

Addressing the school-to-prison pipeline

The public education system is the gateway by which many of the 150,000 Texas juveniles arrested each year first come into contact with the criminal justice system.⁶² Schools are increasingly likely to use disciplinary measures that take children out of the classroom for even minor offenses and enter them into the correctional system, a trend advocates term the “school-to-prison pipeline.” In fact, according to a report by the Texas A&M Public Policy Research Institute, “the single greatest predictor of future incarceration is a history of disciplinary referrals at schools.”⁶³

While some disciplinary consequences are determined by Texas law, many are not. For example, the

Texas Education Code regulates the use of restraints, sets standards for alternative education programs, and mandates situations in which a teacher must remove a student from the classroom.⁶⁴ The Education Code governs statewide practices that promote safe environments in public schools while allowing school districts to write and enforce discipline policies based on the Education Code.⁶⁵ However, these legally mandated referrals make up only a small minority of all discipline cases in Texas. School districts also have the discretion to discipline and remove children from class for other reasons, and these discretionary referrals make up the majority of placements in disciplinary alternative education programs (DAEP), in-school suspension, and out-of-school suspension.⁶⁶ The number of students taken out of school and put in one of these programs has grown steadily since the mid 1990s. In the 2005-06 school year, Texas schools made 62,981 discretionary referrals to DAEPs (compared to 27,093 legally mandated referrals).⁶⁷ Many youth who commit minor violations are also referred to county juvenile probation departments monitored by the Texas Juvenile Probation Commission (TJPC).⁶⁸ Two-thirds of first-time referrals to juvenile probation were youth who had at least one school disciplinary referral in the year prior.⁶⁹

If a school seeks a more serious punishment for a student offense, expulsion is another option. Students can be expelled with no placement—they stay home or go elsewhere during school hours—or they can be expelled to a juvenile justice alternative education program (JJAEP) if the district is large enough to have one. A JJAEP is a separate educational setting that allows expelled students to continue receiving classroom instruction on grade level. Only the 26 counties with populations over 125,000 are required to operate a JJAEP.⁷⁰

A third option for school discipline is ticketing—issuing a criminal citation. Issuing tickets for all types of school disciplinary violations is becoming increasingly common and more school districts now house their own police departments. Children as young as six have received such tickets, which come with fines ranging from \$250 to \$500. Judges determine whether failure to pay the fines will result in community service or jail time.⁷¹

Some school districts in Texas expel students and issue criminal tickets much more often than others. Parents have no way of knowing how their own district compares—meaning a lack of transparency combines with district discretion in criminalizing some Texas kids for offenses that, elsewhere, would get met with a teacher’s reprimand.

The movement toward increasingly severe punishment for misbehavior at school dates back to 1994, when the U.S. Congress passed the Gun-Free Schools Act in response to several school shootings and required a “zero tolerance” approach to weapons on school campuses.⁷² The Texas Legislature adopted zero tolerance the following

year.⁷³ Zero tolerance policies require automatic, severe punishment, such as suspension or expulsion, for school discipline code infractions, regardless of age, developmental stage, or whether the child intends to do harm.⁷⁴ There is no evidence, however, that zero tolerance improves children’s behavior or makes schools safer.⁷⁵ On the contrary, students who are placed in out-of-school suspension are 32 times more likely to commit an offense compared to students who are in school.⁷⁶ Similarly, research indicates that students placed in DAEPs have five times the school dropout rate of students in regular classrooms.⁷⁷ In all, nearly \$200 billion a year in economic loss could be recovered if more funds were invested in improving the quality of school discipline and lowering dropout rates.⁷⁸ Dropouts also have a higher level of criminal justice involvement: 80% of adult Texas prisoners are school dropouts.⁷⁹

Texas has made some recent changes to its school discipline policies in order to mitigate the negative effects of zero tolerance. For example, in 2007, the Texas Education Agency (TEA) enacted standards at the Legislature’s direction for DAEPs,⁸⁰ such as requiring DAEPs to administer an intake and exit exam for students placed there for 90 days or more.⁸¹ Although the standards are positive steps to ensuring that DAEPs are run effectively, there is currently no state oversight to ensure that standards are enforced. In 2009, the state legislature mandated that schools in situations involving possible suspensions, removals, or expulsions consider mitigating factors that contribute to a child’s behavior, including self-defense, intent or lack of intent at the time the student engaged in the conduct, the student’s disciplinary history, and any disability that substantially impairs the student’s capacity to appreciate the wrongfulness of the conduct.⁸²

Despite these efforts, Texas students continue to be sent to DAEPs and JJAEPs, suspended, expelled, ticketed,

and referred to local juvenile probation departments for violations of school conduct codes at alarming rates. In 2008, the Texas Juvenile Probation Commission (TJPC) reported 99,276 total juvenile referrals. Of these, 5,829 came directly from schools, and many of the 77,287 referrals that came from law enforcement, plus those from municipal courts, were also for offenses at school. School-related offenses also contributed to the 56,737 juvenile arrests handled by local judges and courts in 2008.⁸³ About 3% of youth referred to probation departments are later committed to the Texas Youth Commission, the state's juvenile corrections agency.⁸⁴

In Texas, school districts' disciplinary practices vary widely. For example, disrupting a classroom (which can include things such as swearing or chewing gum) could be handled in the classroom by a teacher in some districts and could result in expulsion or a criminal ticket in another district. Some districts expel students or issue criminal tickets many times more often than other districts. Further, neither districts themselves nor parents have access to basic information about how districts compare in discipline responses. This combination of discretion and lack of transparency results in significant gaps between outcomes for various groups of students.

School police officers have the responsibility of keeping schools safe from violence. For many, however, their time is spent primarily on violations of school discipline policies, not violent crime. Further, when a school police officer issues a criminal ticket to a child or youth, the city courts that handle the tickets do not use a normal court process involving a defense attorney, prosecuting attorney, judge, or jury. They can, but in practice, they do not. This means that Texas children and youth do not in practice have basic due process to resolve criminal charges they are subject to based on school discipline practices. An additional concern is the inherent incentive to ticket children. Though not all school districts report what is done with revenue from tickets issued to students, in at least some districts, a portion of the revenue from tickets funds the school police departments that issue the citations. To avoid conflict of interest, funds from tickets should not perpetuate a school police presence.⁸⁵

An alternative to criminalizing behaviors is to implement school-wide Positive Behavioral Interventions and Support (PBIS), an evidence-based framework effective at reducing disciplinary incidents, increasing school safety, and improving academic outcomes.⁸⁶ Texas needs a school discipline environment that does not make criminals out of youth, but rather redirects problem behavior. Our valuable criminal justice resources should be redirected into things that protect the public from violent crime, while our teachers and principals need sufficient resources and training to manage students in need of behavioral interventions.

What Texas Can Do:

- Require schools to train school police officers, teachers, and staff on how to discipline students in a positive way.
- Limit ticketing at school as much as possible, redirecting revenue from remaining tickets away from police departments and towards youth programs.

What You Can Do:

- If you are a parent, read the Student Code of Conduct handbook for your child's school and talk it over with your child. Also, inquire regularly about your child's conduct at school. If there are problems, work with your child's teacher to develop alternatives to disciplinary referrals for him or her.
- Attend school board meetings and contact your superintendent to change any disciplinary practices in your district that funnel children into the justice system.

Choosing strategies that divert youth from crime

A fundamental step in keeping youth out of the juvenile justice system is providing them with opportunities for experiences that promote healthy, positive choices—in other words, preventing delinquency. By empowering parents, caregivers, teachers, and other adults who work with youth with skills and strategies to support healthy development, Texas can help young people succeed.

Prevention strategies at each stage of child development support healthy growth into adulthood. Parenting education programs have been shown to reduce antisocial behavior in children.⁸⁷ Young children who attend quality early childhood programs are less likely to be truant or engage in delinquent behavior when they are older.⁸⁸ Schools that implement a positive behavior support approach have fewer disciplinary problems.⁸⁹ After-school programs, mentoring programs, youth-engagement programs, and recreational activities provide youth with opportunities to have a sense of belonging, develop relationships, build skills, and experience success in ways that help prevent negative behaviors.⁹⁰ Connecting youth and families to services when needed also helps prevent children from coming into contact with the juvenile justice system.⁹¹ These prevention strategies support healthy child development and also help the state avoid substantial costs related to juvenile crime.

When youth do make poor choices, the best approaches prevent future delinquent behavior, promote youth success, and keep the community safe. Research indicates that providing youth with interventions in the community, close to their families, is the most effective way to prevent delinquent behavior from continuing.⁹² Interventions applied in more restrictive settings, such as confinement, are not only much more expensive, but have generally proven ineffective at producing long-term changes in behavior.⁹³