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INTERIM TESTIMONY 2014

House Committees on Corrections and Public Education

Study the impact of Senate Bill 393 and Senate Bill 1114. Assess the impact of school discipline and school-based policing on referrals to the municipal justice, and juvenile courts, and identify judicial policies or initiatives designed to reduce referrals without having a negative impact on school safety.

Dear Members of the Committees,

My name is Jennifer Carreon. I am a Policy Researcher for the Texas Criminal Justice Coalition. Thank you for allowing me this opportunity to present testimony on the implementation of SB 393 and SB 1114.

OVERVIEW OF SCHOOL DISCIPLINE PRACTICES & RESPONSES IN TEXAS

While well intentioned, school discipline practices – like “zero-tolerance policies” – have resulted in a multitude of negative consequences in Texas: the over-criminalization of adolescent behavior, disproportionate discipline among youth of color and youth with disabilities,¹ greater numbers of expulsions,² and a path to future juvenile justice system involvement.³

In order to stymie the perpetuation of these consequences, Texas legislators passed SB 393 and SB 1114 in 2013, prohibiting the issuance of a citation for behavior that rises to the level of a Class C misdemeanor, while on school grounds.

MONITORING THE IMPLEMENTATION OF SB 393 AND SB 1114

A full school year has passed since Governor Perry signed SB 393 and SB 1114 into law. Unfortunately, and largely due to a lack of data being collected on school discipline by both school districts and school law enforcement, **the challenges associated with implementing these pieces of legislation are unclear and are largely anecdotal.**

The data that does exist, however, reveals an overreliance on School Resource Officers (SROs) to manage student misbehavior in Texas. In fact, in the first school semester following passage of SB 393 and SB 1114, the Office of Court Administration saw a 71% decrease in the number of citations filed for Class C misdemeanors delineated in Texas’ Education Code (e.g., disruption of class and disruption of transportation).⁴ Given the unlikelihood that students simply stopped engaging in misbehavior that was once criminalized as a Class C misdemeanor, it would seem **more plausible that the decrease in citations is a direct result of legislation.**

The issue now becomes how schools are managing misbehavior they previously felt warranted a criminal record and a \$500 citation. With a goal of providing some insight, TCJC has begun to collect information on the use of a formalized “complaint” process and “progressive sanctions” by Independent School District (ISD) police departments, as they are delineated in Sections 37.145 and 37.144 of the Education Code. Specifically, we disseminated a 7-question survey to 81 ISD police departments seeking information that may provide greater clarity on legislative implementation.

Though, at this time, our findings are limited and cannot be generalized to all school districts, we believe that the responses we have collected warrant further exploration to determine what language, if any, should be amended in the upcoming legislative session to ensure that the intention of the original legislation is preserved.

Note: Given that the option to employ progressive sanctions was only provided to school districts that commission their own officers (e.g., ISD police departments), we distributed our survey to ISD police departments only; at the time of this writing, 16 departments have responded.

KEY FINDINGS

- **School law enforcement officers have begun to employ a formalized complaint process in the absence of Class C citations, indicating awareness that such charges can still be filed, though additional paperwork is required.** As opposed to filing a Class C citation, this formalized complaint process includes, in addition to the requirements set forth by Article 45.019 of the Code of Criminal Procedure, an offense report, a statement by a witness to the conduct, a statement by the victim (if any), and a statement from a school employee stating whether the student is eligible to receive special education services, as well as whether any graduated sanctions were imposed prior to filing a complaint. Approximately 56% of respondents (9 out of 16) indicated using such a formalized complaint process.
- **School law enforcement officers are not using progressive sanctions as recommended by SB 393.** Progressive sanctions can include a warning letter, a behavior contract, the performance of school-based community service, or a referral to counseling, community-based services, or other in-school or out-of-school services aimed at addressing a youth's misbehavior. Approximately 75% of respondents (12 out of 16) indicated they do not employ progressive sanctions to address student misconduct.

COST-SAVING AND PUBLIC SAFETY-DRIVEN SOLUTION

- **The use of both formalized complaint processes and progressive sanctions must be thoroughly examined.** Again, such tools are intended to replace the use of citations for behavior that rises to the level of a Class C misdemeanor, while on school grounds; as such the Legislature must ensure that these tools are fully understood and being utilized as intended.
- **Strongly consider mandated, rather than permissive, progressive sanctions.** TCJC has heard various complaints in regards to the impact that SB393 and SB1114 have had on "managing" student misbehavior. Among those complaints, two in particular, "our tools for discipline have been removed" and "misbehavior among youth has increased," appear to speak directly to the schools or the ISD PD's inability to employ progressive sanctions. Policy makers should strongly consider mandating the progressive sanctions that were permitted by SB393.

In addition to ISD police departments, this mandate should be extended to include school districts as well. Doing so will allow for a more uniform process in managing misbehavior among youth and more importantly ensure that underlying needs causing their misbehavior have been assessed and met within the school setting.

Citations

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* (New York: July 2011), http://csgjusticecenter.org/wp-content/uploads/2012/08/Breaking_Schools_Rules_Report_Final.pdf.

² *Ibid.*

³ *Ibid.*

⁴ Data provided to TCJC for analysis by the Office of Court Administration, May 27, 2014.