2,633,569

This study found that as of 2012, 33 out of 67 districts studied prohibit corporal punishment according to locally adopted school board policy or other available district guidelines. Thirty-four districts allow the disciplinary consequence. These 34 districts represent 51% of the school districts in Florida analyzed by this study. Conversely, 49% of the school districts in Florida do not permit corporal punishment and prohibit the practice by school board policy or other adopted documentation.

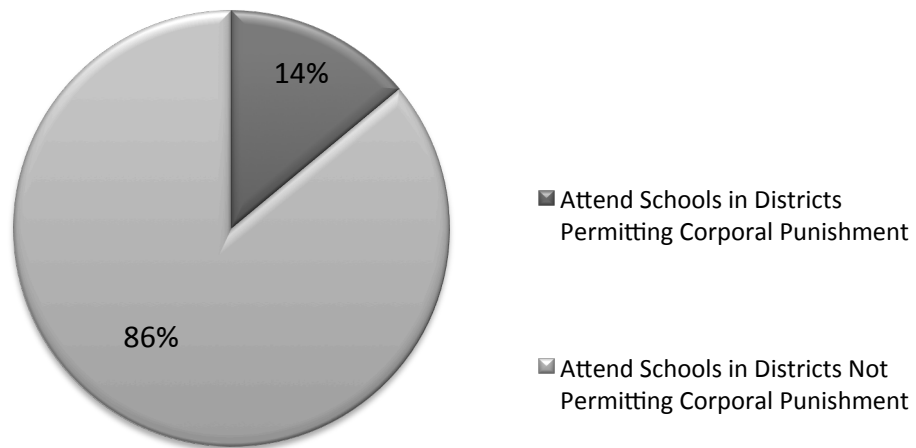


*Figure 2.* Florida public schools.

The population of the 33 school districts prohibiting corporal punishment was 2,273,959 representing 86% of the total student enrollment in Florida public schools at that time attending schools in districts that did not allow corporal punishment. Conversely, 14% of the students in Florida public schools students



attended schools in districts that permit corporal punishment. Figure 3 shows the percent of the total student enrollment attending schools in Florida school districts.



*Figure 3.* Total Florida student enrollment.

Illustrated below is a map of Florida counties (Digital-topo-maps.com, 2012). The shaded districts indicate districts that permit corporal punishment. The districts not shaded indicate the districts that do not permit the practice.



Table 5

*Florida Public School Districts Prohibiting Corporal Punishment in 2011-2012*

Districts Prohibiting Corporal Punishment		
Alachua	Hillsborough	Palm Beach
Brevard	Indian River	Pasco
Broward	Lee	Pinellas
Charlotte	Leon	Sarasota
Collier	Manatee	Seminole
Dade	Marion	St. Johns
Duval	Martin	St. Lucie
Escambia	Monroe	Sumter
Flagler	Okaloosa	Taylor
Gadsden	Orange	Union
Hernando	Osceola	Volusia

Table 6

*Florida Public School Districts Allowing Corporal Punishment in 2011-2012*

Districts Allowing Corporal Punishment		
Baker	Glades	Levy
Bay	Gulf	Liberty
Bradford	Hamilton	Madison
Calhoun	Hardee	Nassau
Citrus	Hendry	Okeechobee
Clay	Highlands	Polk
Columbia	Holmes	Putnam
Desoto	Jackson	Santa Rosa
Dixie	Jefferson	Suwannee
Franklin	Lafayette	Wakulla
Gilchrist	Lake	Walton
		Washington

Percentage of Students Attending Schools Where No Corporal Punishment  
Administered in 2009-2010

With respect to the second part of the first research question, What was the status of corporal punishment in Florida Public Schools with respect to the percent of students attending schools in districts where no corporal punishment was administered in 2009-2010, this study found that data from the Florida Department of Education (2011) shows that 37 out of the 67 districts studied reported no instances of corporal punishment in 2009-2010. Figure 5 shows a map of the school districts in Florida. The darker shaded areas indicate a higher number of instances of corporal punishment. It should be noted that although many of the districts reported no incidents of corporal punishment being administered, these districts still allow the practice.

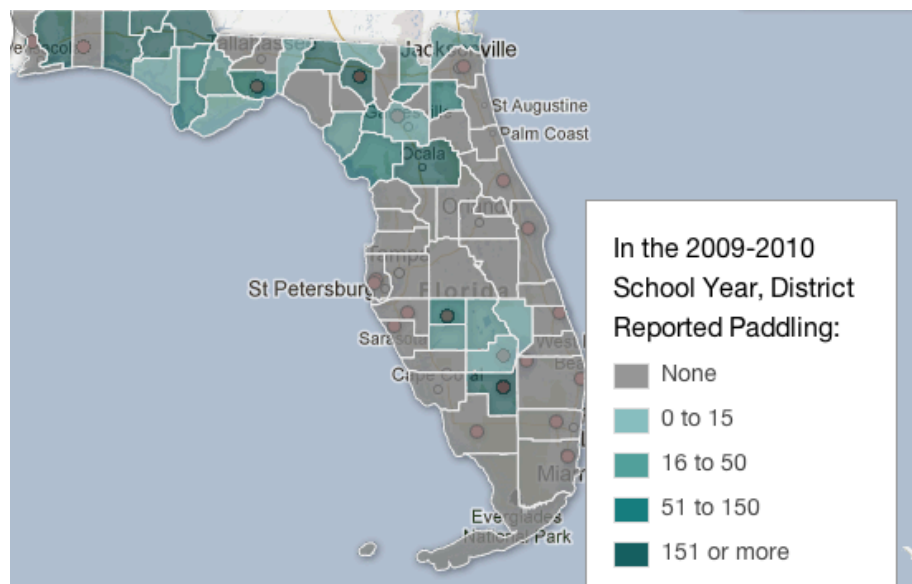


Figure 5. Florida corporal punishment map (Florida Department of Education, 2012).

The total student enrollment for the 37 districts during the 2009-2010 school year was 2,357,664, which represents 90% of the total student population attending schools where no corporal punishment was administered that year. Table 7 lists the corresponding districts and their enrollment that did not have any instances of corporal punishment in 2009-2010.

Table 7

*Enrollment in Districts with No Corporal Punishment in Year 2009-2010 (Florida Department of Education, 2011)*

No Corporal Punishment Administered in 2009-2010					
District	District Enrollment	District	District Enrollment	District	District Enrollment
Bradford	3,275	Hernando	22,893	Osceola	52,142
Brevard	72,402	Hillsborough	193,239	Palm Beach	173,025
Broward	256,175	Indian river	17,750	Pasco	67,143
Charlotte	16,935	Lafayette	1,163	Pinellas	105,176
Citrus	16,083	Lake	41,099	Polk	94,577
Collier	42,714	Lee	80,470	Putnam	11,418
Columbia	10,096	Leon	32,708	St. Johns	29,822
Dade	345,766	Manatee	42,922	St. Lucie	38,930
Duval	122,649	Martin	18,024	Sarasota	41,281
Escambia	40,610	Monroe	8,278	Seminole	64,460
Flagler	13,138	Okaloosa	28,887	Sumter	7,554
Gadsden	6,331	Orange	173,021	Taylor	3,179
				Volusia	62,329
2009-2010 Student Enrollment in Districts Reporting No Corporal Punishment			2,357,664		
2009-2010 Total Enrollment Florida Public Schools			2,627,250		
Percent of total enrollment in districts with no corporal punishment in 2009-2010			90%		

### School Districts with Enrollments of 40,000 or More

When looking at the third part of the first research question, what was the status of corporal punishment in Florida Public Schools with respect to the number of districts with student enrollments of 40,000 or more prohibiting corporal punishment, this study found that there were 20 school districts in Florida with student enrollments of over 40,000. Findings are illustrated in Table 8 below.

Table 8

*Florida School Districts with Over 40,000 Enrollment that Permit or Prohibit Corporal Punishment (Florida Department of Education, 2011)*

District	2011-2012 District Enrollment	Allowed in Board Policy
Dade	347553	N
Broward	257445	N
Hillsborough	195586	N
Orange	178972	N
Palm Beach	175082	N
Duval	126144	N
Pinellas	102637	N
Polk	94920	Y
Lee	82702	N
Brevard	71057	N
Pasco	65799	N
Seminole	63909	N
Volusia	61431	N
Osceola	54182	N
Manatee	44100	N

*(table continues)*

Table 8 (continued).

District	2011-2012 District Enrollment	Allowed in Board Policy
Collier	42849	N
Marion	41689	N
Sarasota	40924	N
Lake	40589	Y
Escambia	40108	N

Of the 20 districts above 40,000 student enrollment, 18 prohibit corporal punishment by local school board policy as of 2012. The student enrollment of these 18 districts was 1,992,169 districts represented 76% of the total student enrollment for 2011-2012 school year. A clear majority of the students enrolled in Florida public schools were not subjected the disciplinary practice during the school year studied.

#### Largest School District Trends

This study posed a second research question of what the status of corporal punishment was in the 20 largest Florida public school districts in 2009-2010. The findings of this study illustrate that of the 20 largest school districts in Florida, 19 prohibit corporal punishment. Although Lake County School District still permits the practice under board policy, it had zero instances of the disciplinary technique used in 2009-2010. In 2009-2010, only 19 reported instances of corporal punishment. This study also found that the district reporting instances of corporal punishment in 2009, Marion County, has since banned the

practice in school board policy as of 2011. Table 9 lists the twenty largest districts in Florida along with their policy regarding corporal punishment.

Table 9

*Twenty Largest School Districts in Florida (Florida Department of Education, 2011) and School Board Policy*

	District	2011-2012 District Enrollment	2009-2010 Corporal Punishment	2006-2007 Corporal Punishment	Allowed in Board Policy
1	Dade	347553	0	0	N
2	Broward	257445	0	0	N
3	Hillsborough	195586	0	0	N
4	Orange	178972	0	0	N
5	Palm Beach	175082	0	0	N
6	Duval	126144	0	0	N
7	Pinellas	102637	0	0	N
8	Polk	94920	0	21	N
9	Lee	82702	0	0	N
10	Brevard	71057	0	0	N
11	Pasco	65799	0	0	N
12	Seminole	63909	0	0	N
13	Volusia	61431	0	0	N
14	Osceola	54182	0	0	N
15	Manatee	44100	0	0	N
16	Collier	42849	0	0	N
17	Marion	41689	197	189	N
18	Sarasota	40924	0	0	N
19	Lake	40589	0	0	Y
20	Escambia	40108	0	0	N



Eight of the 20 districts school board policies share the same format in that corporal punishment is addressed within chapter 5 of their respective policies. Specifically, they all provide the rules under policy number 5630 and speak directly to the prohibition of the practice. Although they share the same policy number, the title and subsequent wording of the policy is different for each district.

#### Comparison of Texas and Florida

In reference to the third and final research question of how data trends regarding use of corporal punishment policies compare from Florida and Texas, this study found that Florida data trends indicate a decrease in the number of instances corporal punishment is being used as a disciplinary consequence. Of the 31 districts reporting instances of corporal punishment in 2009-2010, 22 reported a decrease in the number of times students received corporal punishment compared to 2006-2007 data for the same schools. Conversely, only 9 districts reported an increase. The districts reporting a decrease are shaded in the following tables.

Table 10

*Instances of Corporal Punishment for 2006-2007 and 2009-2010 (Florida Department of Education, 2011)*

District	2006-2007 Corporal Punishment	2009-2010 Corporal Punishment	Change
Alachua	0	1	1
Baker	28	36	8
Bay	14	4	-10
Bradford	0	0	0
Brevard	0	0	0
Broward	0	0	0
Calhoun	114	120	6
Charlotte	0	0	0
Citrus	0	0	0
Clay	102	133	31
Collier	0	0	0
Columbia	0	0	0
Dade	0	0	0
Desoto	31	28	-3
Dixie	3	45	42
Duval	0	0	0
Escambia	0	0	0
Flagler	0	0	0
Franklin	36	11	-25
Gadsden	0	0	0
Gilchrist	120	113	-7
Glades	12	7	-5
Gulf	175	133	-42
Hamilton	239	13	-226
Hardee	161	91	-70
Hendry	199	175	-24
Hernando	0	0	0
Highlands	76	30	-46

*(table continues)*

Table 10 (continued).

District	2006-2007 Corporal Punishment	2009-2010 Corporal Punishment	Change
Hillsborough	0	0	0
Holmes	430	296	-134
Indian River	0	0	0
Jackson	712	480	-232
Jefferson	13	1	-12
Lafayette	0	0	0
Lake	0	0	0
Lee	0	0	0
Leon	0	0	0
Levy	141	104	-37
Liberty	159	43	-116
Madison	82	230	148
Manatee	0	0	0
Marion	189	197	8
Martin	0	0	0
Monroe	0	0	0
Nassau	70	29	-41
Okaloosa	0	0	0
Okeechobee	0	2	2
Orange	0	0	0
Osceola	0	0	0
Palm Beach	0	0	0
Pasco	0	0	0
Pinellas	0	0	0
Polk	21	0	-21
Putnam	0	0	0
St. Johns	0	0	0
St. Lucie	0	0	0
Santa Rosa	466	351	-115
Sarasota	0	0	0
Seminole	0	0	0
Sumter	0	0	0

(table continues)

Table 10 (continued).

District	2006-2007 Corporal Punishment	2009-2010 Corporal Punishment	Change
Suwannee	522	206	-316
Taylor	0	0	0
Union	111	114	3
Volusia	0	0	0
Wakulla	234	142	-92
Walton	482	287	-195
Washington	303	239	-64

As discovered in the study by Phillips (2012), urban Texas districts with larger student enrollments tended to prohibit corporal punishment by way of local school board policy. Data also indicated that there was a decrease in the number of instances corporal punishment was administered to students in Texas. Florida data not only supports the same trend, but also extends upon it. Over the course of the past several years, incidents of corporal punishment have declined in Texas. A review of data from Florida supports the same trend. Table 11 illustrates data from the Florida Department of Education (2008) that demonstrates the significant drop in the number of instances corporal punishment has been delivered to students in schools. The years with the largest drops were from 1992-1993 and 2005-2006. In both cases, the drop in the number of incidents of corporal punishment dropped by more than 27% from the previous year.

Table 11

*Incidents of Corporal Punishment and Change from Prior Year* (Florida Department of Education, 2008)

School Year	Incidents of Corporal Punishment	Percent Change From Prior Year
1991-92	24,198	-4.28%
1992-93	20,315	-16.05%
1993-94	14,731	-27.49%
1994-95	13,900	-5.64%
1995-96	15,161	9.07%
1996-97	13,187	-8.86%
1997-98	12,813	-7.27%
1998-99	13,166	2.76%
1999-00	11,488	-12.74%
2000-01	11,597	0.95%
2001-02	10,685	-7.86%
2002-03	10,039	-6.05%
2003-04	9,472	-5.65%
2004-05	7,819	-17.45%
2005-06	5,485	-29.85%
2006-07	5,245	-4.38%

Data from the Florida Department of Education regarding instances of corporal punishment for the 2009-2010 and 2010-2011 school years supports the continuing trend of school districts using other methods of student control instead of corporal punishment. In those years, there were 3,661 and 3,146 instances of corporal punishment, respectively. Figure 6 illustrates the drastic decline in instances of corporal punishment being delivered to students in Florida public schools (Florida Department of Education, 2008; Florida Department of Education 2011).

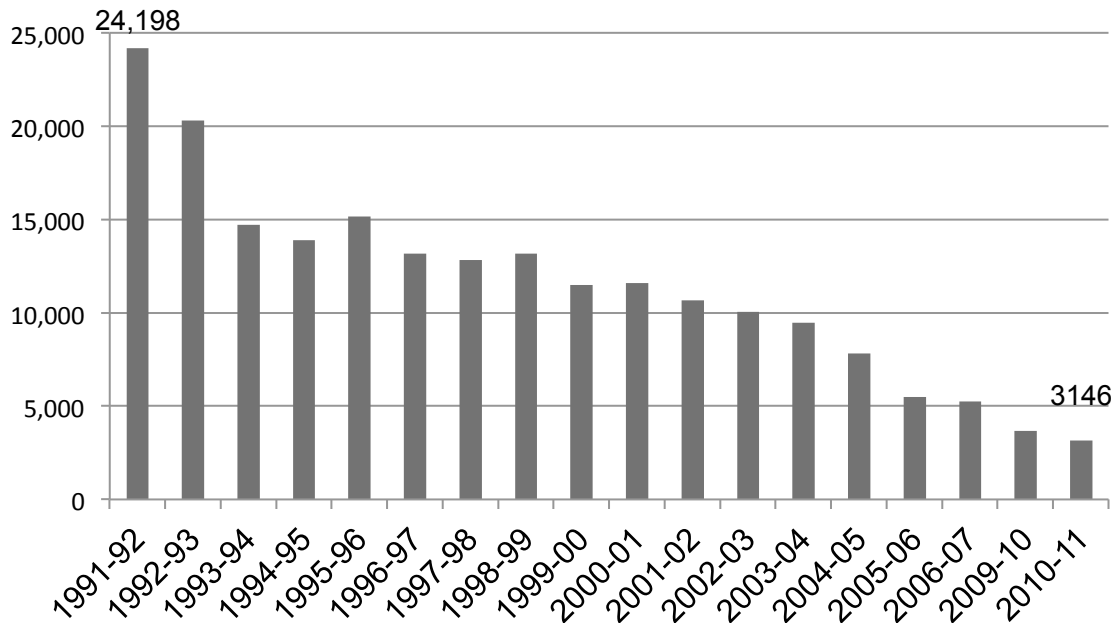


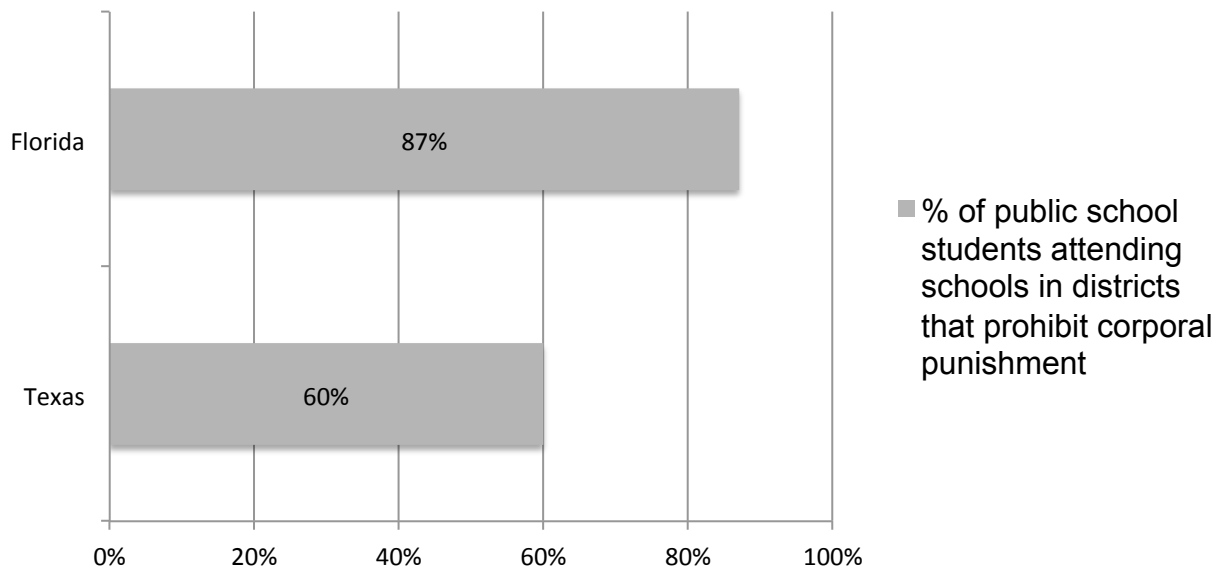
Figure 6. Instances of Corporal Punishment in Florida

As noted in the graph above, the instances of corporal punishment have decreased by 21,052 from 1991 to 2011. This was a decrease of over 87%.

Trends in data not only indicate that the number of instances of corporal punishment decrease over time, but the number of districts reporting instances have decreased as well. During the 1989 school year, all 67 districts in Florida reported instances of corporal punishment while in 2006 only 29 districts reported cases of students receiving corporal punishment (Florida Department of Education, 2008).

Florida data are similar to Texas when studying the enrollment of the school districts in the state. Data indicate that although only 49% of the districts

in Florida prohibit corporal punishment, 87% of the enrolled student population attends schools where corporal punishment is prohibited.



*Figure 7. Texas – Florida Comparison*

Phillips and Fossey explain the pattern that exists in Texas.

But when the study examined student discipline policies by district size, the picture looks entirely different. Almost 4.8 million students are enrolled in Texas public schools, but only about 1.9 million of them attend schools where corporal punishment is allowed. More than 2.9 million Texas students attend schools where local school boards have abolished the practice. In other words, 60% of Texas school children go to school in districts where corporal punishment has been outlawed (Phillips & Fossey, 2012).

The findings of this study suggest a greater need for state legislators in the 19 states that still allow corporal punishment to reconsider moving forward with legislation banning the practice. Findings also suggest a need for further

research of those same remaining states in order to determine if similar trends exist.

By following the premise of the study by Phillips (2012) analyzing data from Texas, this study sought to determine if patterns found in Texas were evident in Florida. The findings of this study illustrate that the trend of using corporal punishment as an acceptable disciplinary practice is on the decline. Student well being will be more protected as more local school boards agree to prohibit the practice. Data from Florida and Texas indicate a possible growing trend across the rest of the 19 states that still allow the practice of corporal punishment. As more data is collected, and more patterns become evident, perhaps policy makers and educators alike will begin to take the necessary steps to finally prohibit the practice for all states in the U.S.



## CHAPTER 4

### CONCLUSIONS

Corporal punishment has been considered an acceptable means of student discipline since American colonial times. The history of the practice is well documented and dates back to the very beginnings of American society. This would suggest, to many, that corporal punishment is a part of the very foundation of American culture. However, the debate over the controversial practice, along with prevailing research, suggests that it is time to abandon the practice and begin a new history. Corporal punishment is generally considered to be a necessary step in maintaining an orderly educational environment. As detailed in Chapter 2, the U.S. Supreme Court, in the case of *Ingraham v. Wright* (1977), confirmed that educators maintain a privilege and responsibility to use necessary force to properly educate and train children. This privilege is so respected that the practice may be administered without due process afforded to the student or the student's family. Corporal punishment has been found to be legal and appropriate as long as the punishment is reasonable considering the nature of the offense.

Although the Supreme Court ruled that corporal punishment can be administered in schools without the necessity of a due process hearing, and that corporal punishment in schools is not prohibited by the Eighth Amendment, several federal appellate courts have recognized a constitutional cause of action

against school authorities that administer corporal punishment that is so excessive that it is shocking to the conscience (Wasserman, 2011). Only the Fifth Circuit has refused to recognize a constitutional cause of action for grossly excessive corporal punishment. In the Fifth Circuit's view, students who are the victims of excessive corporal punishment have adequate remedies under state law in the form of a criminal action against the offending educator or a tort action for damages.

Currently, there are only 19 states that still allow the practice of corporal punishment in public schools. This number of states that permit corporal punishment has declined steadily since the ruling in *Ingraham v. Wright* in 1977 when 46 states allowed the practice. Those 19 states are largely located in the Rocky Mountain West and in the South (Phillips & Fossey, 2012). In her 2012 study of corporal punishment in Texas, Stephanie Phillips found several characteristics that accompanied the practice. Although the practice is still permitted in Texas by law, Phillips found that students attending schools in urban areas were not subjected to the practice and, respectively, local school boards prohibited corporal punishment through locally adopted policy (Phillips, 2012). The study also found that 60% of the students attending schools in Texas are in districts that prohibit the practice of corporal punishment (Phillips, 2012).

This study analyzed the use of corporal punishment in Florida public schools to determine if similar patterns existed between Texas and Florida. Data

from each of the 67 public school districts in Florida, including a review of school board policies and occurrences of corporal punishment, were analyzed district by district. This study excluded a review of charter and laboratory schools.

### Summary of Findings

This study made the following findings:

1. There are 2,265,014 out of 2,633,569 students, representing 86% of the total student enrollment in 2011-2012 in Florida public schools that attended schools in districts where corporal punishment was prohibited. In the 2009-2010 school year 2,357,664 students, representing 90% of the total student enrollment in Florida public schools, attended schools in districts where no corporal punishment had been administered according to local school board policy. Eighteen districts with student enrollment of 40,000 or more prohibit corporal punishment. The combined enrollment of these districts represents 76% of the total student enrollment in Florida public schools in the 2011-2012 school year.
2. Eighteen of the 20 largest public schools districts in Florida prohibited the use of corporal punishment by policy. Nineteen of the 20 largest school districts in Florida did not use corporal punishment in 2009-2010. Although one district allowed the practice in 2009-2010, with 197 instances, that district had abolished the practice by the 2011-2012 school year.

3. Data trends from Florida compare similarly to data trends from Texas in that districts with higher student enrollments tended not to permit corporal punishment. However, data trends from Florida support the trends from Texas to an even greater extent. Eighty-six percent of students in Florida public schools attend schools in districts where corporal punishment is prohibited compared to the 60% of students in Texas who attend schools in districts where corporal punishment is prohibited.

#### Implications of Research Findings

Florida is just one of the 19 states which still permit the use of corporal punishment as a disciplinary consequence for students in public schools. State legislatures continue to hesitate to ban the practice, but data indicate an increasing trend of local school districts prohibiting corporal punishment. Phillips (2012) finds in her study of Texas corporal punishment, “the practice of corporal punishment is on the decline, even in school districts that still permit it” (p. 88). This study evaluated the data reported to the Florida Department of Education and reviewed local school board policies among the 67 public school districts within the state of Florida, This study found that the vast majority of Florida school children are not subject to corporal punishment in the schools. This study and the study by Phillips on corporal punishment in Texas suggest that corporal punishment in schools is on the decline in the Southern states, even though all Southern states permit it with the exception of Virginia. Although there is a

popular perception that Southern educators and school boards support corporal punishment, that perception may not be accurate.

In addition, Florida state law now requires Florida school boards to reaffirm their corporal punishment policies on a periodic basis. Policies that are not reaffirmed are automatically rescinded. This statutory limitation on corporal punishment in Florida is similar in spirit to the Texas statute adopted in 2011 that gives parents the right to refuse to allow their children to be subjected to corporal punishment at school. These statutory limitations on corporal punishment that exist in both Florida and Texas may be an indication that Southern state legislatures are not solidly in support of corporal punishment in the schools.

#### Suggestions for Future Studies

This study of corporal punishment in Florida public schools and the Phillips study of corporal punishment in Texas schools clearly show that corporal punishment has been abolished in the largest districts in both states. Particularly in Florida, where 86 percent of students attend schools where corporal punishment is abolished, corporal punishment is coming to be a rural phenomenon.

Similar studies might be conducted in the other 17 states that permit corporal punishment to determine if school boards in other states have abolished corporal punishment as a matter of local policy. Further studies in any of the current 19 states allowing corporal punishment may discover if schools within

districts that allow the practice have made a campus-based decision to not use the disciplinary practice. These studies might also determine whether the trend of abolishing corporal punishment in the urban schools of Texas and Florida is also evident in other states.

Additionally, a state-by-state analysis of the corporal punishment statutes in the states that still permit corporal punishment in public schools would also be useful. It may be that other state legislatures have put statutory restrictions on corporal punishment in the public schools similar to those in place in Texas and Florida. Do other states allow parents to protect their children from corporal punishment as in Texas? Do other states require school boards to periodically reaffirm their corporal punishment policies, as the state of Florida requires?

The Phillips dissertation included a case study showing that corporal punishment practices varied from school to school in a school district that allowed corporal punishment. Studies that examine school-to-school differences regarding corporal punishment would be useful. It may be that administrators in only a few schools are administering the vast majority of the corporal punishment that is being inflicted in the Southern states.

Extending the research focusing on childrens' and parents' concepts of the relationship between corporal punishment and verbal aggression will also further define perspectives on corporal punishment. The literature suggested a difference between the perspectives of parents and children.

Finally, a study of national databases that would identify whether attitudes about corporal punishment vary across regions would be useful. The Southern states and the Rocky Mountain States are the only states that still permit corporal punishment. Are attitudes toward corporal punishment different in those states from the 31 states that have abolished it? Also, do attitudes about corporal punishment differ based on religious views, socio-economic status or race?

### Conclusion

This study found that fewer students in Florida public schools are subjected to corporal punishment than in previous years and that 87 percent of Florida school children attend schools where corporal punishment is not permitted. These findings are encouraging in light of the fact that most research has concluded that corporal punishment is not beneficial for the well being of children and that a host of respected professional organizations have condemned the practice.

This study and the Phillips study strongly suggest that attitudes about corporal punishment in the public schools are changing in the Southern states and that corporal punishment may be on the decline across the South. Perhaps these studies will help persuade Southern legislatures and Southern school boards that the time has come for the Southern states to join 31 other states and abolish the practice of corporal punishment in the public schools.

The well being of children in schools remains a concern for all professional educators and parents alike. Parents have the ability to determine how they will raise and discipline their children, but statutes exist to ensure that children are still protected. The trends in data from Florida and Texas support the need to move forward with legislation that bans the practice. Students enrolled in larger districts already tend to not be subjected to corporal punishment according to data from Texas and Florida. The Florida Department of Education reports that during the past 20 years the number of instances of corporal punishment administered to students has decreased (Florida Department of Education, 2011). Since the 1994-1995 school year, “districts have steadily reported fewer students receiving corporal punishment” (p.1). As data continues to support the need to ban corporal punishment, state legislators and educators alike must commit to embracing the call to outlaw the practice.



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