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Dear Members of the Committee,

Thank you for allowing me this opportunity to present testimony regarding Interim Charge Number 5, which will examine the plausibility of extending juvenile court jurisdiction to 17-year-olds, who are currently considered adults in Texas. This possible policy change will permit these youth to access age-appropriate rehabilitative programs and services that are unavailable in the adult system, as well as enable adult facilities to better comply with the Prison Rape Elimination Act.

ADULT JURISDICTION IN TEXAS: THE HARMS TO 17-YEAR-OLDS IN THE ADULT SYSTEM

In Texas, certain rights are granted to teens when they reach 18 years of age: the rights to vote, join the military, and buy a lottery ticket are among them. Unfortunately, the right to be charged as an adult for a criminal offense comes sooner. The day a teen turns 17, he or she is legally considered an adult despite the seeming consensus that adulthood begins at 18. Not only is this practice inconsistent with our societal consensus for “maturity,” it also inconsistent with “common sense – what every parent knows” – and what neurological research has confirmed: youth of this age are inherently less likely to consider the potential outcomes of their actions, prone to risky behavior, and more vulnerable or susceptible to negative influences and outside pressures.¹ Because of these distinctive attributes of youth, which thankfully youth outgrow with time, there is less justifications for treating them as adults and subjecting them to adult punishment.

These youth may be exposed to isolation and detention within an adult jail setting or incarceration within a prison setting – all of which pose a severe danger to youths’ mental and physical health. Sadly, the majority of these youth are charged with nonviolent and misdemeanor offenses that could be adequately handled in other ways, without subjecting them to an adult criminal record.² In the juvenile justice system, these low-level offenses would most likely result in release back into the community, orders to attend rehabilitative treatment, and oversight while completing treatment.

KEY FINDINGS

- The most common offenses for 17-year-old youth are minor offenses, such as violation of liquor laws, public drunkenness, vandalism, and larceny theft.³ Of the 17-year-olds who were arrested in 2014, 96% were arrested for nonviolent and misdemeanor offenses.⁴
- Setting the age of adult criminal justice jurisdiction at 17 negates neurological research findings that identify this age as a crucial point in developing cognitive reasoning.⁵
- Research shows that young people who are kept in the juvenile justice system are less likely to re-offend than young people who are transferred into the adult system. According to the Centers for Disease Control and Prevention, youth who are transferred from the juvenile court system to the adult criminal system are approximately 34% more likely than youth retained in the juvenile court system to be re-arrested for violent or other crimes.⁶

- Regardless of legislative action on this jurisdictional issue, Texas county jails cannot continue housing 17-year-olds with adult inmates or in isolation cells without financial cost.⁷ The Prison Rape Elimination Act (PREA) requires all offenders under 18, even those in the adult criminal system, to be housed separately from adults in all lockups, jails, detention centers, and prisons. Noncompliance can result in a 5 percent penalty on several federal formula funds and block grants, which support state and local law enforcement agencies throughout Texas.⁸ For example, Dallas County spends approximately \$79,850 per week to separate 17-year-olds from adults.⁹ Harris County has had to evacuate entire floors to move one or two 17-year-olds to the shower.¹⁰ Smaller counties are logistically unable to provide “sight and sound” separation and/or avoid placing youth in isolation without retrofitting facilities at tremendous expense.¹¹
- Research has shown that adult correctional facilities are a breeding ground for violence and abuse.¹² Youth are over eight times as likely to have a substantiated incident of sexual violence while in state prisons than adults in these same facilities.¹³
- Studies have shown that raising the age of juvenile jurisdiction to 18 will ultimately save Texans \$88.9 million for every cohort of seventeen-year-olds moved into the juvenile system in Texas.¹⁴
- The United State Supreme Court has set the age of adulthood at 18 years old, and provided procedural protections for youth that differ from adults.¹⁵ Because 17-year-olds in Texas are considered adults by state law and juveniles by federal law, confusion and jurisdictional questions arise when 17-year-olds are arrested.

COST-SAVING AND PUBLIC SAFETY-DRIVEN SOLUTION

The Texas Criminal Justice Coalition recommends that Texas raise the age of juvenile jurisdiction for both misdemeanors and felonies from 17 to 18. This expansion of juvenile jurisdiction is consistent with federal constitutional law and promotes a juvenile justice system focused on public safety, youth rehabilitation, fairness, and fiscal responsibility. This change will reduce confusion and jurisdictional questions that arise when 17-year-olds are arrested.

CONCLUSION

Thank you again for allowing me the opportunity to testify regarding Interim Charge Number 5. The current practice of forcing 17-year-olds under adult criminal jurisdiction not only goes against the societal consensus for “maturity,” it also defies scientific findings that have found youth at this age to be incapable of anticipating the ramifications of their actions. The juvenile system is better equipped to handle youths’ rehabilitative needs, while still providing accountability and important tools for personal responsibility.

Citations

¹ *Miller v. Alabama*, 132 S.Ct. 2455, 2464-65 (2012); S. Johnson, R. Blum, and J. Giedd, *Adolescent Maturity and the Brain: The Promise and Pitfalls of Neuroscience Research in Health Policy*, Journal of Adolescent Health (2009).

² Michele Deitch, et.al, *Seventeen, Going on Eighteen: An Operational Fiscal Analysis of a Proposal to Raise the Age of Juvenile Jurisdiction in Texas*, p. 40.

³ Ibid.

⁴ Texas Department of Public Safety, Crime Records (2014).

⁵ J.N. Giedd, *Structural Magnetic Resonance Imaging of the Adolescent Brain*, Annuals of the New York Academy of Sciences (2004).

⁶ Centers for Disease Control and Prevention. (2007) Effects on Violence of Laws and Policies Facilitating the Transfer of Youth from the Juvenile to the Adult Justice System: A Report on Recommendations of the Task Force on Community Preventive Services. MMWR 2007; 56 (No. RR-9). Available online at <http://www.cdc.gov/mmwr/pdf/rr/rr5609.pdf>.

⁷ Michele Deitch, Anna Lipton Galbraith & Jordan Pollock, Conditions for Certified Juveniles in Texas County Jails 11-15 (2012), available at <https://www.utexas.edu/lbj/sites/default/files/file/news/Conditions%20for%20Certified%20Juveniles%20in%20Texas%20County%20jails-FINAL-3.pdf>.

Conditions for Certified Juveniles in Texas County Jails is a Special Project Report from the Lyndon B. Johnson School of Public Affairs at The University of Texas at Austin. This report shows that youth ages fourteen to sixteen who are confined in adult county jails are typically held in isolation cells with less than one hour a day of out-of-cell time. Id. Many other youth are co-mingled with adult offenders, even for housing purposes. Id.

⁸ PREA imposes three new requirements for housing minors in adult prisons: 1) agencies must place youth in a housing unit separated by sight, sound, and physical contact with any adult inmate, including shared and common spaces such as showers, dayrooms, and sleeping quarters; 2) in areas outside of housing units, agencies must maintain sight and sound separation between youth and adults, or provide direct staff supervision of youth, and; 3) agencies must make the “best efforts” to avoid placing youth in isolation to comply with this requirement and if youth are isolated, facilities may not deny youth large muscle exercise and special education services absent “exigent circumstances.” National Standards to Prevent, Detect, and Respond to Prison Rape, 28 C.F.R. § 115.14.

⁹ Sheriffs Adrian Garcia, Christopher Kirk, and Lupe Valdez, “Sending 17-Year-Olds to Adult Jails Costly to Teens and Taxpayers,” *Dallas Morning News*, May 19, 2014, <http://www.dallasnews.com/opinion/latest-columns/20140519-sending-17-year-olds-to-adult-jails-costly-to-teens-and-taxpayers.ece>.

¹⁰ Deitch, et al., “Conditions for Certified Juveniles,” 25.

¹¹ Ibid.

¹² Lacey Levitt, “The Comparative Risk of Mistreatment for Juveniles in Detention Facilities and State Prisons,” *International Journal of Forensic Mental Health* 9 (2010): 44-55, <http://www.prearesourcecenter.org/sites/default/files/library/riskofjuvenilemistreatment.pdf>; *see also* Michele Deitch, Anna Lipton Galbraith, and Jordon Pollock, “Conditions for Certified Juveniles in Texas County Jails,” (May 2012): 25.

¹³ National Standards to Prevent, Detect, and Respond to Prison Rape, 77 Fed. Reg. 37106-01, 37128 (Jun.20, 2012) (amending 28 C.F.R. pt II5). Other studies have found that youth in adult facilities are five times more likely to report sexual assaults than youth in juvenile facilities. Levitt, 44-54, (Youth in adult prisons are “five times more likely to report being sexually assaulted by other inmates than in a juvenile commitment facility.”).

¹⁴ Michele Deitch, Rebecca Breeden, and Ross Weingarten, *Seventeen, Going on Eighteen: An Operational Fiscal Analysis of a Proposal to Raise the Age of Juvenile Jurisdiction in Texas*, American Journal of Criminal Law, p. 2 (2012).

¹⁵ *Miller v. Alabama*, 132 S.Ct. 2455 (2012); *J.D.B. v. North Carolina*, 131 S.Ct. 2394 (2011); *Graham v. Florida*, 560 U.S. 48 (2010); *Roper v. Simmons*, 543 U.S. 551 (2005).