

# Paddle & Shield

Tom Johnson's letter to the South Carolina Legislature, January 27, 2010

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## Dear Legislators:

Regarding the corporal punishment bill recently proposed by Senator Jake Knotts, here are some arguments to consider:

1. Giving teachers and principals immunity from all civil and criminal liability arising from corporal punishment effectively and unconstitutionally denies students and parents the legal remedies that were essential to the Supreme Court's decision in 1977 upholding school corporal punishment.

2. Immunity from criminal prosecution would make schoolchildren easier to abuse or exploit. Deferring to local school districts in determining teachers' criminal liability invites inconsistency of child protection standards within the state. Granting such immunity to school personnel while not to parents themselves, furthermore, would create a curious double standard implying that parents should have less discretion than teachers when it comes to the discipline of their child. (Incidentally, have there actually been any teachers or principals in South Carolina prosecuted for child abuse relating to corporal punishment?)

3. School paddling violates Title IX insofar as boys and girls are impacted differently. Unlike boys, girls who have entered puberty would have to reveal intimate personal information in order to avoid the chance of this punishment being unfairly compounded by menstrual discomfort, or a risk factor where there is the possibility of pregnancy. There are at least two known incidents where paddling had medical consequences due to a student being female, one in Dunn, N.C. from 1981 (ref: "Don't Inflict My Pain on Others," by Shelly S. Gaspersohn, USA Today, October 23, 1984) and another in Scioto County, Ohio from 1997 (ref: "Some Ohio schools not sparing the rod -- Corporal punishment allowed in districts," The Plain Dealer (Cleveland), September 24, 2000). With children of any age, moreover, discomfort following a paddling is apt to be greater for girls, due to pressure on the inflamed and/or contused area of their bodies resulting from their normal mode of urination or, alternatively, to muscular discomfort if they awkwardly avoid this pressure. This disparity was illustrated in the case of an 8-year-old in Florida who had to use her hands to support herself astride a toilet in order to urinate without aggravating the lingering pain she was experiencing) (ref: State v. Paul E. King, Florida Supreme Court Case No. SC05-258).

4. The legitimacy of male principals spanking female students is at odds with prevailing sexual harassment codes, which bar male employers from spanking female employees (minors or otherwise).

5. The spanking paddle itself was originally invented not for use on schoolchildren but rather as a tool for beating slaves. The idea was to have something that would inflict terrible pain without causing the kind of permanent tissue damage that could lower a slave's market value. While the corporal punishment of slaves has most often been portrayed as using a whip, it was also fairly common practice by the mid 1800's, at least in certain states, to use a paddle instead. (This will not be news to anyone who has studied American slavery in depth or seen the 1975 movie "Mandingo.") Although nobody would suggest that students today

are paddled with the same degree of severity that slaves were, it is important to recognize that extreme severity is what this instrument was designed for. It is virtually unheard of, moreover, for school personnel to receive any professional training in how to paddle students, to be required beforehand to demonstrate competence at doing it safely and judiciously, to have their paddles inspected and held to any standards of size, weight, composition, or craftsmanship, and least of all to have the velocity of their swing measured. Thus, we can reasonably expect that paddlers will often times hit harder than they intend to, or in some cases, hit parts of the body they don't intend to.

6. The spanking of kids at school could be videotaped without anyone's knowledge, which is a lot easier with the tiny cameras they make nowadays. If someone were to circulate that video on the Internet, it could be seriously humiliating for the student. Not to mention that there's a black market for images of children being spanked. The FBI broke up a nationwide child-spanking pornography ring in 2002, incredible as that may sound, and at least two of its members worked in public schools.

7. Dropout rates, violent crime, and other problems are most concentrated among states and localities where paddling is still allowed. It's also worth noting that among the top 100 U.S. schools ranked by Newsweek, not a single one is a paddling school.

8. The many groups supporting a ban on corporal punishment include The National Association of School Boards, The American Academy of Pediatrics, and The National Association of School Nurses.

Sincerely,

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## EXCERPT from U. S. Supreme Court's decision, 430 U.S. 651, Ingraham v. Wright, 1977

"...The teacher and principal must exercise prudence and restraint when they decide that corporal punishment is necessary for disciplinary purposes. If the punishment is later found to be excessive, they may be held liable in damages or be subject to criminal penalties..."

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