



For children, for justice, for freedom.

**Joint Legislative Hearing of
the Senate Criminal Justice Committee and the Senate Education Committee
on School Discipline (Interim Charge #7)
October 30, 2012**

**Written testimony of Michele Deitch on behalf of the
Barbara Jordan Freedom Foundation**

Chairman Whitmire, Chairman Shapiro, Chairman Patrick, and Committee Members,

My name is Michele Deitch, and I am a Senior Lecturer at the Lyndon B. Johnson School of Public Affairs at the University of Texas at Austin, where I teach courses on juvenile justice policy and criminal justice policy. One of my courses is called “The School-to-Prison Pipeline,” which is focused on school discipline and the intersection of educational practices and the juvenile justice system. I also serve as a member of the Board of Directors of the Barbara Jordan Freedom Foundation, and my testimony today is on behalf of that organization.

The Barbara Jordan Freedom Foundation (BJFF), formed from the estate of the late Congresswoman Barbara Jordan, was launched in 2011 to promote the success of children through educational opportunities and to confront injustices and inequities in the juvenile and adult criminal justice systems. We decided to focus our organization’s initial efforts on issues related to school discipline, because we believe that this issue is so fundamental to the success of children in schools and to the operations of our justice system. Thus, we are grateful that your two Committees have made this topic a focal point for today’s hearing.

Earlier this year, the BJFF sponsored a daylong conference examining the school discipline issue. More than 250 participants from around Texas—including school administrators, teachers, policymakers, judges, prosecutors, and interested citizens—came to learn about the problems associated with suspension, expulsion, ticketing, and arrest of juveniles in schools, and alternative approaches to deal with misbehaving students. Senator Whitmire and Texas Supreme Court Chief Justice Wallace Jefferson were among our distinguished group of speakers. What we learned at that event persuaded us that there is tremendous concern on the part of all stakeholders about current school discipline practices and the harm it is causing to children and families. What’s more, we learned that there are effective alternatives to these punitive and counter-productive practices.

Our Concerns

In particular, the BJFF is deeply troubled by the following facts about school discipline, which have been brought to light by the Council of State Governments Justice Center's report *Breaking Schools' Rules* and Texas Appleseed's research on school ticketing practices:

- 6 out of 10 Texas public school students are suspended or expelled at least once between 7th and 12th grades.¹
- The vast majority (97%) of those disciplinary actions are discretionary under state law, and do not involve weapons or drugs.²
- Minority students—and especially African Americans—are overwhelmingly and disproportionately likely to be suspended, expelled, or ticketed for minor, non-violent misbehavior (for offenses such as Disruption of Class or Transportation, Disorderly Conduct, and leaving campus without permission).³
- Suspension, expulsion, and ticketing rates vary tremendously among schools, even among those with similar demographics, suggesting that these disciplinary practices are a matter of policy choices rather than a pre-determined outcome due to the population served by the school.⁴
- Disciplinary actions contribute to the likelihood a youth will drop out of school or be held back a grade or two, hindering that youth's educational success.⁵
- Involvement in the school discipline system has become a predictor for involvement in the juvenile justice system, suggesting that failure to respond to student misbehavior with effective interventions will have expensive and long-term repercussions throughout our state's justice system.⁶
- Texas appears to be unique among states in its reliance on criminal ticketing of students for Class C misdemeanors in adult municipal court.⁷ The extent of school-based

¹ Council of State Governments Justice Center, *Breaking Schools' Rules: A Statewide Study of How School Discipline Relates to Students' Success and Juvenile Justice Involvement*, July 2011, p. ix.

² *Breaking Schools' Rules*, p. x.

³ *Breaking Schools' Rules*, p. x, and Texas Appleseed, *Texas's School-to-Prison Pipeline: Ticketing, Arrest, & Use of Force in Schools*, December 2010, pp. 5-6.

⁴ *Breaking Schools' Rules*, p. xii.

⁵ *Breaking Schools' Rules*, p. xi.

⁶ *Breaking Schools' Rules*, p. xii.

⁷ Research on file with the author.

ticketing—well over 275,000 Class C tickets for non-traffic offenses annually⁸ —is absolutely staggering and shocking. Contrary to popular conception, these tickets are not *de minimis*. Rather, they can result in fines of up to \$500, which burdens families that can ill-afford to pay, can result in warrants for arrest being issued in the cases of students who do not appear in court or who fail to pay the fines or complete community service agreements once the student turns 17, and can result in permanent criminal records and collateral consequences for youth as young as 10 years old.

In short, Texas schools vastly overuse forms of discipline that are harmful to children and families, overly punitive, unnecessary, wasteful of tax dollars, and discriminatory. This approach does not serve to protect public safety in our schools. Instead, it has the unintended consequence of funneling minority youth into a pipeline that feeds the juvenile and criminal justice systems of our state rather than addressing the underlying causes of the students' misbehavior. And it results in poor educational outcomes for these students.

Recommendations

The Barbara Jordan Freedom Foundation strongly encourages the committees to support legislation that seeks to improve educational outcomes for all youth by reducing the use of exclusionary discipline measures in schools and by limiting the criminalization of student misbehavior. Of course, this must be accomplished in ways that support teachers' ability to maintain control in the classroom, that keep the schools safe learning environments for all students, and that provide effective interventions for the misbehaving youth. Most importantly, we hope you will consider the following strategies:

(1) Limit Use of the Criminal Justice System for School-Based Misbehavior

- Reduce the availability of Class C ticketing for low-level, non-violent behaviors such as Disruption of Class or Transportation, Disorderly Conduct, and Failure to Attend School.
- Ticketing to adult municipal court should not be an option for youth under 16 years old, who are unable in most cases to pay their own fines or to fulfill community service requirements without substantial burdens on families. Young students, and especially those 14 and under, do not have an understanding of ticketing as a meaningful consequence for their misbehavior.
- Institute a graduated sanctions model prior to allowing a student to be ticketed, similar to an approach that has been implemented successfully in Clayton County, Georgia.

⁸ Texas Appleseed, p. 18.

(2) Keep More Students in the Classroom

- Develop disciplinary responses that do not involve the removal of youth from the classroom. Schools and principals should take responsibility for developing after-school detention programs and responses involving denial of privileges that do not affect the students' ability to remain in the classroom during instructional periods.
- Suspension and expulsion should never be a consequence for truancy, as these measures are obviously counter-productive for the objective of keeping youth in school.
- Only offenses that involve a risk of harm to oneself or other students should result in out-of-school placements in a DAEP or JJAEP.

(3) Provide School and Teachers with More Effective Tools to Address Student Misbehavior

- Provide schools with the resources to adopt school-wide Positive Behavior Interventions and Supports (PBIS), an evidence-based strategy proven to reduce student misbehavior and to bring down the rate of disciplinary actions. Moreover, this strategy helps identify and address the unmet needs of students that may be contributing to their misbehavior. Teachers and staff must receive appropriate training to ensure this model is implemented properly.
- Ensure that school resource officers receive specialized training on crisis intervention with students with mental illness, verbal de-escalation, special education issues, trauma-informed interventions, and cultural competency.
- Provide students with effective interventions that address the underlying trauma that many of them have experienced in their homes and communities.

(4) Improve Transparency

- Require school districts, school district police departments, and individual campuses to maintain and report data to the Texas Education Agency regarding the use of suspension, expulsion, and ticketing. This data should allow for analysis of whether minority students and special education students are over-represented when it comes to the use of these disciplinary methods, as well as analysis of the nature of the offenses that give rise to the use of discipline.

Conclusion

Texas's reliance on disciplinary methods that rely heavily on exclusion from the classroom and on the criminal justice system did not occur overnight, and we should not expect this reliance to end with a single new statute. But it is absolutely critical that we begin to address the serious problems that have arisen as a result of these punitive and ineffective discipline methods.

We appreciate the leadership shown by the Committee Chairs to address these issues, and we are especially grateful to Senator Whitmire for his efforts to pass legislation last session that sought to address some of the concerns raised in our testimony. The Barbara Jordan Freedom Foundation stands behind your efforts and calls on all legislators to recognize the importance of these issues to the children in our state. We **MUST** do better than we are doing right now if we want to put our children on a path towards success in schools rather than in a pipeline to the criminal justice system.

Thank you for your consideration.



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