

VI. DALLAS COUNTY TRUANCY COURTS PRODUCE POOR OUTCOMES

Research does not support the Dallas County model as an effective method of intervening in truancy cases. Studies of truancy show that a variety of factors contribute to attendance problems at school.¹ These factors include student-level, family-level and school-level factors.² Factors influencing school attendance range from poor school climate and inadequate identification of special education needs to teen pregnancy, negative peer influence, child abuse or neglect, poor academic performance, low school attachment, and students' lack of self-esteem.³

Because the problems that contribute to truancy are multi-faceted, there is no “one-size fits all” approach to solving truancy. The most successful programs use an approach that combines school-based, community-based, and family-based interventions.⁴ Successful approaches to reducing truancy share key characteristics such as: broad-based collaboration; family involvement; meaningful incentives, sanctions, or consequences; a comprehensive approach; a supportive context that engages youth and families; use of ongoing school-based programs; and the involvement of community resources.⁵

Evidence-based and “promising” truancy prevention programs include:

- Cognitive-behavioral therapy plus caregiver training
- Mediation & problem solving
- Alternative educational programs (in a traditional school setting)
- Mentoring
- Behavioral programs.⁶

First and foremost, interventions should seek to keep youth out of the court system.⁷

¹ U.S. Dep’t of Justice, Office of Juvenile Justice and Delinquency Prevention (OJJDP), *Truancy Literature Review* (2009).

² *Id.* at 6.

³ *Id.*

⁴ Chanelle Gandy & Jennifer Lee Schultz, *Increasing School Attendance for K-8 Students* (Wilder Research 2007); Charles L. Johnson et al, *Transitions of Truants: Community Truancy Board as a Turning Point in the Lives of Adolescents*, *Journal of Juvenile Justice*, Vol. 1, Issue 2, pp.34-51 (OJJDP 2012).

⁵ OJJDP, at 9; National Center for School Engagement, *Truancy Prevention in Action: Best Practices and Model Truancy Programs* (2005).

⁶ Gandy & Schultz, at 3-4; T. Klima et al, *What works? Targeted truancy and dropout programs in middle and high school* (Washington State Institute for Public Policy 2009). Successful truancy intervention programs share many characteristics with successful dropout prevention models. Successful approaches to preventing students from dropping out of school address multiple risk factors, use more than one strategy, and are carefully developed based on current research. National Dropout Prevention Center, *Dropout Risk Factors and Exemplary Programs* (2007).

⁷ Models for Change (Louisiana), *Summary of National Models, Policies, and Practices of Service Needs of Status Offending Youth* (2011).

A. Overly Punitive Approaches and Fines are Ineffective

While “meaningful sanctions” are encouraged in truancy programs, overly punitive sanctions or fines are considered ineffective.⁸ In Texas, a report on truancy in Tarrant County by the National Center for School Engagement found that harsh disciplinary practices— and sanctions for truancy that reduced instructional time— were counterproductive because they served to further alienate students.⁹

However, for the majority of students involved in the Dallas County truancy courts, the primary intervention is a fine: Dallas County indicates that the truancy courts collected \$2,960,081 in fines from parents and students in FY 2012.¹⁰ Of the approximately 18,000 youth who were appeared on a new case in FY 2012, only 4,000 of the students received assistance from a caseworker.¹¹ In addition, the student is left with a criminal conviction that can have consequences or pose barriers for those who cannot get it expunged.¹²

A study of the use of ticketing and fines for truancy in Los Angeles found these sanctions ineffective because of their failure to address the root causes of attendance problems:

[I]ssuing tickets is a blunt tool that does not actually address the root causes for a student’s difficulties in getting to school. Many of the thousands of students in Los Angeles interviewed by the Community Rights Campaign, one of the organizations participating on the Task Force, reported a host of reasons for their struggle to get to school on time—their only means of transportation (the MTA bus) frequently runs late; they must walk their siblings to another school with a similar start time; they have a medical appointment; they are dealing with mental health issues; they have unaddressed special education needs or a chronic illness; they are being bullied; they are experiencing family problems at home; or students do not see the benefit of an education or feel connected to or safe

⁸ Gandy & Schultz, at 5 (financial sanctions ineffective); OJJDP, at 13; Educational Success and Truancy Prevention Workgroup, *Report to the Pennsylvania State Roundtable* (2012)(recommends against fines as ineffective); School Attendance Task Force, *A Comprehensive Approach to Improving School Attendance in Los Angeles County* (2012)(“while prosecution of students and parents may be appropriate in extreme cases...the Task Force was not able to identify any research supporting the efficacy of prosecution as a primary means to improve student attendance on a large scale.”).

⁹ National Center for School Engagement, “*Teach from the Heart*”: *What Tarrant County Youth Want from Their Schools* 52, 55 (2012)(Tickets issued by school police “serve to alienate students...[and] steer youth away from the educational system into the criminal justice system.” Report recommends discipline that addresses the root cause of infraction and against discipline that withholds learning as punishment for truancy or tardy attendance); *see also* Tarrant County Juvenile Justice Truancy Planning Group, *Truancy Solutions: A Collaborative Plan for Schools, Police Departments, Community Agencies, and the Juvenile Justice System* (2012).

¹⁰ DALLAS COUNTY, DALLAS COUNTY TRUANCY COURT SYSTEM, Appendix C at 1. In addition to these fines, each student or parent pays approximately \$80 in court fees.

¹¹ Meeting with Judge Jenkins, Judge Richie, and truancy court staff, January 14, 2013.

¹² *See* Tex. Code Crim. Proc. §45.055.

at school. Younger students may be tardy as a result of their parents' oversleeping, their parents' mental health issues, or their parents' not understanding the importance of children attending school regularly....

Finally, citations result in the unnecessary criminalization and humiliation of youth, with students being detained, handcuffed, fingerprinted, put in the back seat of police cars, and searched.¹³

Parents who attended Dallas County truancy court proceedings echoed these findings and noted that fines do not effectively encourage students to attend school because the burden of paying the fine was most likely to fall on the parent rather than the student.

Of particular concern is Dallas County's use of arrest and jail or detention with students who are considered to be in "contempt" for failing to pay fines. Dallas County's data indicate that close to 5,000 arrest warrants were issued and more than 1,700 were served in FY 2012.¹⁴ 67 youth were jailed or held in Letot Center, a Department of Family Protective Services licensed facility, 53 youth were sent to detention for a contempt charge and 280 youth were transferred to detention for another reason.¹⁵ Additionally, 504 youth referred to the Dallas County juvenile system on a contempt charge were placed in an Emergency Shelter, a non-secure facility licensed by Texas' Department of Family and Protective Services.¹⁶

Research disproves such "get tough" approaches to adolescent misbehavior.¹⁷ Indeed, the juvenile justice systems in many states (including Texas) have begun moving away from "get tough" approaches after two decades have proven them to be an ineffective method of intervention. Most importantly, several studies now link arrest and court involvement as placing a student at heightened risk of dropout.¹⁸ This research suggests that arrest and court involvement are neither efficacious or rational if their intent is to get students "back on track" educationally.

¹³ School Attendance Task Force, *supra* note 8, at 7.

¹⁴ Dallas County, *supra* note 10.

¹⁵ *Id.*

¹⁶ TEXAS JUVENILE JUSTICE DEPARTMENT, STATISTICAL REPORT BY DEPARTMENT (DALLAS) at 2 Appendix D. While it is not entirely clear whether other youth may be referred to Dallas County's juvenile department on a contempt charge, the numbers appear consistent with the number of youth referred to the TEC, according to Dallas County's estimate.

¹⁷ See Models for Change, *Research on Pathways to Desistance* (2012), available at http://www.macfound.org/media/article_pdfs/PATHWAYSREPORT.PDF (longitudinal study showing incarceration increases chances of juvenile re-offense and substance abuse and that community based treatment more effectively promotes pro-social attitudes and behavior).

¹⁸ David S. Kirk & Robert J. Sampson, *Juvenile Arrest and Collateral Educational Damage in the Transition to Adulthood*, 86 *Sociology of Education* 36 (2013)(arrested students substantially more likely to drop out of school); Gary Sweeten, *Who Will Graduate? Disruption of High School Education by Arrest and Court Involvement*, 23 *Justice Quarterly* 462, 473, 478-9 (2006)(finding one school-based arrest doubles the likelihood that the student will drop out; if the student appears in court, the likelihood nearly quadruples); Jon Gunnar Bernburg & Marvin D. Krohn, *Labeling, life chances, and adult crime: The direct and indirect effects of official intervention in adolescence on crime in early adulthood*, 41 *Criminology* 287-318 (2003)(juvenile justice involvement increases likelihood of dropping out by 3.6 times).

B. Dallas County's Data Shows Poor Outcomes Consistent with this Research

Dallas County's own data reflects that the truancy court system is not an effective truancy intervention.¹⁹ For example, while more than 36,000 students were referred to the truancy courts, less than half (41%) actually appeared for their initial hearing—undermining the claim that a court summons “gets the attention” of parents and students and compels them to re-engage with school. Rather, 59 percent of the parents and students simply do not appear at all.²⁰

Furthermore, of the students who do appear, an even smaller percentage (28%) are actually compliant with the court's order by the time of their review hearing according to the data provided. In FY 2012, close to 9,000 cases required two or more review hearings,²¹ not including the more than 1,000 cases transferred to the TEC.²² Compliance rates vary greatly between courts – with one court showing only 15 percent compliance at the review hearing.²³

Our court observations align with this data as parents reported their children were in court multiple times for review hearings because the judge would not close their case until their child's fine was paid and they had completed all the tutoring and community service hours assigned. Many families pointed out that it was often impossible for youth to complete all they were ordered to do within 30 days, guaranteeing that youth would again miss school to come to court. J.D.'s mother noted that by the time they completed the terms of the court's order, her daughter had missed nearly as much school for court as she had for the illness that resulted in her FTAS case. One family reported that they were in court two to three times a month for their child's court hearings. This student was a special education student who clearly was not receiving appropriate services to meet her needs. She also had medical problems that caused her to miss school – resulting in multiple cases filed, amassing more than \$2,000 in fines, as well as more than 80 hours of community service and over 20 tutoring hours.

Moreover, Dallas County's data shows a very high percentage of “repeat offenders,” suggesting that students do not respond to court intervention with increased attendance. In FY 2012, of the more than 36,000 youth referred to court, close to half (17,969) were in court for a repeat offense.²⁴ B.B., a special education student, was also one of these “repeat offenders” – she had three cases filed during the 2012-13 school year, amassing more than \$1,300 in fines. K.W. also had multiple cases filed during the last

¹⁹ See Dallas County, *supra* note 10. Outcome Measures Summary Report for FY 2012.

²⁰ At the meeting on January 14, 2012, truancy court staff indicated that about 18,000 of the 36,000 cases filed were processed through the courts in FY 2012. This is a higher number than expected based on the 41 percent appearance rate – however, we presume additional youth may have appeared after having missed their initial court date as the result of being picked up on a warrant or otherwise. Similarly, while there were more than 24,000 cases “disposed” during FY 2012, some of those cases were likely filed prior to the start of the fiscal year.

²¹ Dallas County, *supra* note 10, Outcome Measures Summary Report for FY 12.

²² *Id.*

²³ *Id.*

²⁴ *Id.*

school year. Without interventions that address the underlying reasons for the youth's absences, youth will simply continue to cycle through the truancy courts.

Dallas County truancy court staff cite a "90 percent graduation rate" as an indicator of success.²⁵ However, this statistic is flawed in several ways.²⁶ First, it appears that the 90 percent graduation rate includes only students who were eligible to graduate during FY 2012. In other words, this takes a snapshot of students eligible to graduate who were truancy court-involved during that year. A more rigorous analysis of the impact on graduation rates would track students for more than a single year and include a larger cohort of students.

Next, this statistic only includes children who actually appeared in court after a complaint. Of all the students referred to truancy court, those who actually respond to the complaint are likely already more expected to graduate than those who do not. A more accurate analysis of the impact of the court system on graduation rates also would take into account the 59 percent of students who do not appear after having a complaint filed against them.

Finally, the truancy courts contrast this "90 percent" figure to a district overall graduation rate of 74.6 percent, but this is not a fair comparison.²⁷ First, the district rate is a four-year graduation rate, so it provides the number of students who complete their degrees within four years, not the number of seniors eligible to graduate who complete their degrees during the year they are truancy court-involved. Students who have already completed three years of high school and are still on track to graduate are more likely to do so than those who have yet to begin high school. Second, the DISD overall graduation rate also includes the 59 percent of students against whom a complaint was filed but who never showed up in court – students who likely have the highest risk of dropping out.

Thus, the 90 percent rate cited by the truancy courts means only that students who respond to a court summons and are eligible to graduate the year they are court-involved are more likely to graduate than those who do not appear at all, who may have dropped out before being referred to court, or who are not on track to graduate within a year. Since it seems obvious that the former group of students would be more likely to graduate than the latter group, this statistic provides no information to suggest that the Dallas County truancy courts effectively improve educational outcomes for children.

²⁵ Dallas County, *supra* note 10, Graduation Rates for Students Appearing in Truancy Court.

²⁶ *Id.*

²⁷ Presumably the 74.6% figure cited by the truancy courts is Dallas ISD's graduation rate, although this is not the most recent graduation rate. See Texas Education Agency, Academic Excellence Indicator System 2011-12, Dallas ISD, available at <http://ritter.tea.state.tx.us/cgi/sas/broker> (showing a 74.6 percent graduation rate for DISD for the Class of 2010 – it rose to 77.3 percent for 2011).