

## Expelling Zero-Tolerance: Reforming Texas School Discipline for Good

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### Key Points

- Zero-tolerance policies provide mandatory punishments for certain school behavior with little room for discretion or alternative methods of discipline.
- Texas has a statutory based zero-tolerance policy as well as individual school codes of conduct, together covering a broad range of behavior.
- Violent crime at schools has not decreased; in fact, proportionally more crime is happening on campus than in the years prior to zero-tolerance. Texas juvenile crime is down in equal proportions at the state level and in schools.
- Tiered discipline models have reduced referrals to juvenile courts and code of conduct violations, all while graduation rates have increased.

### Introduction

It is universally acknowledged that children will misbehave. Thus, so long as institutionalized education exists, so too will disciplinary problems. Both school discipline practices and the prevailing societal norms evolved with the educational institutions, which created the present-day system of zero-tolerance discipline: a system of mandatory punishments for specified behavior with little discretion and few alternatives. Zero-tolerance policies today extend to cover drugs, alcohol, violence on and off campuses, and sometimes even relatively minor infractions.

Zero-tolerance policy supporters claim that this method of discipline is forceful enough to eliminate school violence through deterrence and removal from the classroom. Advocates also argue that zero-tolerance policies are clear-cut and uniform, and can provide peace of mind to parents.

The data, however, reveals that the intended results of zero-tolerance measures were not necessarily achieved. Many studies have been conducted on zero-tolerance policies that cast doubt on their effectiveness. Furthermore, current crime and victimization rates do not indicate that zero-tolerance policies have produced increases in school safety. On top of that, these programs have been found to cost millions in taxpayer dollars each year through costly alternative programs for suspended students, while other costs compound the taxpayer investment, including lost educational hours for students and lost wages for parents taking time off work to deal with a suspended child.

This evidence indicates that alternatives to zero-tolerance policies may lead to a more effective system of school discipline for students

by keeping them in school and reducing over-reliance on the justice system for school-based discipline. A tiered response to most low-level school discipline issues could create a far more effective approach to discipline via effective, targeted intervention into minor misbehavior, while ensuring that the most serious of on-campus offenses are still dealt with immediately, appropriately, and strictly.

### Zero-Tolerance in Practice

#### *An Overview of Zero-Tolerance*

Zero-tolerance policies generally mandate a certain punishment—usually suspension or expulsion—for certain misbehavior with little room for deviation. A swift, mandatory, and severe punishment was predicted to not only deter school crime but also to quickly correct student behavior. Furthermore, a rigid framework was expected to allow far more expedient handling of disciplinary issues: students would have a defined set of rules and easily understand the boundaries, while administrators would have a simple policy to apply.

These policies originally applied to guns and deadly weapons on school campuses, but were slowly expanded to incorporate a great deal of student conduct,<sup>1</sup> including alcohol, drugs, and lesser violence.<sup>2</sup>

Sadly, at the same time that zero-tolerance policies were growing in breadth and degree, one of the most serious and horrific instances of school violence occurred. In April 1999, in a tragic school shooting incident, 13 students were killed by two of their classmates in Littleton, Colorado. This horrific—but rare—incident was highly publicized, and stoked fears that violent crime was possible at even “safe” suburban schools.<sup>3</sup>

## In 1995, Texas enacted the modern version of the school discipline code, as part of a revision of the entire state education law.

Understandably, parents were terrified and concerned about a widespread problem involving crime at school, and administrators relied heavily on zero-tolerance policies to quell those fears.

### *Zero-Tolerance Policies in Texas*

In 1995, Texas enacted the modern version of the school discipline code, as part of a revision of the entire state education law.<sup>4</sup> The new code firmly established zero-tolerance measures for a number of infractions, and gave local school districts the latitude to establish additional individualized standards for school discipline. Each district must establish a code of conduct that sets out the circumstances and behavior, including both the state standards and the individual district rules, that triggers removal from a classroom, placement in a Disciplinary Alternative Education Program (DAEP), suspension, and expulsion.<sup>5</sup> Thus, school discipline in Texas varies widely between different districts and schools, and involves not only zero-tolerance measures, but also a variety of alternative placements for disciplined students and sanctions that go beyond the scope of the state standards.

Recently, Texas did make an effort to introduce some level of discretion in school discipline. In 2009, the Legislature approved House Bill 171, which mandated consideration of specific factors in disciplinary decisions, including self-defense, intent or lack thereof, disciplinary history, and disabilities affecting capacity to appreciate wrongfulness.<sup>6</sup>

But, there remain a number of disciplinary options. First, suspension is permitted for any behavior so specified in a particular school's code of conduct, which can be broad enough to cover behavior both on- and off-campus.<sup>7</sup> Second, misbehavior can also be addressed through a Class C misdemeanor citation. Under Texas law, such citations can be issued for disrupting class or other activities, which includes emitting an unreasonable amount of noise, enticing a student away from class, preventing or attempting to prevent a student to attend class, and entering a classroom without permission and disrupting activities.<sup>8</sup>

Third, placement in a DAEP is a disciplinary option separate from suspension. Along with adoption of a zero-tolerance policy, the Legislature mandated that schools establish DAEPs, which provide education for students with discipline issues in a separate setting from the rest of the student body.<sup>9</sup> Placement in a DAEP can be mandatory or discretionary, and the misbehavior which can trigger a DAEP placement is specified in either the Texas Education Code or local codes of conduct. Under state law, placement in a DAEP is mandatory under the following circumstances:

- Committing a false alarm or report offense or a terroristic threat involving a public school;
- Felonious behavior or assault on or near a school or at a school activity;
- Selling, delivering, giving, possessing, using, or being under the influence of marijuana, a controlled substance, or a dangerous drug;
- Selling, giving, delivering, possessing, using, or being under the influence of alcohol;
- Offenses relating to an abusable volatile chemical;
- Public lewdness or indecent exposure;
- Retaliation against any school employee, on or off school property;
- After receiving deferred prosecution or a delinquency finding for a Title 5 felony offense\* or aggravated robbery, no matter where it occurred; and
- Upon the superintendent's reasonable belief that the student has engaged in a Title 5 felony offense or aggravated robbery, no matter where it occurred.<sup>10</sup>

State law also allows discretionary placement in a DAEP upon the reasonable belief a student committed any other felony, off-campus, that does not trigger mandatory placement, or if a student's presence in the classroom threatens the safety of others or is a detriment to the educational process.<sup>11</sup>

The fourth disciplinary option is expulsion. Expulsion is mandatory for the following behavior on school grounds or at a school activity:

\*Title 5 felony offenses include homicides, kidnapping, sexual offenses, and assaultive offenses. See *Tex. Penal Code § 19.01 et seq.*

- The use, exhibition, or possession of a firearm, illegal knife, club, or a variety of other weapons;
- Aggravated assault, sexual assault, aggravated sexual assault, arson, murder, attempted murder, indecency with a child, aggravated kidnapping, aggravated robbery, manslaughter, negligent homicide, or sexual abuse of young children; and
- Felonious drug or alcohol possession, delivery, or use.<sup>12</sup>

Expulsion is discretionary for a wide variety of behavior.<sup>13</sup> Expelled youth are not necessarily completely without educational opportunity, however. Twenty-eight Texas counties with populations greater than 125,000 are mandated to implement Juvenile Justice Alternative Education Programs (JJAEPs) to educate expelled students and sometimes those in juvenile justice placements.<sup>14</sup> While six counties outside of this statutory mandate have chosen to implement their own JJAEPs, the rest of Texas counties do not have JJAEPs and ordinarily expel students “to the street” without any provision for continued education.

### *Empirical Evidence: Zero-Tolerance and School Crime*

There have been a variety of efforts to evaluate zero-tolerance policies and the resulting gains or losses in school safety and discipline measures. In 2006, a task force of the American Psychological Association published a study that found:

- Zero-tolerance policies had a negligible effect on the consistency of punishments;
- Strict removal of disruptive students did not increase school safety ratings or academic achievement (even when controlling for socioeconomic status); and
- Children who were disciplined under zero-tolerance models were not deterred from further misbehavior and were *more* likely to re-offend.<sup>15</sup>

Other studies have highlighted the lack of gains in safety measures, the correlation with increased crime and disruption, or the disproportionate application of zero-tolerance policies.<sup>16</sup> Still other evaluations look at the impact zero-tolerance policies have on dropout rates, which indicate that removal from school interrupts the habit of regular attendance and can serve as a precursor to dropping out of school.<sup>17</sup>

The effects of high suspension rates due to zero-tolerance policy programs are another focus of study. Researchers point to

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increased numbers of students suspended from public schools and the ways suspension detracts from academic performance and capabilities and factors into dropout rates.<sup>18</sup> In fact, dropping out of school is often the beginning of a series of poor decisions. Statistics from the Texas Department of Criminal Justice indicate that at least 40 percent of adult prison inmates in Texas prisons in 2011 dropped out of school.<sup>19</sup>

Zero-tolerance policy opponents argue that the policies are far too broad, capturing innocuous behavior and jeopardizing students’ futures in the process. Examples across the United States are quite dramatic:

- A six-year-old was suspended from school after sharing lemon drops with another student;<sup>20</sup>
- Another student was suspended for drug possession after turning over another student’s marijuana to authorities;<sup>21</sup>
- Kindergartners playing cops and robbers were suspended because they used their index fingers and thumbs to make a mock firearm;<sup>22</sup>
- A student received a suspension after confiscating a knife from a suicidal classmate and securing it in his locker;<sup>23</sup> and
- A 12-year-old Boy Scout in Texas was expelled, arrested, and placed in an alternative school after accidentally leaving his scouting pocketknife in his jacket pocket.<sup>24</sup>

### **Zero-Tolerance Policy Outcomes in Texas**

Empirical studies aside, justice system data may be a more useful indicator of the effect and effectiveness of zero-tolerance policies in Texas. A recent groundbreaking study has revealed the degree to which zero-tolerance policies affect Texas students. In addition, crime and victimization rates reveal whether schools today are safer after almost two decades of zero-tolerance.

### “Breaking Schools’ Rules”

In 2011, the Council of State Governments Justice Center, along with the Public Policy Research Institute at Texas A&M University, released the findings from a six-year study of every seventh grade student attending a Texas public school between 2000 and 2002.<sup>25</sup> The study tracked the records of almost one million students to capture the wide ranging impacts of school discipline policies.

The study results indicated the following:

- Almost 60 percent, or 553,413 students, received at least one disciplinary action (which includes suspensions, DAEP placements, or expulsions);<sup>26</sup>
- Of those students, the average frequency of discipline was eight suspensions or expulsions per student, while half of the students had received at least four disciplinary actions;<sup>27</sup>
- African-American students were more likely to be disciplined than their white or Hispanic peers; and
- Students with educational disabilities were also more likely to receive a disciplinary action.<sup>28</sup>

The study also found a correlation between specific disciplinary actions and being held back a grade, failing to graduate, and contact with the juvenile justice system, suggesting that current discipline was ineffective at correcting misbehavior.<sup>29</sup> Finally, there were substantial differences in discipline rates between schools very similar in demographics and risk factors, indicating that zero-tolerance policies are not successful

in reducing inconsistencies and disparate treatment by school discipline systems.<sup>30</sup>

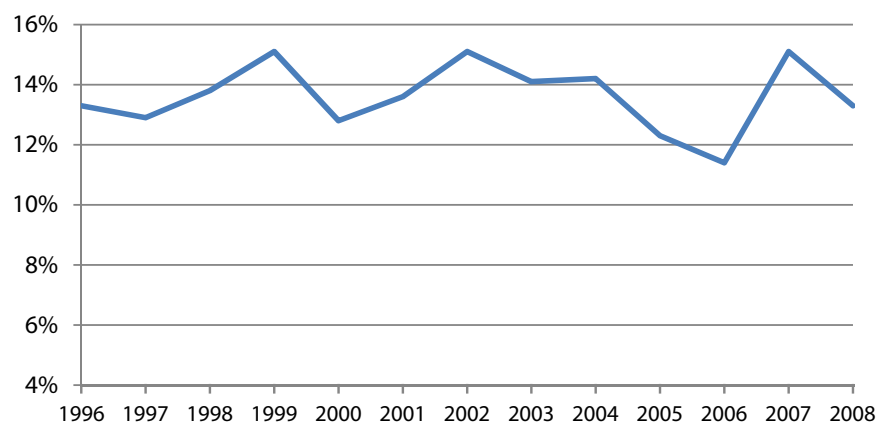
This report focused only on suspensions and expulsions; however, there is another widely used disciplinary method in Texas schools. As previously mentioned, schools may issue Class C misdemeanor tickets for a wide range of behavior as listed in each school’s code of conduct. Out of the courts that report such data, almost 275,000 non-traffic tickets were issued to juveniles in Texas.<sup>31</sup> The fines for such tickets cost up to \$500 and require time away from school for the youth and often time away from work for a parent. The data on the use of these Class C misdemeanor tickets reveals that minorities and special education students were disproportionately given tickets as well.<sup>32</sup>

### Texas Schools and Safety

School discipline is an expensive proposition: in the 2009-2010 school year, schools across Texas spent \$327 million on security and monitoring services.<sup>33</sup> At last tally, DAEPs alone cost schools an additional \$232 million.<sup>34</sup> In light of these expenditures, as well as the exhaustive variety of disciplinary resources and the extensive zero-tolerance state laws in place for almost two decades, Texas taxpayers, parents, and students should be benefitting from dramatically safer schools.

Schools are indeed safer, but the degree to which schools are safer than prior to the implementation of zero-tolerance in Texas is no greater than the degree to which the rest of the country is safer, and merely tracks the national drop in crime rates during the last two decades. Put another way, there is no indication that zero-tolerance policies have made schools safer; by some measures, schools are actually less safe than other public places.

**Figure 1: Percent of All Violent Crimes Occurring at School**



Source: Bureau of Justice Statistics

Indicators of crimes committed on school grounds and by juveniles shed light on whether zero-tolerance policies have had an effect on school safety or juvenile desistance from crime. First, when considering where violent crimes occur across the nation, the proportion of all violent crimes that occur at school has barely fluctuated in the last decade.

The percentage of violent crimes at school was equal in years 1996 and 2008, 13.3 percent (*see Figure 1, previous page*). This suggests that zero-tolerance policies have not been able to drive violent crimes out of schools, or reduce the proportion that occur at school as opposed to other locations that are not overseen by zero-tolerance policies.

Second, when considering victimization rates (which includes victims of crime that are both reported and are not reported to authorities), schools are still the least safe places for youth, and actually have become less safe than in 1996 across the country.

Nonfatal victimizations were highest at school in 1996 and 2010 (*see Figure 2*) as compared to victimization rates away from school as well as victimization rates for youth generally. Furthermore, victimizations were 1.03 times more likely to occur at school than away from school in 1996. In 2010, that ratio grew to 1.23 (*see Table 1*).

It is important to note that victimization rates have fallen between 1996 and 2010; however, the drop is in the same pro-

portion as the drop in victimizations unrelated to school, indicating that it is the universal drop in crime rates that is responsible for the decrease in victimization. Further, the increased ratio—from 1.03 to 1.23—of victimizations at school as opposed to away from school indicates further failings of zero-tolerance policies.

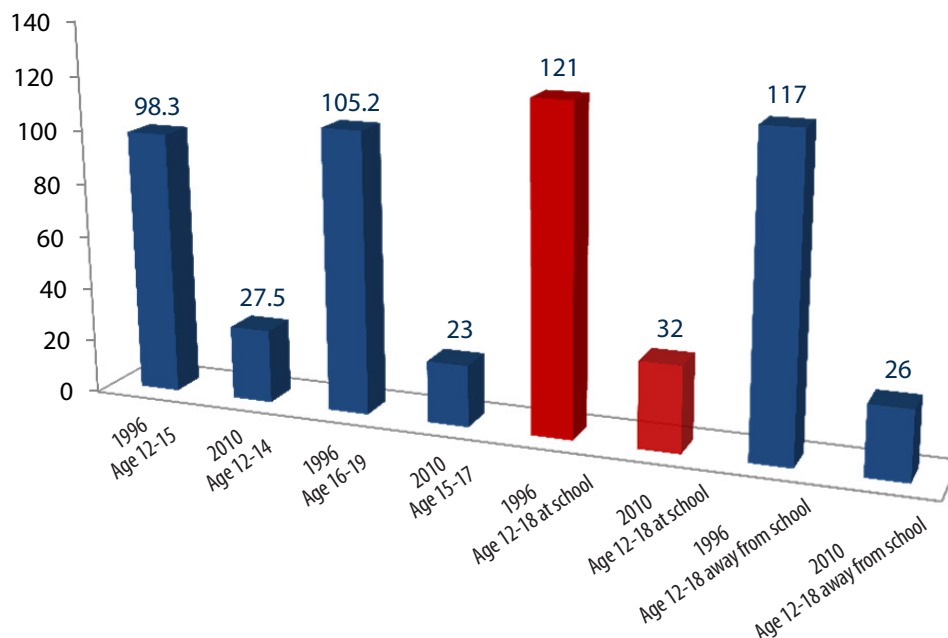
A third and final indicator as to the relative safety of schools specific to Texas is the number of referrals made by schools to juvenile probation departments. Schools can make referrals, akin to arrests, to juvenile probation departments for student behavior.

**Table 1: Victimization Rates by Age and Location**

Year: Category	Rate per 1000
1996: Ages 12-15	98.3
2010: Ages 12-14	27.5
1996: Ages 16-19	105.2
2010: Ages 15-17	23
1996: Ages 12-18 at School	121
2010: Ages 12-18 at School	32
1996: Ages 12-18 away from School	117
2010: Ages 12-18 away from School	26

Source: Bureau of Justice Statistics

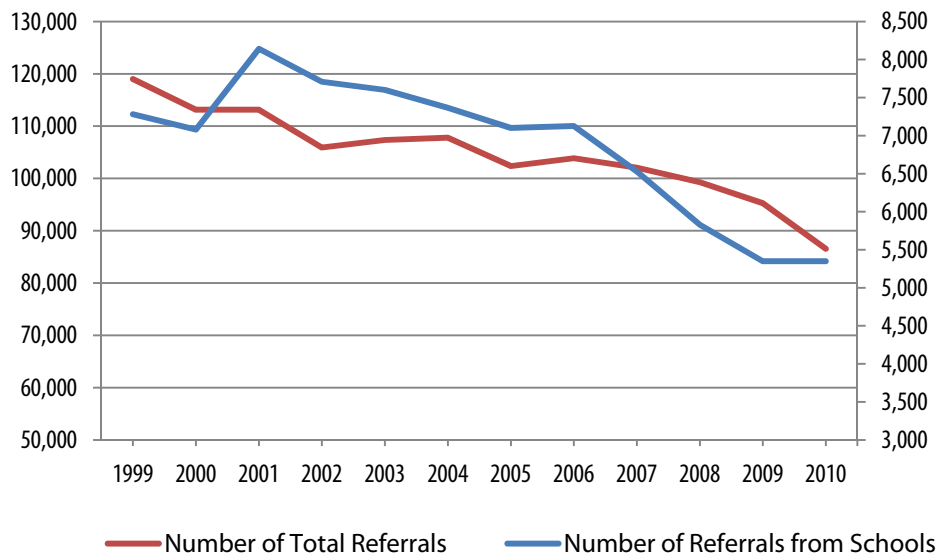
**Figure 2: Nonfatal Victimization Rates Per 1,000 Persons**



Source: Bureau of Justice Statistics



**Figure 3: Change in Referral Rates 1999-2010**



Source: Texas Juvenile Justice Department

Referral rates by schools are down; however, the referral rates are down in roughly the same proportion that overall referral rates are down (See Figure 3). The drop in referral rates for Texas overall, when compared to those specifically from schools, reveals a mirror-image drop in referrals.

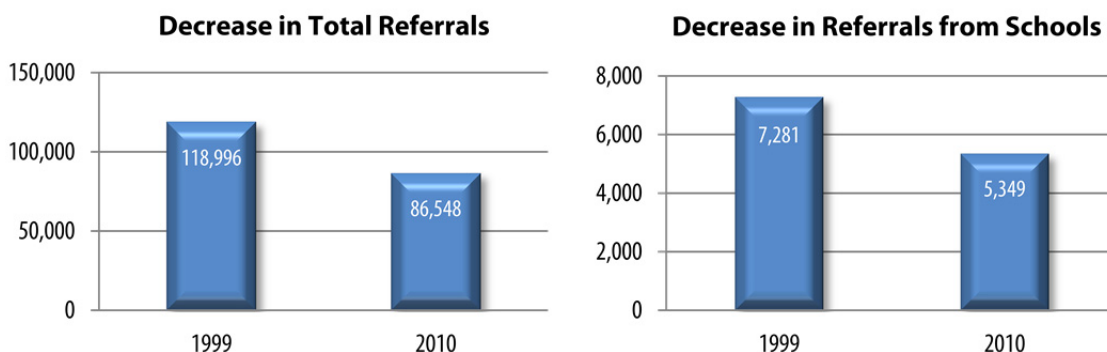
In both types of referrals, the drop in referral rates between 1999 and 2010 amounted to a 27 percent drop (See Figure 4). The universality of this decrease is further indicated by the drop in total juvenile arrests across Texas (which includes those that do not result in a referral to juvenile probation), which decreased 24 percent between 1999 and 2009 (the last year for which data is available).<sup>35</sup> This suggests that the drop in referrals is attributable to the overall drop in crime and not a drop in school crime as a result of effective discipline through a zero-tolerance policy.

To be sure, it is very good news for students, teachers, and parents that school crime is down. But the drop in school crime and victimization is more likely due to the overall drop in crime across the country over the last two decades, not the zero-tolerance policies in effect in Texas.

### A New School Discipline Model

Zero-tolerance policies have failed to bolster school safety as opposed to other places youth frequent and have produced high costs for taxpayers. Largely in response to these issues, a more effective model for school discipline has developed in the form of a three-step, or tiered, disciplinary model.

**Figure 4: Decrease in Referrals**



Source: Texas Juvenile Justice Department

This model was pioneered by Judge Steven Teske, a Georgia juvenile court judge who saw increasing numbers of students in his courtroom for behavior that did not require judicial management. To that end, Clayton County, Georgia, convened the “Blue Ribbon Commission on School Discipline,” which was tasked with reviewing current policies and identifying possible alternatives.<sup>36</sup>

The result of the Commission’s work was a cooperative agreement signed by officials in the court system, schools, police departments, and juvenile justice agencies to reform their school discipline procedures.<sup>37</sup> The agreement established a three-step system to address certain misbehavior. The plan is limited to the following types of behavior: misdemeanor-type delinquent acts involving offenses against public order including affray (fighting), disrupting public school, disorderly conduct, obstruction of police (limited to acts of truancy where a student fails to obey an officer’s command to stop or not leave campus), and criminal trespass (that does not involve damage to property).<sup>38</sup>

The agreement prohibits a juvenile complaint to be filed for one of these offenses unless certain prerequisite steps have already been taken on the first and second offenses.<sup>39</sup> The first offense results in a Warning Notice, admonition, or no action, within the discretion of the school resource officer (SRO).<sup>40</sup> A second or subsequent offense results in a referral to the School Conflict Diversion Program, Mediation Program, or other program sponsored by the court. The program is attended by both the student and the parent, and the program administrators reports the successful completion (or not) to the school.<sup>41</sup> If these steps are unsuccessful in curbing the delinquent behavior, a juvenile complaint may be filed upon the third offense.<sup>42</sup>

The results of this new approach to handling school disciplinary issues are significant: referrals to the juvenile court dropped 67.4 percent, saving those valuable resources for more serious cases in genuine need of judicial case management; the rates of weapons on campus are down 73 percent; and graduation rates increased 20 percent.<sup>43</sup>

One rather unexpected outcome of this system is an increased level of school police presence on campus and more positive interactions between students and school police officers. Clayton County schools report that because school police officers do not have to leave campus to transport and file referrals for low-level offenses as frequently, officers are able to spend more time on campus, increasing their knowledge of and familiar-

ity with the student body, and engaging in more friendly and positive interactions with students.<sup>44</sup> Students, then, began to perceive officers as being on school campus to help, leading to increased information sharing about concerns on campus, bolstering the percentage of crimes solved.<sup>45</sup>

This system was recently adopted in Jefferson County, Alabama, where family court officials, the district attorney, law enforcement, and Birmingham City Schools collaborated to adopt a tiered discipline plan. In that jurisdiction, the agreement applies to minor school-based offenses—defined as affray, third-degree criminal trespass, third-degree assault, disorderly conduct, harassment, menacing, and minor theft.<sup>46</sup>

Just as in Clayton County, the first offense under the new system results in a Warning Notice, admonition, or no action, at the discretion of the school official. The second offense results in admonition and counsel, a second warning, or an assignment of the student and parent to a School Conflict Workshop.<sup>47</sup> Upon the third offense, the school may refer the student to the court. The agreement does include an exception for “exceptional circumstances,” which permits school administrators to bypass the graduated system.

### *A Texas Experiment*

News of Clayton County’s success has quickly spread. Last year, Governor Rick Perry’s Criminal Justice Division sought to determine whether Judge Teske’s disciplinary system in Georgia could be replicated in Texas. The Division partnered with the Waco Independent School District (WISD) and the Waco Police Department to develop progressive sanction diversion programs, which were initiated last summer. Rather than simply referring a student to the juvenile justice system, WISD now has several options for disciplinary interventions, including a peer-to-peer mediation and mentoring program, the Parent and Student Education Diversion Program, or Teen Court\* (an alternative to the automatic DAEP placement for fighting previously mandated in Waco). Early results show a 27 percent drop in citations issued.<sup>48</sup>

### *Steps Forward*

In light of these positive preliminary results, adoption of a tiered disciplinary model for certain offenses could provide a more effective discipline system in Texas schools. This section provides a variety of ways for Texas policymakers and school administrators to implement or initiate the implementation process of a tiered disciplinary model in their schools.

\*Sanctions usually handed down by the Teen Court include verbal or written apologies, community service to the school, or a requirement to attend Saturday school to make up missed schoolwork.

### **Divert Funding to a Pilot Project**

One or more pilot projects in Texas schools can further demonstrate the tiered model's ability to create safer schools with fewer students leaving school due to disciplinary problems. The funding for such a pilot project should be diverted from existing expenditures on prevention and intervention services.

Texas agencies already spend an extraordinary amount of funds on prevention and intervention services aimed at reducing juvenile delinquency. The Department of Family and Protective Services has more than \$30 million budgeted for prevention and intervention in fiscal year 2012<sup>49</sup> and uses a variety of programs to achieve its goals of preventing delinquency and truancy (in addition to abuse and neglect) of Texas youths.<sup>50</sup> The Department of State Health Services also funds prevention and intervention for youths related to substance abuse; approximately \$40 million of its \$141 million budget for prevention and intervention is budget for the prevention and intervention of substance abuse\* in youths in fiscal year 2012.<sup>51</sup> The Texas Juvenile Justice Department is now required to provide delinquency, truancy, or dropout prevention and intervention funding under the 2011 legislation that created the department.<sup>52</sup> The fiscal year 2012 operating budget included \$1.5 million in funding which was doled out to several juvenile probation departments across the state; that funding is forecasted to rise to \$3 million in the next biennium.<sup>53</sup>

A portion of the more than \$70 million already expended on prevention and intervention programs already funds programs that could provide the referral in the second "step" of a tiered school disciplinary approach, similar to the teen court, mentoring program, or parent-student program created in Waco. Furthermore, if schools prefer to engage a separate program for such a system, this funding provides an existing avenue for grants to local counties and schools to create pilot projects to test and exemplify the efficacy of these programs.

### **Texas Accountability Ratings**

Especially due to the disparate treatment afforded students under current school discipline systems, parents and policymakers should call for information on the use of zero-tolerance and tiered models in Texas schools. Texas parents would likely value transparency concerning the ways which schools will treat their children for a schoolyard fight or minor misbehavior.

To ensure this information is reported and publicly available, Texas should include adoption of a tiered disciplinary system

in its Accountability Ratings. Chapter 39 of the Texas Education Code<sup>54</sup> establishes the Texas Education Agency's Accountability Rating System. The system considers academic performance, course availability, improvement in core courses, college-ready graduates, attendance, and a variety of other measures to provide information to parents and evaluate the ways in which schools are effectively imparting education to Texas students.<sup>55</sup> Including disciplinary system information in these ratings would be one way to provide accurate and pertinent information to parents as to how their children will be treated in school, particularly given its close connection to attendance and dropout rates.

Such disciplinary data, especially the change over time, also could be considered along with academic and attendance rates used in determining whether a school or school district is persistently failing and, therefore, subject to closure or consolidation.

### **Statutory Mandatory Responses**

Chapter 37 of the Texas Education Code specifies schools' mandatory responses to certain offenses. Legislators should reevaluate many of these mandatory triggers and determine whether more discretion should be afforded local school administrators in determining how to deal with, for example, a high school student found with an empty beer can in his car.

### **Legislative Enactment of Tiered Model**

Of course, outright legislative enactment of a tiered model of discipline would provide the most direct reformation of the zero-tolerance system, especially as it can be structured in such a way to apply to only specific offenses.

Offenses which are highly suitable for the tiered policy are those Texas Education Code infractions such as disrupting class and making unreasonable noise. The offense of disrupting class, along with disorderly conduct generally, accounts for a majority of the estimated 200,000 or more Class C misdemeanor tickets issued in Texas schools.<sup>56</sup>

Carefully specifying which offenses will be tracked through the tiered approach is important. The systems in Clayton County and Jefferson County delineated which offenses—and only those offenses—were eligible for handling by the tiered system. Both counties selected largely fighting-type offenses, as these often represent youth misconduct and conflict rather than genuine delinquency issues. Texas already has sensible delineations of assault in the Penal Code that serve to separate

\*Tiered discipline models may include substance abuse prevention aspects in some jurisdictions, if needed.



a minor scuffle from a potentially fatal brawl. This same sliding scale could be used to ensure that students engaged in conduct that poses a real danger of serious injury or death are punished appropriately, even on the first occasion.

It is important to ensure that high-level offenses, which actually do present a danger to students and teachers, are addressed apart from the tiered system. Schools must remain safe places for all students to learn and grow, and a tiered approach is only appropriate for those students and those offenses which do not threaten that safety.

## Conclusion

Given the high rates at which students are disciplined under the zero-tolerance policies, the empirical data on the zero-tolerance model which calls into question its efficacy, and the disparate treatment afforded students under the current system, careful implementation of an alternative model for school discipline, such as the tiered approach, may produce substantially better outcomes.

The recent drop in school crime is so statistically similar to overall drops in crime that it cannot be substantially attributed to zero-tolerance policies. Given how often zero-tolerance policies remove students from campus, one would expect schools to be safer than other places for youth since the advent

of zero-tolerance policies. Unfortunately, this is not the case, which creates a significant need for more effective disciplinary systems.

The tide is beginning to turn away from zero-tolerance policies: the Michigan Department of Education recently resolved that its schools should review and limit zero-tolerance policies while focusing on alternatives,<sup>57</sup> Chicago's Board of Education increased discretion for school officials,<sup>58</sup> and Colorado's Legislature enacted legislation<sup>59</sup> to gradually eliminate zero-tolerance policies from its schools.<sup>60</sup>

Through proper reforms, policymakers can ensure zero-tolerance policies are focused on the most serious of student offenses which truly create a danger on school campuses, and provide effective intervention for low-level behavior. These more effective approaches decrease unnecessary reliance on justice systems, conserving those resources, and can create higher rates of success in school and graduation.

While the present system might be broken, it is not beyond repair. Schools exist not only to teach math, science, and history, but also serve as safe places where children can learn to be functioning members of society. Appropriate responses to behavior and ensuring that children remain in school must become a priority in schools. ★

## Endnotes

- <sup>1</sup> Sasha Polakow-Suransky, "America's Least Wanted: Zero-Tolerance Policies and the Fate of Expelled Students," in *Public Assault on America's Children: Poverty, Violence and Juvenile Injustice* (2000) 101-129.
- <sup>2</sup> Christopher Boccanfuso and Megan Kuhfield, "Multiple Responses, Promising Results: Evidence-Based Nonpunitive Alternatives to ZeroTolerance," *Child Trends* (Mar. 2011) 2.
- <sup>3</sup> Glenn Muschert, "Frame-changing in the media coverage of a school shooting: The rise of Columbine as a national concern," *The Social Science Journal* 46:1 (Mar. 2009) 169.
- <sup>4</sup> "Bill Analysis: C.S.S.B. 1," Public Education Committee (Apr. 1995) 1.
- <sup>5</sup> Tex. Educ. Code § 37.001.
- <sup>6</sup> House Bill 171, 81st Legislature.
- <sup>7</sup> Tex. Educ. Code § 37.005.
- <sup>8</sup> Tex. Educ. Code § 37.124.
- <sup>9</sup> Tex. Educ. Code § 37.008.
- <sup>10</sup> Tex. Educ. Code § 37.006.
- <sup>11</sup> Tex. Educ. Code § 37.006(d).
- <sup>12</sup> Tex. Educ. Code § 37.007(a).
- <sup>13</sup> Tex. Educ. Code § 37.007(b) et seq.
- <sup>14</sup> Tex. Educ. Code § 37.011.
- <sup>15</sup> Russell Skiba et al, "Are Zero Tolerance Policies Effective in the Schools? An Evidentiary Review and Recommendations," American Psychological Association Zero Tolerance Task Force (Aug. 2006) 40-51.
- <sup>16</sup> See Russell Skiba and Reece Peterson, "School Discipline at a Crossroads: From Zero Tolerance to Early Response," *Exceptional Children* 66:3 (2000) 337-339.
- <sup>17</sup> "Opportunities Suspended: The Devastating Consequences of Zero Tolerance and School Discipline Policies," The Advancement Project and Civil Rights Project (July 2002) 11.
- <sup>18</sup> Johanna Wald and Daniel Losen, "Defining and redirecting a school-to-prison pipeline," *New Directions for Youth Development* (2003).
- <sup>19</sup> "Statistical Report Fiscal Year 2011," Texas Department of Criminal Justice, 1.
- <sup>20</sup> Cara DeGette, "6 Year Old Busted For Candy," *Denver Post* (19 Nov. 1997).
- <sup>21</sup> James Hanks, "School Violence: From Discipline to Due Process" (2004) 50.
- <sup>22</sup> "Kindergartners Suspended for Playing 'Cops,'" *Los Angeles Times* (7 Apr. 2000).
- <sup>23</sup> *Ratner v. Loudoun County Public Schools*, 16 Fed. Appx. 140 (4th Cir. 2002).
- <sup>24</sup> Helen Eriksen, "Discipline bill on Perry's desk," *Houston Chronicle* (4 June 2005).
- <sup>25</sup> Tony Fabelo et al, "Breaking Schools' Rules: A Statewide Study of How School Discipline Relates to Students' Success and Juvenile Justice Involvement," Council of State Governments Justice Center and the Public Policy Research Institute, Texas A&M University (July 2011).
- <sup>26</sup> *Ibid.*, 36.
- <sup>27</sup> *Ibid.*, 37.
- <sup>28</sup> *Ibid.*, 42, 50.
- <sup>29</sup> *Ibid.*, 60, 66.
- <sup>30</sup> *Ibid.*, 82.
- <sup>31</sup> "Texas' School-to-Prison Pipeline: Ticketing, Arrest & Use of Force in Schools," Texas Appleseed (Dec. 2010) 18.
- <sup>32</sup> *Ibid.*, 68-69.
- <sup>33</sup> "2010-11 State Profile Report, Academic Excellence Indicator System," Texas Education Agency, Division of Performance Reporting.
- <sup>34</sup> "Texas State Government Effectiveness and Efficiency," Legislative Budget Board (Jan. 2011) 537.
- <sup>35</sup> FBI Arrest Statistics: 1994-2009.
- <sup>36</sup> "A Written Report Presented to the Superintendent and Board of Education," Blue Ribbon Commission on School Discipline (Jan. 2007) 5.
- <sup>37</sup> "Cooperative Agreement Between the Juvenile Court of Clayton County, the Clayton County Public School System, the Clayton County Police Department, the Riverdale Police Department, the Jonesboro Police Department, the Forest Park Police Department, the Clayton County Department of Family and Children Services, the Clayton Center for Behavioral Health Services, Robert E. Keller, District Attorney, and the Georgia Department of Juvenile Justice."
- <sup>38</sup> *Ibid.*, 4-5.
- <sup>39</sup> *Ibid.*, 5.
- <sup>40</sup> *Ibid.*, 5-6.
- <sup>41</sup> *Ibid.*, 6.

<sup>42</sup> Ibid.

<sup>43</sup> Steven Teske, "A Study of Zero Tolerance Policies in Schools: A Multi-Integrated Systems Approach to Improve Outcomes for Adolescents," *Journal of Child and Adolescent Psychiatric Nursing* (2011) 93.

<sup>44</sup> Steven Teske, Brian Huff, and Cora Graves, "Collaborative Role of Courts in Promoting Outcomes for Students: The Relationship Between Arrests, Graduation Rates and School Safety," *Keeping Kids in School and Out of Court*, 138.

<sup>45</sup> Ibid.

<sup>46</sup> "Collaborative Agreement," Birmingham City Schools Collaborative.

<sup>47</sup> Ibid.

<sup>48</sup> Information and data on the "Suspending Kids to School" program was compiled from interviews conducted with Criminal Justice Division staff and Charlene Hamilton, Program Manager, Suspending Kids to School.

<sup>49</sup> "Operating Budget for Fiscal Year 2012," Texas Department of Family and Protective Services (Dec. 2011) 8.

<sup>50</sup> "Prevention and Early Intervention (PEI) Program Descriptions," Department of Family and Protective Services, accessed May 28, 2012.

<sup>51</sup> "Fiscal Year 2012 Operating Budget; Strategy Level Detail," Texas Department of State Health Services (Feb. 2012) 42-43.

<sup>52</sup> Senate Bill 653, 82nd Legislature, 17-19.

<sup>53</sup> "Operating Budget Fiscal Year 2012," Texas Juvenile Justice Department (Feb. 2012) 1.

<sup>54</sup> Tex. Educ. Code § 39.021 et seq.

<sup>55</sup> See "2011 Accountability System: District and School Accountability Rating," Texas Education Agency (Nov. 2011).

<sup>56</sup> "Texas' School-to-Prison Pipeline: Ticketing, Arrest & Use of Force in Schools," Texas Appleseed (Dec. 2010) 18.

<sup>57</sup> "Resolution to Address School Discipline Issues Impacting Student Outcomes," State of Michigan Department of Education (June 2012).

<sup>58</sup> "Board of Education Approves Student Code of Conduct to Foster Positive, Safer Learning Environments and Limit Removal of Students from Schools," Chicago Public Schools, Press Release (June 2012).

<sup>59</sup> Summarized History for Bill Number HB12-1345, last accessed July 23, 2012.

<sup>60</sup> House Bill 12-1345, Second Regular Session, Sixty-eighth General Assembly, State of Colorado.

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