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EDUCATION:

Juris Doctorate, St. Mary's University School of Law, San Antonio, Texas.
Master of Arts in Education, Supervision and Curriculum, University of Texas at San Antonio.
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Interpreter for the Deaf, San Antonio College, Adult and Continuing Education

LEGAL MEMBERSHIPS:

The United States Court of Appeals for the Fifth Circuit
United States District Court, Western District of Texas, San Antonio Division
State Bar of Texas
American Bar Association
Federal Bar Association
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CERTIFICATIONS:

Mediation

- Basic Civil and Business
- Family and Interpersonal
- Suits Affecting the Parent/Child Relationship

Texas Teaching Certificate
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LEGAL EXPERIENCE:

Sole Practitioner. The Law Office of Karen Dalglish Seal, PLLC. Current.
Freelance legal work for several San Antonio attorneys and organizations. February 25, 2000 -2001.
Legal Assistant. Texas Rural Legal Aid. 405 N. St. Mary's, San Antonio, Texas 78205. (210) 475-0393. Supervising Attorney, Mary Christine Reed. June, 1999 - November, 1999.
Research Assistant. St Mary's University School of Law, San Antonio, Texas. Supervising Attorney, Professor Stephanie Stephens. Spring and Summer Semesters, 1999.
Law Clerk. Law Office of L. David Levinson, Attorney at Law. 824 Thorain, San Antonio, Texas. June, 1998 - June 1, 1999.

BUSINESS EXPERIENCE:

Sole Proprietor/Consultant. Disability Advocates/Consultants of South Texas, 202 East Park Avenue, San Antonio, Texas 78212.

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ADMINISTRATIVE EXPERIENCE:

Coordinator/Supervisor, Department of Special Education, Southwest Independent School District, San Antonio, Texas (1994 - 97). **Program Coordinator/Developer,** South San Antonio Regional Day School Program for the Deaf, South San Antonio Independent School District, San Antonio, Texas, (1995 - 96). **Transition Coordinator,** Hondo Special Education Cooperative, Hondo, Texas, 78861 (1989 - 94). **Coordinator,** Vocational Adjustment Program, (1983 - 89) and **Coordinator,** Migrant Program, Medina Valley High School, Castroville, Texas, (1983 - 84). **Assistant Coordinator,** Service Development Project for Elderly Deaf Persons, Texas Commission for the Deaf, Austin, Texas, (1976 - 77).

TEACHING EXPERIENCE:

Science and History Teacher, Regional Day School for the Deaf, San Antonio I.S.D. San Antonio, Texas, (1980 - 83). **Teacher of Learning Disabled Students,** Horace Mann Middle School, San Antonio I.S.D., (1979 - 80). **Teacher of Deaf/Blind Adolescents,** Texas School for the Blind, Austin, Texas, (1977 - 79). **Teacher,** Regional Day School for the Deaf, Wheatley High School, San Antonio I.S.D., (1975 - 76). **Teacher,** Sign Language, Southwest I.S.D. Community Education Department, (Fall, 1995).

OTHER EMPLOYMENT EXPERIENCE:

Interpreter for the Deaf, Texas Rehabilitation Commission and San Antonio Council for the Advancement of Services to the Deaf, Texas Commission for the Deaf (1975 - 85). **Swimming Instructor,** San Antonio Parks and Recreation Department, (Summers, 1970 - 75). **Teacher Assistant,** Deaf Program, Trinity University, San Antonio (1973 - 75). **Tutor in the Adult and Continuing Education Program,** San Antonio College, G.E.D. Program, (1970 - 72). **Reader for the Blind,** (1970 - 71). **Teacher Assistant in the Visually Handicapped Program** at San Antonio College, (1970 - 71).

ORGANIZATIONS OUTSIDE OF LEGAL COMMUNITY:

Member, Sierra Club, (1985 - Present). Alamo Group of the Sierra Club Executive Committee Member. Conservation Chair of the Alamo Group of the Sierra Club (Current). Lone Star Chapter of the Sierra Club Legal Counsel (Current). Elder, Oak Hills Presbyterian Church (Current). Member, Americans United for the Separation of Church and State.

Students with Special Needs in the Juvenile Justice System

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BACKGROUND

Public schools work within strict parameters and with stifling constraints that severely limit creativity and independent thinking. In order to maintain funding, schools must be successful. They must be "recognized", "exemplary", etc. (Elementary and Secondary Education Act, 20 U.S.C.A. §§ 6301-7941, a.k.a. "No Child Left Behind") To reach their goals, school personnel teach to the achievement tests and practice "zero tolerance." Meanwhile the schools have unmanageable numbers of students. Teachers often have classrooms where a large number of students are receiving services through special education (20 U.S.C. 1400 et.seq.) or Section 504 (34 C.F.R. Part 104) due to special needs.

School districts justify their "zero tolerance" policy by emphasizing the need to achieve academic success. (Elementary and Secondary Education Act, 20 U.S.C.A. §§ 6301-7941). Educators do not want the few students who will not behave interfering with the ability of the majority of students to learn. In addition, school principals often receive benefits and promotions based on the success of their schools. Job security often depends upon test scores.

Within that framework, schools must contend with an increasing incidence of crime in the schools, gang activity, bullying and drugs. Somehow, schools must teach while contending with all of these issues and pressures.

THE PROBLEM

In 1975, Congress passed the Education of All Handicapped Children Act (E.H.A. or Public Law 94-142). For the first time, schools were charged with educating children with disabilities within the general education system. Students with disabilities who had previously been isolated in separate schools were suddenly thrust onto the public school campus. Changes in the education system and physical campuses followed especially after the passage of the Americans with Disabilities Act in 1990 that mandated accessibility.

At that time, the schools did not face a dilemma since it was fairly easy to segregate the children with disabilities from the general education population within the school setting. Most often, students with special needs found themselves in portable buildings at the far end of the school c

campus where, in case of an emergency, no one was available to assist the special education teacher. However, the majority of the school population remained safe.

That situation continued as E.H.A. became known as the Individuals with Disabilities Education Act (I.D.E.A.). With time, I.D.E.A. faced legal challenges until "mainstreaming" and "inclusion" became the educational structure for children with disabilities. The law stated, in relevant part, that students with special needs should be provided "a free and appropriate public education (F.A.P.E.) in the least restrictive environment (L.R.E.)"(20 U.S.C. §§ 1412(5)(B).

Public schools could no longer isolate students with disabilities in separate and not equal facilities on a general education campus. Students with special needs could no longer be hidden. Even more frightening to the schools—these students were now in classes with the general education population.

The world, as the public school administrators knew it, changed radically. This change combined with all of the new stressors (gangs, drugs, mandatory assessments, etc.) created a very difficult to manage school system that continues today.

THE STUDENTS

The Special Education umbrella encompasses students with diverse disabilities but, the school systems struggle most often, with children diagnosed with emotional disturbances (E.D.) and attention deficit hyperactivity disorder (A.D.H.D. or Other Health Impaired). However, students with other disabilities might also "act out" in the educational environment. Children with learning disabilities or with sensory disorders such as hearing or visual impairments sometimes demonstrate inappropriate behaviors out of frustration, challenges with verbal or written expression, the inability to follow instructions or a desire to obtain peer approval. Students with mental retardation often have difficulties controlling their behaviors due to a lack of understanding of their world.

Students with disabilities who do not qualify for special education services may receive services under Section 504 of the Civil Rights Act of 1973 (hereinafter "504"). Students who qualify for 504 services have a 504 plan developed by a 504 team. These students are considered separate and apart from students in special education.

In order to manage the unwanted behaviors of a student with disabilities, the child's team, the Individual Education Program team (I.E.P. team), often develops a behavioral individual education plan called a behavior management plan (behavior improvement plan) or a behavior improvement plan (B.I.P.). That plan is designed to meet the unique needs of the specific student. It must be followed by everyone having contact with the student in a school program. The process of developing the plan is cumbersome but complying with the plan often creates even more challenges. More often than not, the plan is imperfect. It may take several more meetings of the entire team to develop a program that meets the needs of the student. In the interim, the student cannot be disciplined for a behavior that is a manifestation of his or her disability. 20 U.S.C. §§ 1415. An imperfect plan thus forces the school to tolerate behaviors that might

interfere with the learning environment. The bottom line is that the school personnel must learn to adapt and strive to make the B.I.P. or B.M.P. work or find another solution.

THE OTHER SOLUTION

In an interesting twist of law, municipal and state courts do not have to address the special needs of children. The courts and the juvenile system do not have federal mandates regarding the treatment of these children. Meeting the special needs of juveniles with disabilities may be a goal but it is not a mandate unless a specific state or municipality creates its own law or regulation. Moreover, the law regarding the public school system does not provide specific consequences for having children with special needs arrested and sent to the juvenile system (or a municipal or justice of the peace court). The school districts who carefully comply with the letter of the law, simply dismiss the child from special education and then have the child arrested a short time later. Consequently, a large number of students with special needs find themselves in the juvenile justice system (or answering to a justice of the peace or a municipal court judge).

THE LAWYER'S ROLE

Once the student with special needs enters the juvenile justice system, legal representation becomes necessary. The objective of the lawyer should be to ascertain if the child he or she is representing has a disability. Unfortunately, this task is not always easy.

The possible answers may or may not be found from one of the following:

the predisposition report

the probation officer

the parent

the school

school records

the attorney's own observations

Predisposition Report

A predisposition report (known by different names in different states) is written by the probation officer to assist the Court in determining what should happen to the juvenile. The probation officer gathers information from a number of sources. The report will address the juvenile's family situation, the living arrangements, education, past history with the system and other relevant matters.

Within that report should be information about the juvenile's educational status including whether or not the child receives special education services. Nine times out of ten, the report has educational discrepancies. It should not be relied upon as a primary source of information.

Probation Officer

Ask the probation officer. Sometimes information is obtained after the report is complete. That information does not always become incorporated in the report. Even if the probation officer insists that the child is not a student with special needs that information may be incorrect for a variety of reasons including ignorance about students with disabilities.

Parent

Unfortunately, the parent is frequently the person least likely to know what is happening at school with his or her child. If the parent is aware that his or her child receives "special" services, the parent may not know if those services are offered under I.D.E.A., 504 or Limited English Proficiency. It is likely that the parent will not be aware of the exact nature of the services.

School

The school sent the student to the legal system very likely because the juvenile was disruptive and the school personnel could not control him or her. Request the records.

School Records

The most accurate source of information about the student is school records. However, the lawyer must understand exactly what to request and then know how to interpret the acronyms and terms of art designed to be intentionally oblique. In order to obtain the records, the lawyer must have a written release signed by the custodial parent or legal guardian of the child.

Tips:

Request all special education, general education and 504 records including, but not limited to, assessments, behavior improvement plans, individual education plans, office/discipline referrals, grades and achievement test scores for the previous five years.

Go to <http://www.wrightlaw.com> or <http://kseallaw.com> (Vol. 1, Issue 1) and become familiar with the terminology.

Fax or deliver the releases to the school the child attends, the Office of Special Education and the superintendent's office.

If the juvenile is attending an alternative school, send the release to the home campus and the disciplinary campus.

Plan to review the information prior to the next detention hearing, if the child is in detention, and definitely prior to the next court date.

Attorney Observations

Never underestimate an attorney's own opinions and instincts. If the juvenile seems to have a problem, follow up with questions. Specifically, ask questions about behavior. How long has the child exhibited these behaviors? Did the juvenile client have problems learning in the past? Get explanations. Has the child ever received services under special education or 504? Was the child dismissed from special education or 504? When? If it seems appropriate, request that the Court perform a psychological to determine the child's fitness to proceed. That testing can be done while waiting to receive school records.

FINDING THE EVIDENCE

After the attorney studies the evidence and gathers information, that lawyer may find him/herself perplexed by the information. Despite the lawyer's "gut feeling" that this child being represented has a disability, the evidence may seem to prove otherwise. The lawyer then must pose the question, "Why? Why is this juvenile who is so obviously disabled lacking a label that would indicate a need for serious intervention? Why is no one providing services? More importantly, what am I missing?"

The Answer is often:

As students enter middle school, educators begin to feel the pressure of standardized assessments, gangs, drugs, etc. The students become larger, more mobile and less docile. The gap between the children with disabilities and the students without special needs often grows and becomes more obvious. Schools lose their tolerance for children who have disabilities especially when inappropriate behaviors are involved. Suddenly, the student with special needs is "cured", labeled differently, dismissed from special education or lost in the system. The following scenarios can occur:

Parents are convinced by educators that their child has shown demonstrable improvement or, at least, the child has no educational need to remain under the special education umbrella. The ecstatic parent agrees that the child should be dismissed from special education services.

OR

The behavior improvement plan is working. The school has finally developed a sequence of interventions that work. The student no longer seems to have a need for the B.M.P. so the school personnel argue that the student should be dismissed from special education or that the behavior improvement plan should be removed from the student's educational plan.

OR

The student is making progress. The school decides that the child no longer needs special education and recategorizes the student under Section 504—a general education label.

OR

The school informs the parent that the child does not need an E.D. label. They can provide whatever services are needed under another label and avoid the stigma of the E.D. label.

OR

The student was never identified as a child with special needs.

INVOLVE THE SCHOOL

Since the child may be in the juvenile system because of the school's failure to comply with federal law or to identify the student as a child with special needs, it is important, whenever possible to involve the school in the juvenile process.

A first step is often to request the school's support. Developing a relationship with the school and having their assistance does happen and is encouraged. More often than not, the educators will claim that the child is no longer their responsibility or that the situation is now out of their hands. Therefore, understanding the law is essential to enlisting the school's aid. Consider the laws apply to the school at this junction.

fThe juvenile was dismissed from special education. I.D.E.A. mandates that the schools properly identify students with special needs. 20 U.S.C. 1414(5)(B). Failure to identify the student with a disability and to address his or her special needs is a violation of I.D.E.A.

If the student was provided services under I.D.E.A. until shortly before his or her detention and/or the school dismissed the student without evaluating him or her then there may still be an issue of failure to identify. The attorney should consider the behavior that brought that student to juvenile. Was that behavior a manifestation of the juvenile's previously identified disability?

Other possibilities of actions that could exacerbate undesirable behaviors and be a violation of I.D.E.A. include:

removal of E.D. label even if the student is still receiving services in special education . (Failure to identify. Williamson County Bd. of Educ. v.C.K. 2009 WL 499386 (M.D.Tenn.) February 27, 2009) 20 U.S.C. §§ 20 U.S.C. 1414(5)(B).

inadequate I.E.P. (Failure to provide a free and appropriate public education.) 20 U.S.C. §§ 1412

failure to conduct a manifestation determination. 20 U.S.C. §§ 1413;

failure to provide reasonable accommodations under Section 504. (Violation of 504).

There may also be abuses of the process or L.R.E. violations. Pointing these violations out to the school district is often helpful in obtaining their assistance. If no help is forthcoming, then:

request an I.E.P. meeting to discuss the issues;

file a request for due process with the State Education Agency;

file a complaint with the State Education Agency; or,

for 504 violations, file a complaint with the Office of Civil Rights.

The above listed actions can be motivators. Educators often have a change of heart or a sudden realization that they could do more for a child once there is a reminder of the need to comply with the law.

REPRESENTATION IN THE JUVENILE JUSTICE SYSTEM

Once the attorney has completed his or her homework, the next step is representation of the juvenile with special needs in the juvenile justice system. At that point, the attorney must communicate his or her information to the probation officer, the parent and the judge. The strategy should be measured and well planned. Careful attention should be focused on these actions:

The P.O. needs to understand how the disability relates to the offense. He or she must be willing to help the juvenile.

Enlist the cooperation of the parent. The parent should have been involved in the process from day one but, at this point, that parent's assistance is mandatory.

Talk to the prosecutor and the judge. Let them know the situation.

Finally, develop a plan.

THE PLAN

The Court may feel sympathy for your client but it will not initiate a plan that meets the needs of the child without some assistance. The attorney, having gathered all of the information on the juvenile and enlisting the help of school experts and the parent, should develop a plan. The P.O. should be included in the development of the plan. That plan should include most aspects of the child's emotional and educational needs while protecting the public. If at all possible, it should exclude further incarceration. Most children with special needs are too vulnerable to gangs and crime.

Examples of Interventions:

Roger L.

Roger was a fifteen year old child diagnosed as having learning disabilities. He appeared "normal" in all respects. He was polite and quiet. Roger had no history of violent behavior. One day, Roger was accused of sexually assaulting a child of five.

Roger was looking at doing serious time in a juvenile facility. He was lucky. His attorney read Roger's records and realized that Roger was mentally retarded. Roger had an IQ score of 67 which placed him in the mildly mentally retarded range. Roger's adaptive behavior seemed higher due to the child's overall passive behaviors. He knew how to smile and be pleasant. However, Roger's level of functioning was at the level of the child he abused. (Had the behavior occurred between two five year olds, the consequences would have been minor.)

Roger's educational team had placed him in remedial classes where Roger was barely passing. He had never passed a standardized test. Roger was misdiagnosed. He was a classic example of "failure to identify".

Roger was lucky after the incident. His parents had to accept the extent of Roger's disability. The school had to reassess the student's needs and the court system had the opportunity to evaluate the situation given the new set of facts. Finally, a plan had to be formulated,

Roger's parents had the resources and willingness to move away from the victim's family and from the city into the country. They agreed to keep Roger under their constant watch while Roger was in therapy. His mother quit her job to stay home. She arranged counseling for Roger.

The school system acknowledged their involvement and agreed to provide additional services.

After the third time of appearing before the Court, Roger was released on probation to his family. Everyone, the school, the parents, the juvenile system and the attorney understood the seriousness of the situation and the need to work together. The plan was adopted and successful.

Juan L.

Juan was an emotionally disturbed teenager whose I.E.P. team had removed him from special education services when he entered the sixth grade (against their attorney's advice). In less than a month after being dismissed from services, Juan landed in the juvenile justice system due to behaviors that were related to his previous diagnosis of A.D.H.D. However, since the child was no longer protected by I.D.E.A., the school did not hold a manifestation determination meeting.

Juan remained in juvenile for the maximum length of time before he was charged with an offense. The child was offered an education while at the detention center but the teachers had no knowledge of Juan's Individual Education Plan or of his diagnosis.

Fortunately, the attorney had begun developing a plan. The P.O. understood the child's needs and agreed to work with the family.

However, before the matter came before the court, the attorney realized that Juan had been charged with the same offense in a justice of the peace court. In frustration, the school administration had filed charges on Juan in both J.P. and juvenile court. The attorney appeared in J.P. court, paid the fine and had the matter dismissed in juvenile. (Warning: That may prevent detention of the student but it may leave a criminal conviction on his record.) Since the child returned to school and had an attorney to represent him, the behaviors were addressed appropriately by the school.

Misty J.

Misty was a middle school student who had no history of misbehavior. She did have a diagnosis of learning disabled. Misty and a friend were in the hallway in school. Someone hit Misty's friend. Misty reacted by hitting the other student. In the zero tolerance atmosphere of today's schools, Misty was placed in In School Suspension pending a manifestation determination meeting. (Although the school had not made a correct diagnosis, Misty did have a serious emotional disturbance that was exasperated by this incident.)

At the manifestation determination meeting, the committee found no correlation between the behavior and the disability. Misty was expelled. She had already been arrested for her actions and sent to juvenile detention.

Misty's attorney developed a plan and the Court participants agreed to help Misty. The school refused to cooperate. The charges were eventually dropped but Misty was sent to an alternate education program by the District for the remainder of the school year.

Stephany L.

Stephany was represented in Juvenile Court by an attorney who did not understand the child's special needs. Stephany was a quiet girl of thirteen with one child and pregnant with a second. Stephany was accused of child abuse. She received probation. No agency other than probation followed up on this child.

Karen Dalglish Seal was appointed to represent Stephany as the child and as a mother in Children's Court. Stephany was an abuser because she had been abused. Stephany had been diagnosed with a learning disability. Her attorney, having read Stephany's history and having spoken to the child's caseworkers and the foster parents, believed that this child had a serious emotional disturbance. She made a referral to have Stephany tested. When the testing did not verify the disability, her attorney as guardian ad litem, filed for due process against the school district.

At the last moment of the day of the hearing, the caseworkers refused to testify "against another state agency". The psychologist for the school district testified that the child was doing well and

had no emotional disturbance. No further services were provided through the school because no emotional disturbance was diagnosed,

Probation ended successfully. Stephany did everything required of her. She was even living with her first child and the second child born to her in foster care at the foster home.

One day, Stephany suddenly left her two children, her school and her foster home. She left from her high school during the school day. Stephany was several months short of turning eighteen so her caseworkers and the state child protective agency let the matter end. Two years later, Stephany was arrested for murdering her next two children and hiding their bodies.

CONCLUSION

The final outcome of the lives of children with special needs who enter the juvenile system is dependent upon the diligence of the professionals who represent these children. Their lives and the lives of others are in our hands.

Maybe some children cannot be saved but, with due diligence, many can be. More stories could be told about the children with disabilities who leave the juvenile system and graduate to the adult system. Is it possible that we could do more to improve these children's lives and protect society just by understanding and using the tools and laws that are available?

2011

Texas and the “school-to-prison pipeline”

By Melanie Wilmoth

A recent Washington Post article by Donna St. George sheds light on the increasing criminalization of student discipline in the US and the effect it has on Texas children.

As a result of zero-tolerance policies, schools have been funneling kids from the classroom to the cell-room through what some are calling the “school-to-prison pipeline.” Schools have increasingly turned to ticketing to deal with behavior issues that, in the past, were handled by school administration. It is not uncommon for students to receive school-based tickets for disruptive behavior such as cursing in class, tardiness, truancy, and fighting. Shockingly, a 2010 report by Texas Appleseed indicated that children as young as 6 have received tickets.

St. George points to some equally alarming facts:

[Texas] stands out for opening up millions of student records to a landmark study of discipline, released in July . The study shows that 6 in 10 students were suspended or expelled at least once from seventh grade on. After their first suspension, they were nearly three times more likely to be involved in the juvenile justice system the next year, compared with students with no such disciplinary referrals...Students who have been arrested or appeared in court are more likely to drop out of high school...Dropouts, in turn, are more likely than graduates to be incarcerated or unemployed.

The criminalization of student discipline has become such a prominent problem in the US, that national organizations such as the American Civil Liberties Union have made challenging the “school-to-prison pipeline” one of their key issue areas.

Texas students sent from classroom to courtroom

By Donna St. George

SPRING, TEX. — In a small courtroom north of Houston, a fourth-grader walked up to the bench with his mother. Too short to see the judge, he stood on a stool. He was dressed in a polo shirt and dark slacks on a sweltering summer morning.

“Guilty,” the boy’s mother heard him say.

He had been part of a scuffle on a school bus.

In another generation, he might have received only a scolding from the principal or a period of detention. But an array of get-tough policies in U.S. schools in the past two decades has brought many students into contact with police and courts — part of a trend some experts call the

criminalization of student discipline.

Now, such practices are under scrutiny nationally. Federal officials want to limit punishments that push students from the classroom to courtroom, and a growing number of state and local leaders are raising similar concerns.

In Texas, the specter of harsh discipline has been especially clear.

Here, police issue tickets: Class C misdemeanor citations for offensive language, class disruption, schoolyard fights. Thousands of students land in court, with fines of up to \$500. Students with outstanding tickets may be arrested after age 17.

Texas also stands out for opening up millions of student records to a landmark study of discipline, released in July . The study shows that 6 in 10 students were suspended or expelled at least once from seventh grade on. After their first suspension, they were nearly three times more likely to be involved in the juvenile justice system the next year, compared with students with no such disciplinary referrals.

Citing the Texas research, federal officials announced last month an initiative to break what many call the “school-to-prison pipeline.” S uspensions, expulsions and arrests are used too often to enforce school order, officials said.

“That is something that clearly has to stop,” U.S. Attorney General Eric Holder said in Washington alongside Education Secretary Arne Duncan .

This month, Duncan recounted that in his old job as Chicago schools chief, he was stunned to learn that so many arrests occurred in schools. The first response to student misbehavior, he said, “can’t be to pick up the phone and call 911.”

The federal focus comes amid other change. In Colorado, a legislative task force is examining discipline practices including law enforcement referrals and school ticketing. Los Angeles police recently agreed to cut back on ticketing tardy students en route to school.

Connecticut officials have begun screening cases after students wound up in court on violations such as for having soda , running in the hall and dressing improperly. “It’s not that we don’t think these things should be handled,” said William Carbone, the state’s executive director of court support services. “We just think they should be handled in the school rather than the court.”

Research shows that students who have been arrested or appeared in court are more likely to drop out of high school, said Gary Sweeten, an Arizona State University criminologist. Dropouts, in turn, are more likely than graduates to be incarcerated or unemployed.

‘Defied common sense’

The suburban Houston courtroom was packed with students, parents and siblings. Justice of the Peace Judge J. Kent Adams spoke of the importance of consequences, the duties of parents and the reality of being ticketed.

The fourth-grader who tussled on the bus was 10. After his appearance, his mother, Kimberly Smith, questioned whether her son belonged in court.

"I'm all for consequences, but I think it could have been handled another way," she said. She had no chance to mention her son's attention-deficit hyperactivity disorder and bipolar disorder, she said.

The child was ordered to do eight hours of community service and take classes in anger management and decision-making, at a cost of \$370, Smith said. "I'm a single parent," she said. "Four hundred dollars? I have two other boys."

It is hard to pinpoint the beginning of ticketing in Texas, but advocates say it expanded during the 1990s as many school systems started police forces and as zero-tolerance policies proliferated

Texas is not alone in school-based ticketing, which occurs in several other states. In the Washington area, where Fairfax County has reexamined discipline policies in the aftermath of a student athlete's suicide, school and police officials report no such ticketing practices.

In Texas, many question whether ticketing went too far.

In one highly publicized case, a middle school student in Austin was ticketed for class disruption after she sprayed herself with perfume when classmates said she smelled.

In Houston one recent day, a 17-year-old was in court after he and his girlfriend poured milk on each other. "She was mad at me because I broke up with her," he said.

Student Precilla Sanchez, 15, said most of her friends "have one ticket or more."

"You got to a point where police were writing tickets for things that were not appropriate," said Brock Gregg of the Association of Texas Professional Educators. He said the association supports police in schools but wants more emphasis on helping students rather than sending them to court.

Debate over ticketing heated up in January after a 200-page report from Texas Appleseed, a public interest law center, documented 275,000 juvenile tickets in fiscal 2009, including 120,000 for truancy. The statewide data did not separate school tickets from those issued in other settings.

But the report's data from 22 Texas school districts showed ticketing rates that ranged from less

than 1 percent of students in Pasadena to 11 percent in Galveston.

“It really defied common sense,” said Deborah Fowler, the report’s lead author, who found tickets issued to students as young as 5.

The study also found that as school police staff grew, often so did ticketing. In Austin, for example, district police staff rose 31 percent over six years as ticketing climbed 50 percent.

“More misbehaving students are being bumped into the court system nationally, and the main reason is the increasing presence of police in schools,” said Paul Hirschfield, a Rutgers University sociologist.

Parents in Texas complain that tickets are written up too easily and that authorities overlook whether students have disabilities or are acting in self-defense.

Lawyer Yvonne Q. Taylor, who works for a juvenile justice project at Texas Southern University’s Earl Carl Institute for Legal and Social Policy, said her experience bears out a finding of the ticketing report: Racial disparities are common.

In Dallas, where 30 percent of students are African American, 62 percent of those ticketed are black, the report said. In the Houston area, Taylor said, “I rarely see a white face in the courtroom.”

One of her recent cases involved Yiovani Williams, the son of a police detective. The 15-year-old said he talked back to an English teacher after she repeatedly said he could not use the restroom. The teacher accused him of cursing, which he denied. He was ticketed for disorderly conduct and suspended for a day.

His parents, Racquel and Willie Williams, said they were stunned such an incident could be considered criminal. Earlier, their older son had been ticketed after a classroom incident.

“We have worked so hard to keep our children out of the same court system they put them into so easily,” Willie Williams said. “For something as minor as this, he has to be criminalized?”

Still, ticketing has supporters.

Ken Knippel, an assistant superintendent of the Aldine Independent School District, with 62,000 students and 39 police officers, said a ticket is one of many responses to an infraction. “Should it be used to modify all behavior? No,” he said. “Are there times when it is appropriate? Yes, there are.”

Gregg Anderson, president of the Texas Association of School Resource Officers, said that tickets don’t get written every day or for every offense but that when a problem is repeated or

severe, “it’s another tool in our belt.” Some police officers ticket more than others, he said, noting that he supervised a middle school with perhaps 10 tickets all year.

Ticketed students can’t just mail in a fine, as drivers could with a traffic ticket. In Texas, they must appear with a parent in an adult court — in a municipal court or before a justice of the peace.

At a recent court date, parent Avril Jenkins was leaning toward paying a \$165 fine rather than higher costs for a deferred disposition program that included classes.

“I’d still get into college with that, right?” asked her worried 16-year-old daughter.

The question of criminal records is complex. A new law seals court records once misdemeanor judgments are satisfied. Paperwork also can be filed to expunge records at age 18 for one-time offenders.

How much such issues matter in college applications depends on the offense and a student’s overall record and explanation, admissions officers said.

Alienating students

In downtown Houston, Municipal Court Judge David Fraga sees perhaps 150 juvenile ticketing cases a day during the school year, about half of them school-related. In his court, punishments include community service and behavior-related workshops, and many offenders are able to avoid fines. The idea is, he said, “to learn, to make good choices.”

But others ask: Why are minor offenses here at all?

“It’s oftentimes dumb teenage behavior, which most of us did at one time or another,” said state Sen. John Whitmire (D-Houston). In the spring, Texas lawmakers passed legislation to scale back ticketing for younger children and truancy cases.

Janell Blackburn, who was in Fraga’s court after her teen daughter and an ex-boyfriend had argued and bumped each other, said ticketing should be ended for all but the most severe offenses.

“It’s almost like when they gave the school districts the right to have the police officers there,” she said, “and they gave them the tablets of tickets, they started writing it all up.”

For the students, she said, “it’s turning them against the school itself. They don’t want to go back there.”