

GUEST PRESENTATIONS: UNIVERSITY RESEARCHERS

Legislative Budget Board

Criminal Justice Forum

May 9, 2014

Outline of Today's Criminal Justice Forum

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- Criminal Justice Forum parameters
- *Raising the Age of Juvenile Jurisdiction in Texas From 17 to 18*
 - Michele Deitch, University of Texas
- *Judgment and Justice: An Evaluation of the Texas Regional Public Defender for Capital Cases*
 - Dottie Carmichael and Heather Caspers, Texas A&M
- *The Economic Effects of Exclusionary Discipline on Grade Retention and High School Dropouts*
 - Trey Marchbanks, Texas A&M
- Audience feedback and questions

Criminal Justice Forum Parameters

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- Diverse group of participants
- A learning opportunity for all
- Limited to the subject area
- Please hold all questions and feedback until the end of the presentation
- Please fill out the feedback form and turn in after the Forum (last page of handouts)

Criminal Justice Forum Parameters

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- Criminal Justice Forums are an opportunity for various groups to come together to learn about and discuss current issues in criminal/juvenile justice.
- If you have any questions that remain unanswered following the Criminal Justice Forum, please feel free to talk with any CJDA team member following the Forum
- Past Criminal Justice Forum presentations may be found here: <http://www.lbb.state.tx.us/CJDA.aspx?Team=CJDA>

Next Forum: June 2014 Correctional Population Projections Overview

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- When: Friday, September 5, at 1:30 PM
- Where: REJ Conference Center
- What:
 - Adult correctional population projections overview
 - Juvenile correctional population projections overview
 - June 2014 projections' role in the budget process
 - Projection trends we will explore qualitatively in Fall 2014

Criminal Justice Forum Disclaimer

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The information contained within this document was presented at the May 2014 Criminal Justice Forum on May 9, 2014. The May 2014 Criminal Justice Forum provided several university researchers an opportunity to share their current research. The views and opinions expressed in this document are those of the authors and do not necessarily reflect the official policy or position of the Legislative Budget Board or Legislative Budget Board staff.

Raising the Age of Juvenile Jurisdiction in Texas from 17 to 18

Presentation to Legislative Budget Board
Criminal Justice Forum

Presented by:
Michele Deitch, Senior Lecturer and Project Director
LBJ School of Public Affairs, Univ. of Texas

May 9, 2014

Presentation Agenda

- Overview of Research Projects and Methodology
- Reasons to Consider Raising the Age of Juvenile Jurisdiction
- Data about 17-year-old Offenders
- Potential Costs and Savings
- Recommendations
- Question & Answer

Research Projects

- **2011-2012: LBJ School research project on raising the age**

--"17, Going on 18: An Operational and Fiscal Analysis of a Proposal to Raise the Age of Juvenile Jurisdiction in Texas," 40 Amer. J. Crim. L. 1 (Fall 2012) (with Rebecca Breeden and Ross Weingarten)

- **2013-2014: LBJ School Policy Research Project on behalf of the House Criminal Jurisprudence Committee**

--Interim charge on 17 year olds (research conducted by Andi Gentile, Miguel Liscano, and Jennifer Lucy)

Research Methods

- Analysis of DPS, TDCJ, TJJD, and LBB data
- Interviews with system stakeholders in Texas, including juvenile and adult judges, judicial administrators, juvenile prosecutors, TJJD, local juvenile probation officials, LBB, sheriffs, defense attorneys, corrections staff and administrators, and others
- Interviews with stakeholders in other states that have raised the age, and collection of data on costs in these other states
- Focus groups of Texas prosecutors, juvenile probation officials, and sheriffs
- Cost-benefit analysis using Vera Institute's methodology
- Facility visits (TDCJ and TJJD)
- Extensive literature review and statutory analysis

Current Law on Juvenile Jurisdiction in Texas

- Texas is one of only 10 states in the U.S. that treats youth under age 18 as adults in the criminal justice system.
- All 17-year-olds arrested in Texas, including misdemeanants, are automatically sent through the adult system, regardless of the severity of their alleged offense, their maturity level, their personal or criminal history, or other mitigating factors.
- This has been the law since 1918; it has never been reconsidered.
- Certification process allows youth as young as 14 to be transferred to adult court for felony offenses.

Reasons why the juvenile justice system is considered a more appropriate venue for 17-year-olds

- **The Adolescent Brain is Different**

- The brain's frontal lobe is not fully developed until a person's mid-20s, explaining why teenagers struggle with shortsighted decision-making, poor impulse control, and vulnerability to peer pressure.

- Teens are more receptive to rehabilitation than adult offenders because their characters are still forming.

Reasons (cont'd)

- **The Juvenile Justice System has Better Outcomes**

--Youth under the age of 18 who are in the adult system are, on average, 34% more likely to be rearrested for a felony than youth who stay in the juvenile system.

--The adult system (including both probation and institutions) does not provide the age-appropriate programming and interventions critical for youth rehabilitation.

--17-year-olds are not allowed to participate in some adult substance abuse programs, such as SAFFP, ISF, and RTC.

--In contrast, the juvenile justice system offers more therapeutic programming, age-appropriate services, an educational focus, and opportunities for family involvement.

Reasons (cont'd)

- **Institutional Challenges of Keeping Youth in Adult Facilities**

--Youth in adult jails and prisons are at significantly greater risk of physical and sexual abuse, and 36 times more likely to commit suicide.

--To keep youth safe from adult offenders, most jails keep youth in solitary confinement, with less than 1 hour a day of out-of-cell time and extremely limited programming.

--Supervision and movement of youth within jails is extremely burdensome and expensive for jail operations.

--**Federal PREA Standards** - effective as of August 2013 - require youth under 18 to be housed separately from adults without the use of isolation and with access to programming. Compliance would require significant investment to retrofit many facilities and add staff, and non-compliance could lead to liability issues for the facilities and loss of some federal funding.

Reasons (cont'd)

- **Collateral Consequences of a Criminal Record**

--As participants in the adult system, 17-year-olds lose confidentiality in court proceedings, and typically cannot have their court records sealed or their offenses expunged.

--The Vera Institute of Justice estimates that youth with adult criminal records could lose an average of \$61,691 in potential earnings over a lifetime.

--They may face denial of jobs, vocational licenses, educational loans, and access to public housing as a result of a criminal court conviction.

Reasons (cont'd)

- **Inconsistencies with Other Texas and Federal Laws**

--In the last decade, the U.S. Supreme Court issued four rulings that emphasize how children under age 18 are different from adults and should be treated distinctly in our justice system.

--Federal PREA standards and JJDPAs, along with numerous Texas laws, define the age of majority as 18.

--17-year-olds can't serve in the military, serve on a jury, buy cigarettes, sign a contract, or get tattoos without parental permission.

Reasons (cont'd)

- **Texas is an Outlier, Nationally and Internationally**

--Texas' treatment of 17-year-olds is out of step with the rest of the nation. 40 states, the American Bar Association, the Attorney General's National Task Force, and the United Nations Convention on the Rights of a Child all define the minimum age of criminal responsibility as 18.

-- A wave of states have raised their age of juvenile jurisdiction in the last decade: Illinois, Mississippi, Connecticut, and Massachusetts. Other states are seriously considering a similar change: New York, Wisconsin, and New Hampshire.

Who are the 17-year-old offenders?

- Vast majority are misdemeanants, and they are typically arrested for non-violent, minor offenses. Patterns of offenses and arrests look similar to those of 16-year-olds, with slightly more drug and drinking offenses.

Most Common Offenses for 17-year old Youth in Texas

Larceny Theft (non-motor vehicle)	5692
Marijuana Possession	4489
Assaults (non-aggravated)	3186
Disorderly Conduct	2144
Liquor Laws	1939
Drunkenness	1536
Burglary	1134
Vandalism	610
Aggravated Assault	524

Source: Texas Department of Public Safety, Crime in Texas 2012

17-year-olds have significant needs that are often unmet:

- Education—most have only completed 9th through 11th grade
- Trauma—many have experienced physical or sexual assault, parental abuse, or parental neglect
- Mental Health—70% of youth in custody have mental illness, and 27% have severe mental health issues
- Substance Abuse—not eligible for SAFP beds or ISF programs; difficult to place in Residential Treatment Centers because under age 18

Sources: Data from CJAD (2014); National Center for Mental Health and Juvenile Justice (2006)

Arrests of 17-year-olds have declined substantially (29%) since 2008, and are projected to continue to decline

16 year-olds and 17 year-olds in Texas
2003-2012

— 17 year-olds
— 16 year-olds

Projections suggest that if the age of jurisdiction were to be raised from 17 to 18, 72.5% of 17-year-olds arrested would be misdemeanants, and almost 90% of dispositions would be for county non-residential probation.

Where would costs and savings come from if age is raised?

• Immediate savings

- Removal of 17-year-olds from adult prisons
- Removal of 17-year-olds from state jails
- Removal of 17-year-olds from adult probation caseloads and services
- Removal of 17-year-olds from county jails
- Removal of 17-year-olds from adult criminal court dockets

• Immediate cost avoidance

- Avoid costs of retrofitting county jails and adding staff to comply with PREA requirements

Long-term savings

Research shows 34% reduced recidivism, which will result in:

- Fewer arrests
- Less re-incarceration
- Reduced prison population pressures and reduced need for additional prison beds
- Fewer victims and costs to victims
- Enhanced earning opportunities for youth by avoiding criminal conviction
- Avoidance of collateral consequences mean more youth in school, higher education, and jobs
- Youth become taxpayers rather than burdens on taxpayers

Costs (offset by savings noted above)

- Increased number of youth on county-level juvenile probation
- Need for expanded programs and services for county juvenile probation departments to serve specialized needs of older teens, including independent living skills
- Increased need for juvenile detention beds at county level (NOTE: more expensive per day, but fewer bed days per youth likely)
- Increased need for beds in TJJD (NOTE: more expensive per day, but fewer bed days per youth likely)
- Increased dockets for juvenile court judges and increased indigent defense costs (NOTE: OCA estimates these costs as negligible)

Impact of Proposal

- ✓ Most of immediate costs will fall on county-level juvenile probation departments, but much of the immediate savings and cost avoidance will also come at the county level.
- ✓ There would be a need to shift some costs from the adult side to the juvenile side at both the state and county levels.
- ✓ Some upfront costs are anticipated, but will eventually be offset by long-term cost savings
- ✓ Most states that have raised the age have found the changes cost significantly less than anticipated.
- ✓ Research shows proposal is cost-beneficial (LBJ research and TPPF research)

Recommendations

- Raise the age of juvenile jurisdiction from 17 to 18, keeping certification as option for the most serious cases
- Provide sufficient funding to enable counties and TJJD to accommodate the influx in population and need for new programs and services
- Allow a one-year transition period to enable planning and implementation process at the county and state levels
- Provide immediate relief to jails by allowing 17-year olds to be held in local juvenile detention facilities while awaiting trial (similar to SB 1209 process, where Juvenile Board must approve policy)
- Consider related changes, such as raising maximum age of probation and age of commitment per judicial order in individual cases

For More Information:

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Judgment and Justice

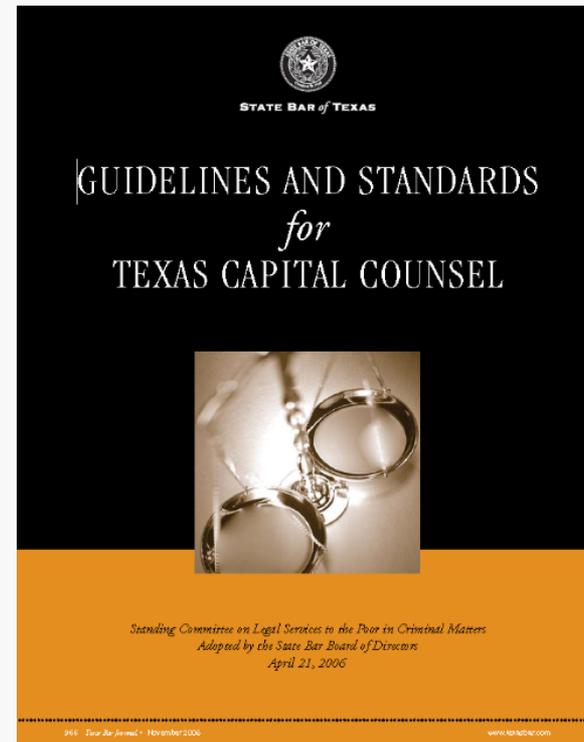
An Evaluation of the **Texas Regional Public Defender for Capital Cases**



Research Methods

- Interviews
- Surveys
 - District Judges, County Judges, Commissioners, Capital Defense Attorneys
- Analysis of 60 Matched RPDO and Non-RPDO Cases
 - Analysis of case processing and cost data provided by RPDO and counties.

State Bar of Texas Capital Case Guidelines

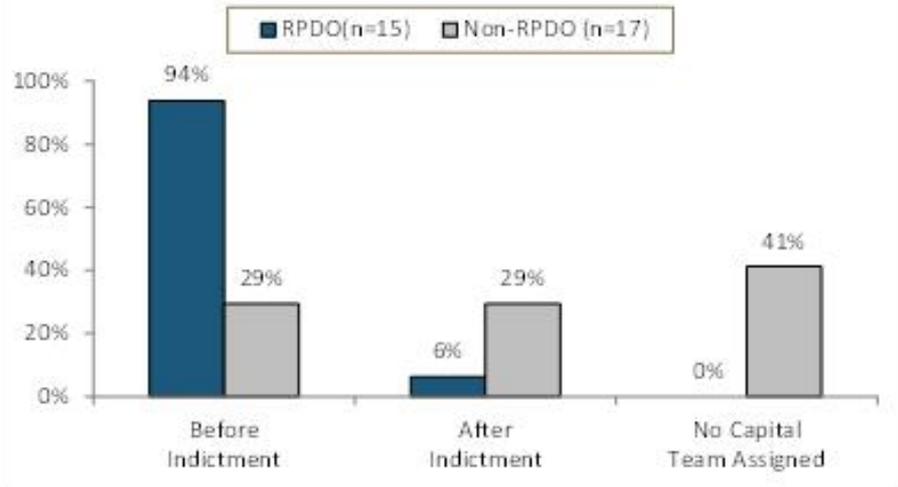


Immediate Jurisdiction Compliance

- Prompt access to a capital defense team
- Professional support, supervision, evaluation
- Controlled workloads
- Client-driven defense strategy
- Parity between prosecution and defense

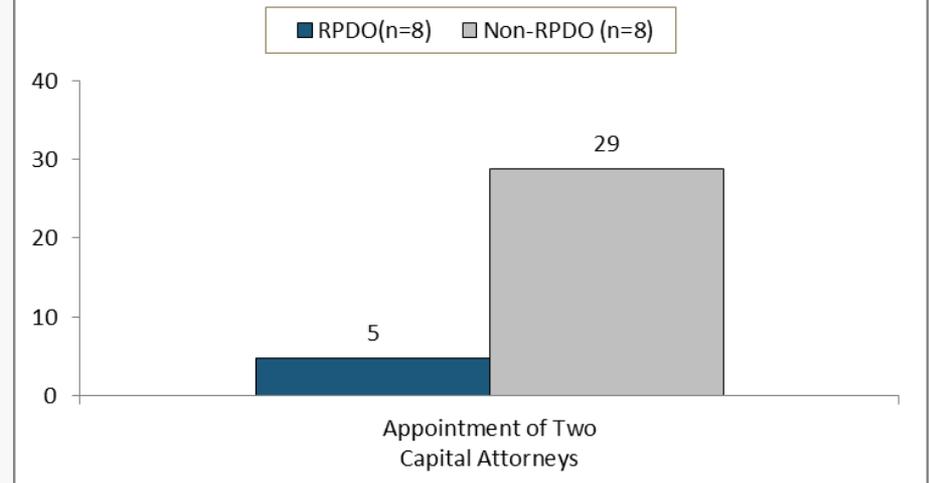
Faster Capital Team Appointment

If Arrested on Capital Charges,
Capital Attorney Team Was Available...



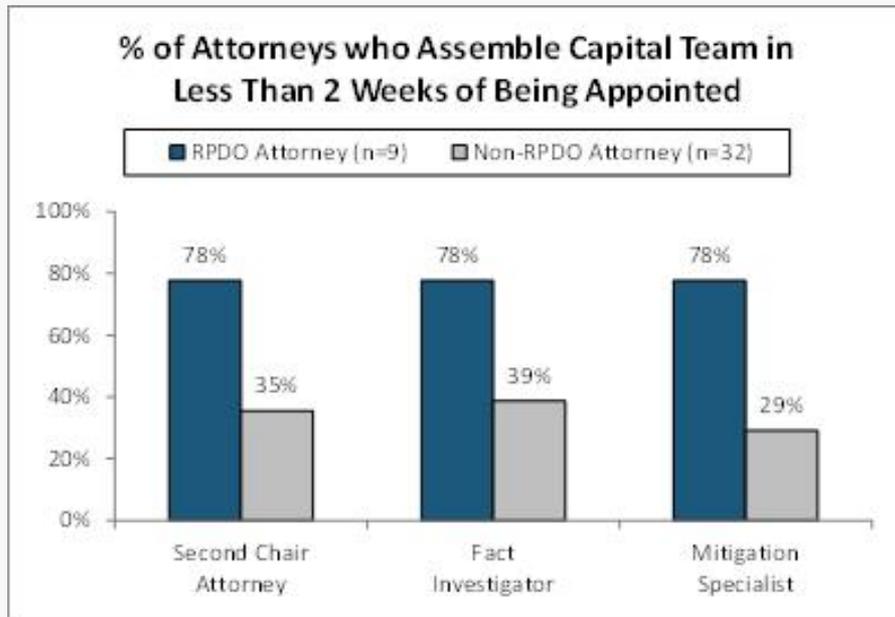
AFTER ARREST

If Not Arrested on Capital Charges,
Average Days from Indictment Until...

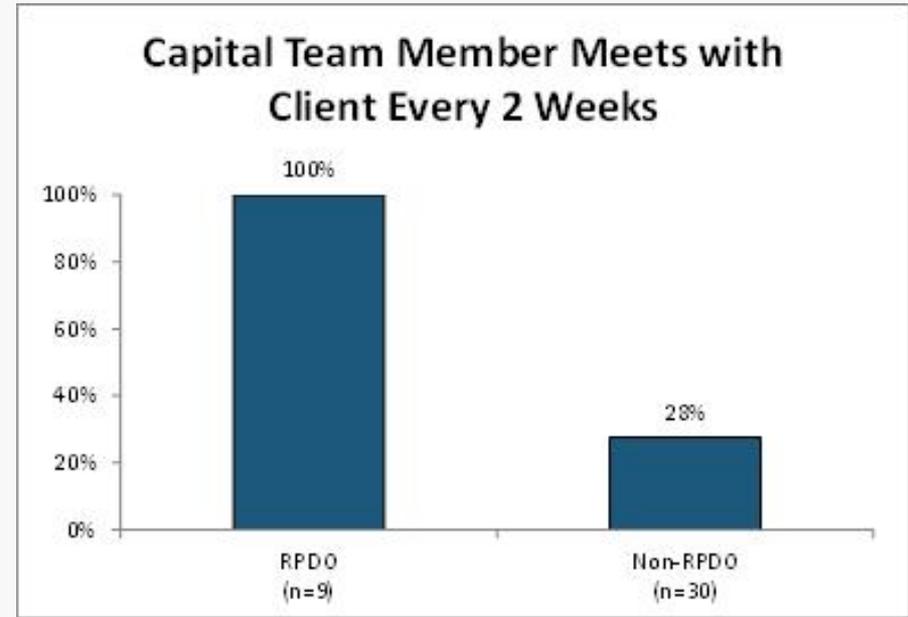


AFTER INDICTMENT

RPDO Non-Attorney Defense Team



STARTS WORK MORE QUICKLY

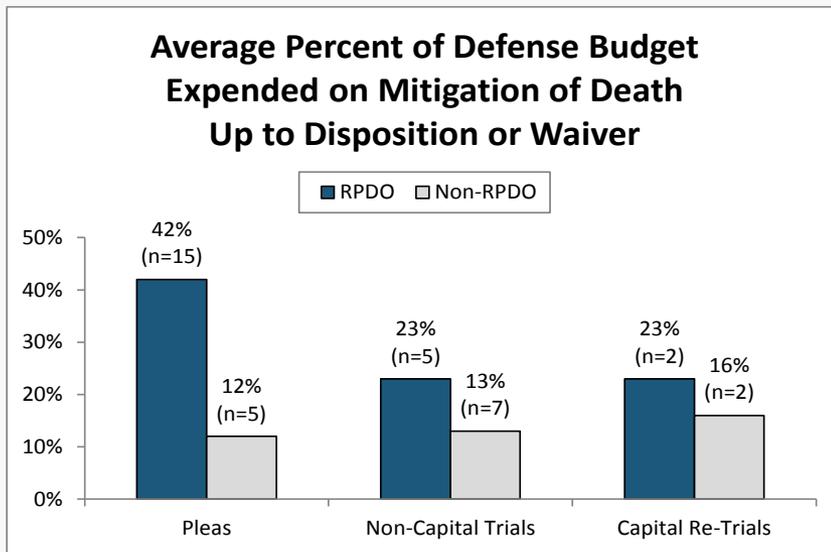


MEETS CLIENT MORE OFTEN

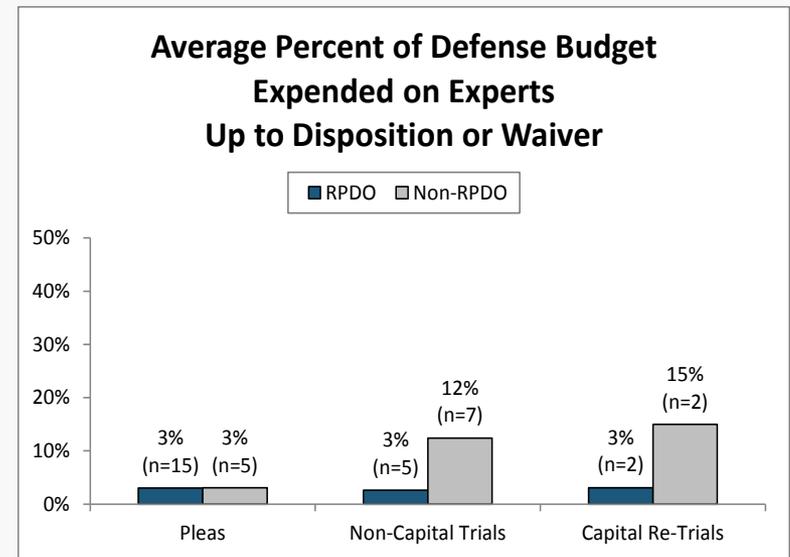
Expense Comparison

- RPDO
 - Expense data provided by the Office showing recorded hours at the expected market rate
- Assigned counsel
 - Expense data obtained from vouchers submitted on each case

RPDO Expenditures...



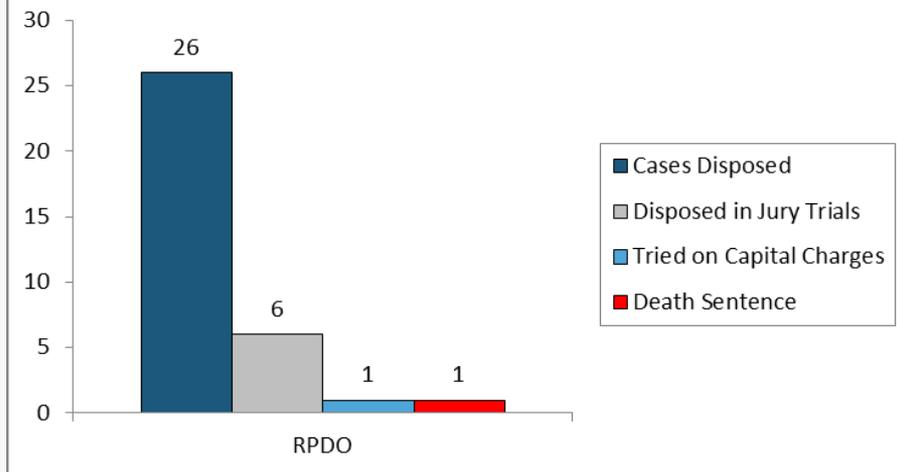
2-3x more of the budget on
MITIGATION OF DEATH



1/3 as much of the budget
on EXPERTS

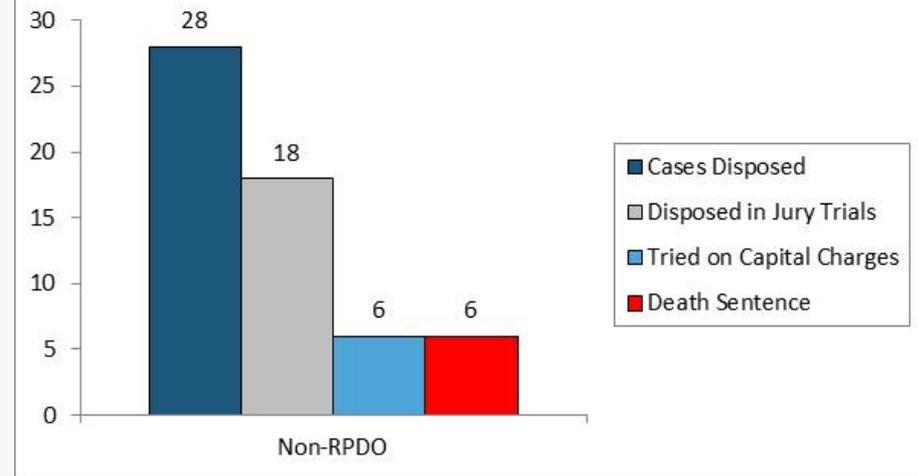
Chance of Death Sentence

RPDO Clients' Capital Trial Experience



1 in 26 end in a death sentence

Non-RPDO Attorneys' Capital Trial Experience



1 in 5 end in a death sentence

Weighted Average Cost of Defense (up to removal of death by waiver or disposition)

	RPDO				Non-RPDO			
	Average Cost	Number/ Percent of Cases	Weighted Cost	Average Cost	Number/ Percent of Cases	Weighted Cost		
Plea	\$45,628	19 73%	\$866,927	\$31,503	6 21%	\$189,017		
Non-Capital Trial	\$18,818	5 19%	\$94,092	\$16,667	7 25%	\$116,672		
Capital Death Trial	\$0	0 0%	\$0	\$280,734	4 14%	\$1,122,936		
Penalty Phase Re-Trial	\$237,059	2 8%	\$474,117	\$255,073	2 7%	\$510,147		
Waiver Prior to Capital Team Appointment	\$0	0 0%	\$0	\$13,468	9 32%	\$121,216		
TOTAL		26 100%	\$1,439,114		28 100%	\$2,059,988		
WEIGHTED AVERAGE COST PER CASE	\$55,198			\$73,571				

Value Added by RPDO Membership

<50,000 Population

Average Cost: \$5,124/year

- 1 capital case offsets 14 years of membership
- 1 capital death trial offsets 50 years of membership

100,000 – 200,000 Population

Average Cost: \$78,684/year

- 1 capital case offsets 1 year of membership
- 1 capital death trial offsets 3.8 years of membership

Thank You!

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The Economic Effects of Exclusionary Discipline on Grade Retention and High School Dropout

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Justice Center,

Council of State Governments



LIBERAL ARTS

TEXAS A&M UNIVERSITY

PUBLIC POLICY RESEARCH INSTITUTE

JUSTICE ★ CENTER

THE COUNCIL OF STATE GOVERNMENTS



EDUCATION

& HUMAN DEVELOPMENT

TEXAS A&M UNIVERSITY

Portions of this analysis were also made available in the technical report: Breaking Schools' Rules: A Statewide Study of How School Discipline Relates to Students' Success and Juvenile Justice Involvement. Portions of this research were supported by the Atlantic Philanthropies and Open Society Foundations and by Grant # (2012-JF-FX-4064) awarded by the Office of Juvenile Justice and Delinquency Prevention, Office of Justice Programs, U.S. Department of Justice. The opinions, findings, and conclusions or recommendations expressed in this publication/program/exhibition are those of the author(s) and do not necessarily reflect those of the Department of Justice and are not endorsed by the Foundations, the Council of State Governments, the Texas Education Agency, the Texas Higher Education Coordinating Board, or the State of Texas

Draft-Not for Circulation/Citation without expressed consent of the authors.

Number of Suspensions and Expulsions an Issue Nationally

Percentage of K-12 students receiving out-of-school suspension or expulsion in 2010*:

California = 12.7%

Texas = 5.7%

New York = 5.2%

Florida = 8.7%

*Percentages were obtained from the web sites of each state's education agency.

Purpose of Research

- ✓ Establish level of disproportionality in exclusionary discipline
- ✓ Examine relationship between exclusionary discipline and school dropout and grade retention
- ✓ Assess the economic costs of negative outcomes associated with exclusionary discipline

Texas Is a Useful Laboratory for Examining School Discipline Issues

**Exceptionally
large school
system**

**Approximately 5 million
students**

**1 in 10 public school students
in US**

1,200 school districts

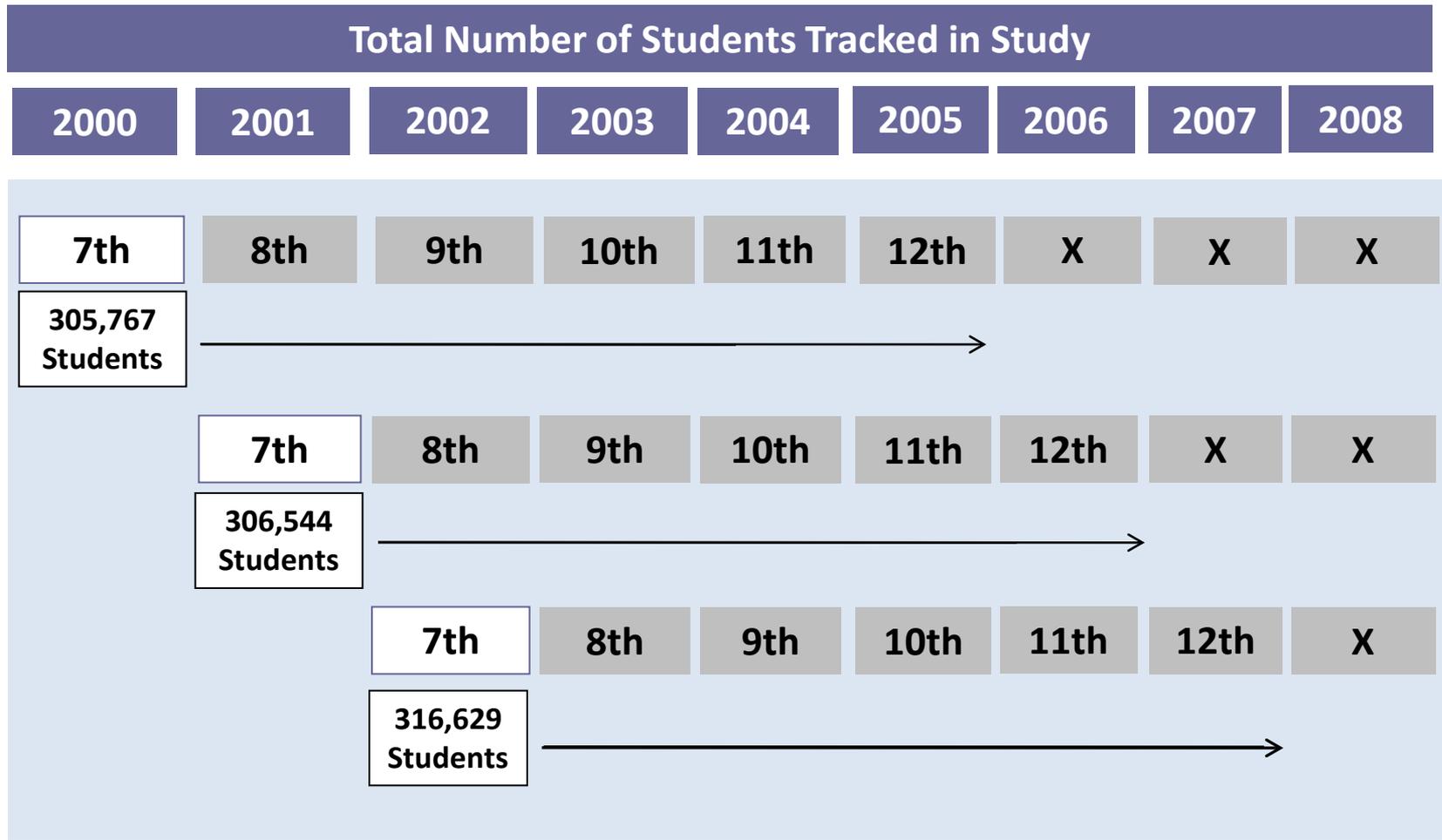
**Diverse student
population**

40% Hispanic,

43% White,

14% African-American

Study Follows Over 900,000 Students



Robust Student Record Data and Campus-Based Data Systems

Texas Education Agency

1. Academic Excellence Indicator System (AEIS)

Example of Campus Attributes

Accountability
Rating

Student/
Teacher Ratio

Percent Met
State Test
Standard

Racial Makeup
Students
Teachers

3,896 campuses

2. PEIMS – Public Education Information Management System

Example of Student Attributes

Demographics

Disability

Grade

Retention

Attendance

Test Scores

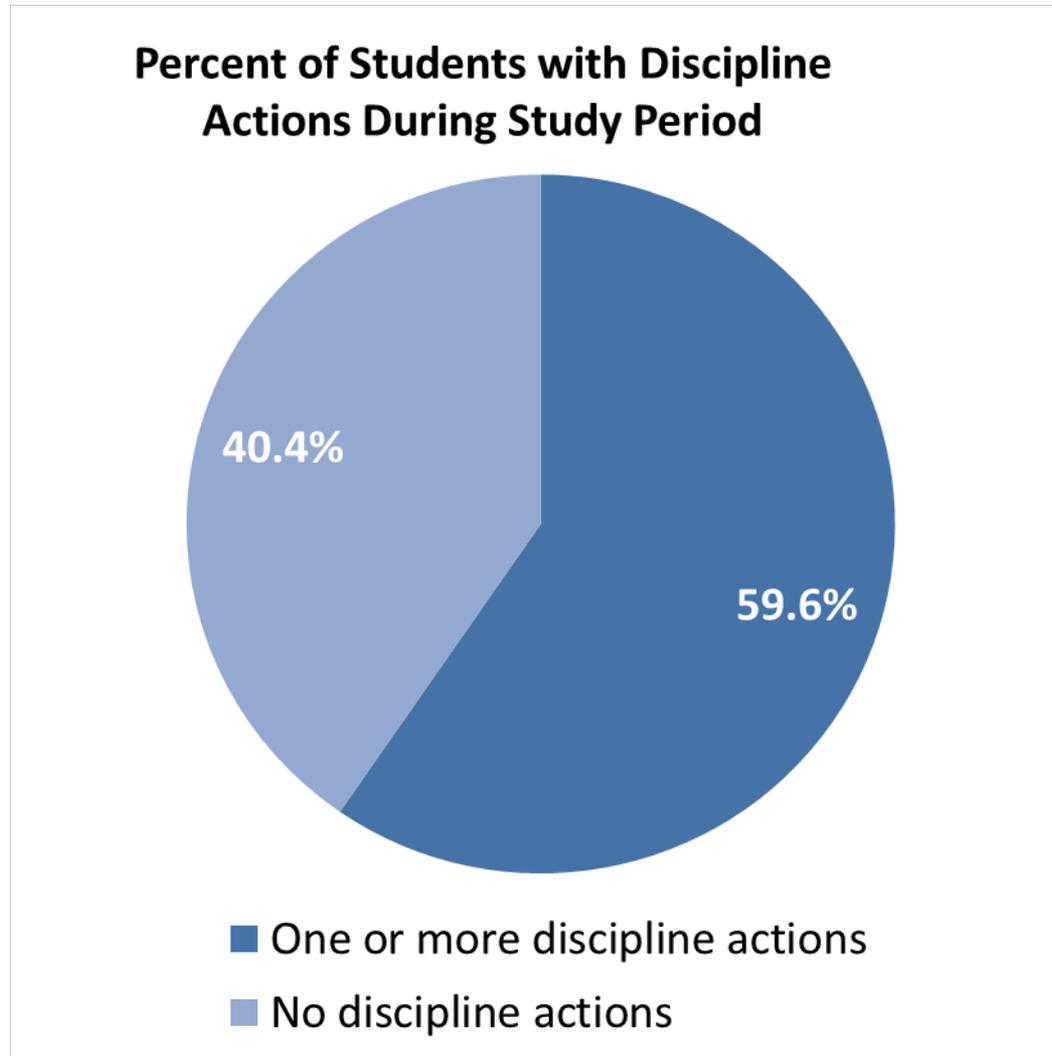
Discipline

Mobility

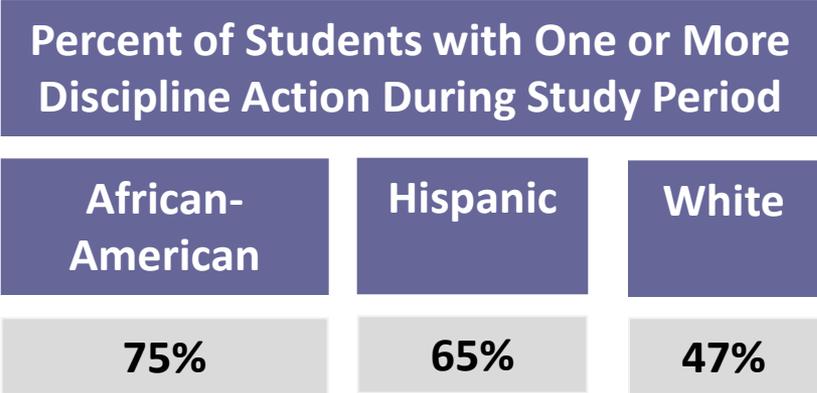
Records for 5,157,683 students
Grades 6-12 (1999-2000)

Disproportionate Impact Race

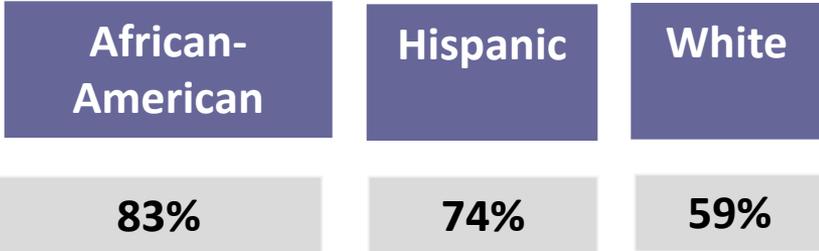
Almost 3/5 of Students Suspended or Expelled During Study Period



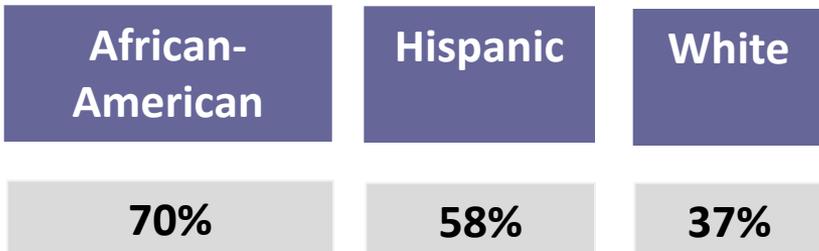
Most African-American Students Experienced at Least One Discipline Violation During Study Period



Percent of *MALE* students with at least one *DISCRETIONARY* violation



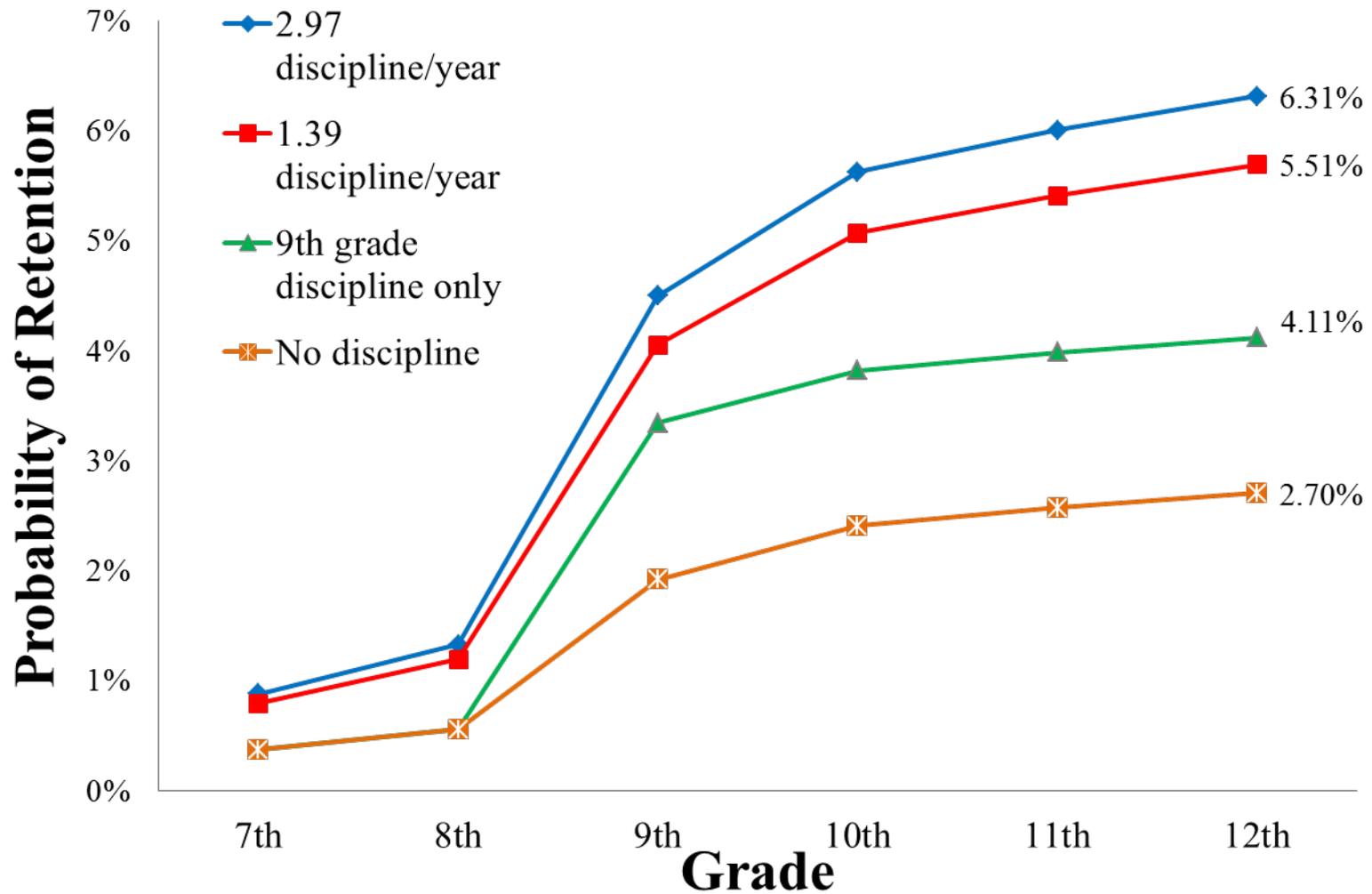
Percent of *FEMALE* students with at least one *DISCRETIONARY* violation



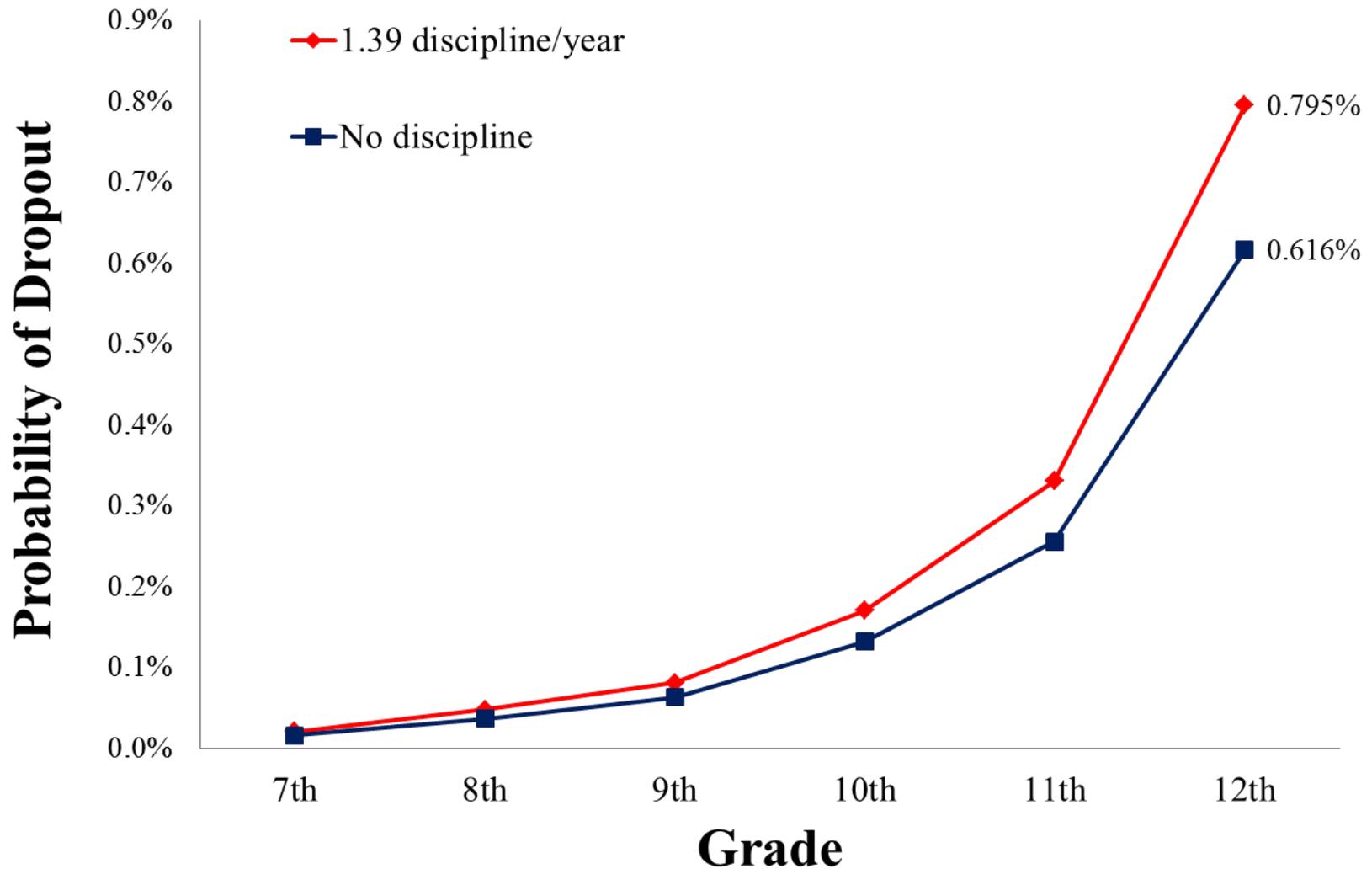
*Percentages rounded

Discipline and Education Outcomes

Discipline and Grade Retention



Discipline and Dropout



Economic Effects of Negative Academic Outcomes

Costs Associated with Increased Dropout

- Dropouts cost Texas \$5.4-\$9.6 billion
- 16% of dropouts associated with discipline
 - Costs between \$851 million and \$1.5 billion

Costs Associated with Increased Grade Retention

Race	Gender	Discipline Rate	Increased Retention	Total	Per Capita
Black	Male	83%	672	\$18,097,560	\$710
Black	Female	70%	435	\$11,701,886	\$459
Latino	Male	74%	1,950	\$52,488,831	\$751
Latina	Female	58%	1,176	\$31,640,485	\$452
White	Male	59%	1,380	\$37,129,958	\$487
White	Female	37%	663	\$17,841,561	\$234
Total		60%	6,276	\$168,900,281	\$492

Questions?