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**Legislative Changes to School Policing and the Role of Today's  
Police Officer**

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**A Leadership White Paper  
Submitted in Partial Fulfillment  
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## **ABSTRACT**

School districts and school administrators have become accustomed to using police officers for school based disciplinary purposes instead of dealing with the situation without police involvement. The Texas Education Code does not stipulate that a citation or arrest be made prior to a student being suspended or prior to them being assigned to an alternative disciplinary education campus, yet many school districts will not send students to alternative campuses without police intervention. Texas legislators are taking notice, either from special interest groups bringing it to their attention or by parents pleading their cases. Texas laws have been changing each legislative session to further restrict or prevent police involvement for minor offenses on school property.

In most cases, juvenile students are paying the price by receiving citations or by being arrested while also receiving school discipline. Citations and arrests create criminal records for students that may affect their future. Texas legislators are heading in the right direction, by listening to citizen concerns. However, they may also want to include law enforcement consultants before making legislative changes to prevent unforeseen mistakes which may result in arrests instead of citations.

Legislators can require all organizations with police officers in schools to report all class C misdemeanor citations issued before making such drastic changes. If police departments do not currently track these statistics, they will not exist without requirements being in place. Legislators are currently relying on information obtained by advocacy groups through public information requests. Legislative mandates regarding the reporting of citations issued in schools will allow correct information to be used by legislators before passing laws that take a victim's rights away from them.

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## INTRODUCTION

Texas school districts have become increasingly dependent on police officers to deal with student disciplinary issues. Police officers have been issuing citations to students for disciplinary issues, like disrupting class, obscene or profane language, offensive gestures, and fighting, for many years. Texas law allows anyone who is ten years of age or older to be issued a citation. An average ten-year-old is typically enrolled in the fourth or fifth grade, depending on what age they started kindergarten. Students issued citations may also receive in school suspension, suspension, or suspension and placement at a disciplinary alternative education campus. Students are receiving two forms of discipline for the same infraction in many cases.

Nonprofit advocacy groups are more involved in school disciplinary issues and are lobbying legislators to make changes. In the past, four legislative sessions, changes, or additions have been made to Texas laws that deal with student discipline. In 2011, laws were amended to prevent police officers from acting on certain offenses committed by students who are enrolled in certain grade levels. Other 2011 changes were affected regarding when schools can use corporal punishment and when school police officers must report the use of restraint (H.B. 359, 2011).

The increased use of police officers in schools has resulted in an increase in citations issued to students (Texas Appleseed, 2010). Many of these minor violations are school rule infractions and could be handled by school administrators alone. Changes to the laws do not affect all grade levels; however, Texas lawmakers are enacting more laws to lessen the amount of discipline by police officers and more by the

schools themselves. The laws are changing to prevent police involvement and reduce citations to younger students.

Police officers should use discretion when performing their duties concerning offenses against the state and should not be the first option when disciplining students. Students who continuously violate class c misdemeanor laws where the state is the victim may then be dealt with by law enforcement. School discipline can be the first option when a student violates minor class C misdemeanors.

## **POSITION**

School districts are too dependent on police officers to deal with classroom disruptions and minor student code of conduct violations. Police officers should not be involved in non-violent school disciplinary issues. Police officers have become more involved in school disciplinary issues, which, in most cases, results in the student receiving two forms of discipline for the same incident. If a police officer is called to a classroom for a disruptive student, the officer may issue a citation to the student. As a result of the citation, the school may suspend the student for not more than three school days (Texas Education Code 37.005, 2003). For more serious offenses, the student may receive a citation and placement to an alternative education campus for up to 30 days.

Schools have the ability to discipline students but rely on police officers to act first. School administrators rely on police action when choosing discipline for a student and often reference that action when asked by a parent why their son or daughter was suspended or placed in an alternative campus setting. A teacher is allowed to send a student to the principal's office if the teacher has documented the student's repeated

interference with the teacher's ability to communicate effectively with the other students in class or when the student prevents the other students from learning (Texas Education Code 37.002, 2005). Teachers and administrators do not need police action to remove students from class. Section 9.62 titled Educator-Student gives an educator the right to use force against a student "when and to the degree the actor reasonably believes the force is necessary to further the special purpose or to maintain discipline in a group" (Texas Penal Code 9.62, 1994, p. 1).

Several reasons for removing students from class and sending them to a disciplinary alternative education program are listed under Section 37.006 of the Texas Education Code. Students who are engaged in conduct like false alarms, terroristic threat, or who engage in conduct punishable as a felony offense are included (Texas Education Code 37.006, 2011). Students may also be sent to an alternative education program if the conduct occurred while the student was off campus and not attending a school-sponsored event, if the student's presence in a classroom threatens the welfare of other students or teachers (Texas Education Code 37.006, 2011).

Texas laws are changing and restrictions are being placed on officers to prevent younger students from receiving citations for offenses occurring during school or while riding school buses. Nonprofit advocacy groups are getting more involved with school discipline and are lobbying legislators to make these changes. Through open records requests, Texas Appleseed gathered ticketing and arrest information from more than 40 Texas school districts. This report is an update to a 2010 report that focused on misdemeanor ticketing and arrest of students and on the use of force by school police officers (Texas Appleseed, 2010).

The Texas Appleseed report found that two school districts in Texas, McAllen ISD and Brownsville ISD, implemented policies to control or eliminate citations for offenses occurring in school (Texas Appleseed, 2010). No difference between independent school district police departments and school resource officers related to citations or arrests were noted (Texas Appleseed, 2010). Recommendations were made in the report by Texas Appleseed to mandate training for school police officers on the appropriate and safe interaction with students as well as how not to escalate a confrontation with a student. The second recommendation required a school to follow a progressive sanctions model before a student could be ticketed and to refer the student to services and supports before a ticket is issued. The third recommendation was for better data to be collected to effectively gauge the use of security resources in schools (Texas Appleseed, 2010).

School administrators have become more dependent on police action prior to disciplining a student. In Texas, legislators are moving toward less police involvement while placing the emphasis on the schools to discipline the students. On May 30, 1995, Section 37.102 came into effect. This section allowed the board of trustees of a school district to adopt rules that, if violated, would be a class C misdemeanor (S.B. 1, 1995). Officers began issuing citations for violations of these school rules to students who were ten years of age or older. On September 1, 2007, Section 37.102 was amended to prevent officers from issuing citations for school rule violations. During a 12-year period from the enacted date to the amended date, citations were issued for school rule violations that are not found in any other statute. Legislators are also amending laws in

the education code and including more reasons a student can be expelled and placed in an alternative setting (Texas Education Code 37.0081, 2011).

Texas requires law enforcement to make both an oral and written notification to schools for certain offenses committed by students, either on or off school property. This law has been amended in each of the last four legislative sessions. The latest amendment requires the facts of the oral notification be included on the written notification. Prior to the last amendment, superintendents were given latitude to forward the notification to a school employee having direct supervision of the student. It is now mandatory for the superintendent to forward the information. Law enforcement must now include more detail of the offense or conduct including details of any assaultive behavior and if any weapons were used or possessed during the offense or conduct (Texas Code of Criminal Procedure 15.27, 2011). These amendments are allowing the schools to be better informed when making disciplinary decisions.

The Dallas Independent School District Police Department cut the number of citations given to students by almost a third since the 2010-11 school year in an attempt to keep students from going to court (Haag, 2013). Chief Craig Miller of the Dallas Independent School District Police Department believes they should do everything they can to keep the students in school and out of the criminal justice system (Haag, 2013). Chief Miller, a former Dallas police officer, believes students were receiving citations for offenses he did not think were necessary. Chief Miller tasked his officers to consider warning students instead of writing citations (Haag, 2013). As a result of Chief Miller tasking his officers, Dallas Independent School District police officers have issued less



than half the citations during a five-month period in the 2012 school year than was issued during the same five-month period the previous school year (Haag, 2013).

## **COUNTER POSITION**

Opponents to this idea believe that students should be held to the same standard in school that they are held to outside of school. Texas law makers, nonprofit advocacy groups, and parents feel that school administrators should discipline students and citations should not be issued in schools. The Texas Education Code stipulates that an administrator “may” suspend a student for student code of conduct violations (Texas Education Code 37.005, 2003), but it does not stipulate that police action is required prior to suspension. School administrators are expected to handle student code of conduct violations as school discipline without police involvement. Parents do not typically contact the police prior to disciplining their child for fighting or theft, but schools have grown accustomed to doing just that.

A mixed message is being sent to both law enforcement and school administrators. While changes to laws that prevent police officers from acting are taking place, laws preventing administrators from using certain forms of discipline are also taking place. Many parents believe that schools have the right to use corporal punishment on any student, but that is not completely true. If a parent or legal guardian refuses to allow corporal punishment (spanking), the parent or guardian can sign a document refusing to allow the school to spank the child (Texas Education Code 37.0011, 2011). New laws are being added and other laws are remaining. Texas Penal Code 9.62, titled Educator-Student, became effective on January 1, 1974 and was

amended on September 1, 1994. This law allows an educator to use force on a student for discipline (Texas Penal Code 9.62, 1994).

School administrators are relying on a police officer's expertise of the law. People believe an administrator should be able to handle all situations involving student discipline without calling the police, but not many people know the requirements put on administrators. Administrators and teachers no longer want to act in situations where they once did for fear of being fired or sued. Texas law requires a principal of a primary or secondary school to notify the police department if they reasonably believe certain offenses occurred in or on school property or while at a school-sponsored or related activity. The offenses requiring notification include deadly conduct, terroristic threat, and the use, sale, or possession of controlled substances, drug paraphernalia, or marijuana. The possession of any weapon listed in chapter 46 of the penal code by a student is also a reason for making the notification (Texas Education Code 37.015, 2003). Principals are educators, not police officers or attorneys. Principals call for the assistance of police officers for their expertise.

Some believe that school disciplinary issues will rise without police involvement. The Spring Branch ISD Police Department conducted an analysis and discovered that a small number of students who received a ticket during a five year span rarely received another. According to their analysis, "It got the attention of the students that they didn't want to get in trouble again" (Haag, 2013, p. 2). The Deputy Director of Texas Appleseed, Deborah Fowler, is not so sure. According to Fowler, research showed that students receiving tickets are more likely to drop out of school (Haag, 2013).

## RECOMMENDATION

A double standard has been created by Texas legislators. A ten-year-old who uses abusive, indecent, profane, or vulgar language on a city street while walking to school can be issued a ticket for disorderly conduct. A ten-year-old who uses an offensive gesture on a public street while walking to school can be issued a ticket for disorderly conduct. A ten-year-old who gets into a fight on a public street while walking to school can be issued a ticket for disorderly conduct. The same ten-year-old can walk onto a public school campus during regular school hours and fight the same person they fought while walking to school but are now protected from receiving a ticket. Legislators are headed in the right direction but should take the necessary time to review their recommendations prior to implementing them as law that confuses parents, students, schools, and law enforcement.

Police officers in schools are necessary, yet they should not be the first step in a school's disciplinary process. Police officers deal with much more than classroom disruptions or fights. Drugs, weapons, and assaults are dealt with daily in schools across the nation. Police officers are not normally in the classroom when a student disrupts the class. They are not normally there when a fight occurs. Police officers can usually be found in the common areas of a school. This is the area where the student masses normally converge and the most prevalent area where a police officer is needed. During classes, police officers can be found walking the halls or in an office completing case paperwork.

School administrators are called to classrooms by teachers. Administrators then call for the campus police officer. In many cases, before an administrator can even

assess the situation, a police officer is called to accompany the administrator to the classroom. Schools have become dependent on police officers to be part of their discipline process instead of being an avenue if school discipline does not work. Police officers should continue going to classrooms when called but only if there is a safety concern. Police officers are trained to take control of a situation once on-scene. In a school environment, police involvement should be considered only if the situation is beyond the control of the school administration.

According to the Spring Branch ISD Police Department analysis, students receiving a ticket rarely received another; thus, one can conclude that the citations are declining (Haag, 2013). Laws are being rewritten and new laws are being added. Nonprofit advocacy groups are more involved and are lobbying for changes to school discipline. School district police departments are willing to make adjustments to better serve the community.

It is apparent that Texas legislators want less police involvement. Changes need to take place but only after we have enough information to make an educated decision and not one from the heart or ear of special interest groups. Police should be included at the legislative level to ensure that the laws are not written with loopholes that end up causing unintentional consequences.

A law restricting the use of force (corporal punishment) is passed and placed in the education code while another law allowing educators to discipline students remains in the penal code. Legislators should have checks and balances in place to prevent these types of oversight. The reporting of a police officer's use of restraint on a student is mandated, but the funds are not allocated to the schools or police departments to

assist them in carrying out the mandated reports. Laws are being written that prevent police action for certain offenses if the student is in the 6<sup>th</sup> grade or below, regardless of their age. Not all schools in Texas are structured the same. Some school districts may have intermediate schools where students in the fifth and sixth grade are the only grade levels on the campus. Other school districts may have sixth, seventh, and eighth grade students on the same campus. This may become an issue if a sixth grade student and an eighth grade student are involved in a fight with one another. Law currently allows for the eighth grade student to be issued a citation for disorderly conduct fighting but does not allow for the sixth grade student to be issued a citation. Laws that allow for one violator to be issued a citation when the other violator is protected should not be encouraged. Laws are typically written as age specific, not grade specific. When a law is written and the law takes the police officer's discretion away, victim rights may be overlooked.

Texas law allows for who are at least 10 years of age to be written tickets if a violation of law exists. Anyone 17 years old or older is considered an adult in the state of Texas regardless of being a student. Although a 17-year-old is considered an adult, the laws in Texas make the parent responsible for them until they reach the age of 18, when they are considered legally emancipated. The laws are confusing to parents who do not deal with law on a daily basis. Police officers who deal with these laws are at times confused as well. Schools should be responsible for disciplinary issues. Police officers should be responsible for enforcing the laws and for the protection of students, school staff and property.

School discipline needs change, but Texas legislators do not need to change the laws for the sake of change. Representatives from nonprofit advocacy groups, parents, educators, district attorneys, and police officers should be included to consider all options. It will take more than one session to make an educated decision. Decisions should include what is best for the child while in school and out of school. Legislators want schools to discipline the child while in school. Parents are responsible for the child's discipline when they are not in school.

Schools have the right to discipline students in the school setting. Parents have the right to discipline their child anywhere. Police officers must determine if a law is enforceable based on the student's grade level, the time of day, and where the student was at the time of the offense. A student is a child first and student second. Legislators are focusing on the location the child was when the citation was given. Legislators should be concerned for the child, whether they are in school, at home, or in a public place. Police officers should not be the first or only option to discipline regarding a child, no matter what setting the child is in.

Legislators, nonprofit advocacy groups, and parents want fewer citations issued to students. They want schools to handle the discipline holding the student responsible for their actions at the school level. Anyone can review past legislation to see where discipline in schools is headed and who legislators, nonprofit advocacy groups and parents want disciplining students. If citations are not allowed in the school setting, they should not be allowed anywhere for that age group. Parents, advocacy groups, and legislators want schools to discipline students without police involvement. If society is holding schools responsible for discipline while students are at school, society should

also be making parents responsible for discipline when students are not at school.

Police officers should not be used to further the disciplinary process anywhere.

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