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**Before the California Assembly Select Committee on
Delinquency Prevention and Youth Development**

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A. Introduction

Saving a youth from becoming a chronic offender results in \$1.7 million to \$2.3 million in avoided lifetime costs to taxpayers and victims.¹ Consequently, Californians and all Americans have a large stake in cost-effective approaches to juvenile justice that result in more youths turning away from crime and towards a future as a productive citizen in which they are an asset, rather than a liability to their fellow citizens. However, this goal must be accomplished through cost-effective approaches that ensure accountability in the expenditure of taxpayers' dollars.

B. What Texas Has Done

Like California, Texas has dramatically reduced the number of youths in its state lockups in recent years, going from about 5,000 youths in state lockups. In 2011, we worked with Texas lawmakers to pass legislation that combined the Texas Youth Commission (TYC), which ran state youth lockups, with the Texas Juvenile Probation Commission to form the Texas Juvenile Justice Department. Significant savings are anticipated and, as part of the merger, prevention and early intervention programs previously under neither agency were brought under the new agency. By having these programs within the juvenile justice umbrella rather than in a social services agency, policymakers can better appreciate the extent to which cost-effective prevention and early intervention programs can ultimately reduce net expenditures by avoiding the need for more costly interventions, such as youth incarceration.

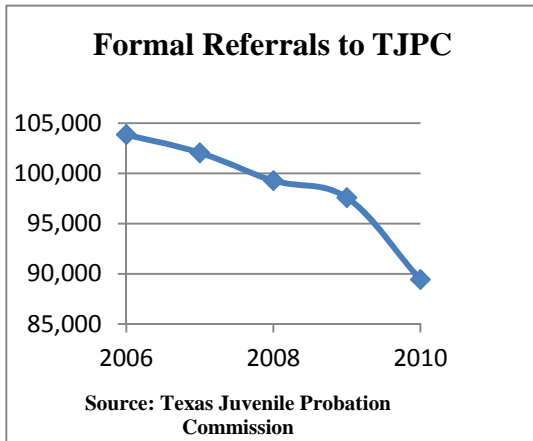
From 2007 to 2011, the Texas juvenile justice system experienced major transformations, as a crisis became the impetus for significant policy reforms. Immediately prior to the 2007 legislative session, state policymakers learned that Texas youths were frequently being abused in state juvenile lockups. This led lawmakers to enact sweeping reforms that same year, followed by complementary changes in 2009 and 2011. These initiatives have contributed to a historic decline in the state's youth incarceration rate, during the same period that crime rates fell to their lowest levels since 1973.² The much smaller number of youths that still remain in state facilities are now safer and have access to more effective programming, and verified abuse complaints have fallen 69.5 percent from 2008 to 2011.³

Protecting Juveniles

Upon exposure of abuses in state juvenile lockups, Texas officials took action to redress the wrongs and establish protections for juvenile offenders. The Texas Public Policy Foundation was called upon to help lawmakers draft Senate Bill 103 in 2007, which was overwhelmingly passed and signed into law by Governor Perry. The governor had earlier designated reforming Texas Youth Commission (TYC), the agency that runs juvenile lockups, among his emergency items for urgent legislative action at the beginning of the session.⁴

Senate Bill 103 contained numerous significant reforms to protect youths. First, the legislation called for the installation of video cameras in TYC facilities to monitor staff treatment of committed youth, and it established an inspector general's office at TYC.⁵ The inspector general investigates crimes committed by a

TYC employee, or at a facility operated by or under contract with TYC, and reports to TYC's board to ensure maximum oversight. Second, a Special Prosecution Unit was established to work with the inspector general and district attorneys to prosecute crimes within TYC.⁶ These reforms promoted speedy, objective investigations by qualified personnel not beholden to internal agency prerogatives.



A New Era of Cost-Efficient and Effective Juvenile Justice

Juvenile justice reform in Texas went beyond addressing abuse, however. Texas took the opportunity to fundamentally reform and reshape the entire juvenile justice system. In the last few years, Texas has moved away from an overemphasis on incarcerating less serious youth offenders in remotely located state lockups and towards evidence-based, cost-efficient, and effective community corrections programs.

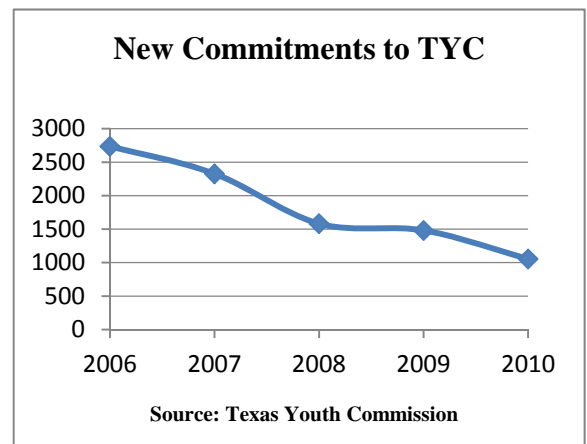
Senate Bill 103 also barred further commitment of misdemeanants to TYC, finding that offenders guilty of low-level crimes such as graffiti and minor in possession of alcohol need not be incarcerated alongside violent offenders at TYC

facilities. The inefficiency of doing so had become clear: as of 2007, TYC had a 49 percent three year re-incarceration rate (now 39 percent), while costing more than \$100,000 per youth, per year.⁷

In 2009, the Texas legislature included a rider in the budget act which authorized the Texas Juvenile Probation Commission (TJPC) to fund grants to local juvenile probation departments that pledged to reduce commitments to TYC through the diversion of suitable juvenile offenders to community-based treatment and vocational programs.⁸ These programs are funded only if past evidence from other jurisdictions and ongoing results demonstrate a reduction in recidivism. These programs were statutorily required to cost less than half of the per-day cost of the state lockup.

As a result of these changes, state incarceration of juveniles plummeted to record lows, and is now reserved for offenders who pose a risk to public safety, saving taxpayer dollars and achieving better results by keeping more youths closer to the families, churches, and other sources of community support.

Significantly, much lower incarceration rates have not resulted in higher crime rates: in August of 2011, 9.1 percent fewer criminal cases were pending against youths in August 2011 as compared with August 2007, and the juvenile arrest rate has fallen substantially from 2007 to 2009, the most recent year reported.⁹



Thanks in large part to these positive changes, this year, Texas lawmakers closed three youth prisons, accounting for most of the \$117 million in budget savings at TYC in this biennium.¹⁰ Furthermore, a transition team is currently working to consolidate the two state agencies responsible for juvenile justice, which is projected to result in tens of millions of savings from efficiencies realized in the 2012-13 biennium.¹¹

These reforms show that Texas' juvenile justice system is far removed from its past; even the *New York Times* has recognized Texas' reform efforts, calling them "impressive strides."¹² While Texas must continue to improve its juvenile justice policies, it is clear that the fast pace of positive change over the last several years serves as a model for reformers across the nation.

C. Prevention and early intervention programs should be evidence-based and matched to the risk and needs of the client. Programs should be rigorously evaluated and have strong performance measures.

Programs should be based on research indicating that they cost-effectively achieve the intended goals, whether that is reducing recidivism, preventing delinquency, treating mental illness, or ending child neglect and abuse. The Washington State Institute for Public Policy, a think tank that is part of the Washington state government, has published a meta-analysis identifying juvenile probation and prevention programs that achieve net benefits and those that do not.¹³

Moreover, validated risk and needs assessments should be used to match the youth and family with the appropriate program. This avoids allocating limited program space to youths and families who do not need such an intensive program and, in fact, research on probation has found that over-supervising low risk individuals may actually increase recidivism.¹⁴ Risk and needs assessments are particularly important to conduct prior to placing a youth in a residential setting, as they may identify some youths who could be alternatively handled through a less costly non-residential program. In juvenile probation, examples of such programs that have been demonstrated to reduce recidivism and produce positive outcomes are multisystemic therapy, functional family therapy, vocational training, victim-offender mediation, and mentoring.¹⁵ In early 2010, the Texas Juvenile Probation Commission rolled out a statewide risk and needs assessment instrument for juvenile probation departments, which was required by the sunset legislation enacted in 2009.

In general, the research indicates that those programs that deal with youths who are either already delinquent or are at a high risk of becoming delinquent are more cost-effective than untargeted efforts that aim at the entire student population, such as DARE. First, many students never contemplate delinquent behavior. Second, programs that bring a wide range of students together into group discussions are particularly problematic to the extent they co-mingle students that are already delinquent with those who are not. Negative peer contagion can result in students who were neither delinquent nor at-risk prior to the sessions becoming negatively influenced by anti-social attitudes, gang culture, etc.

It is vital that programs being funded with taxpayer money be evaluated, preferably by academically rigorous studies with control groups, to determine whether or not they achieve the intended results and are cost-effective relative to other options. Moreover, the performance measures for state agencies and programs should be revised to be more focused on outcomes, rather than focusing solely on the number of youths served or supervised.

It is equally critical that recidivism and other performance measures be compared based on the risk level of the youths being served or supervised. A program that at first blush has a lower recidivism rate than another program but deals with much higher risk youth who have been repeatedly and deeply involved in the juvenile system may in fact be more cost-effective given the appropriate baseline recidivism rates for the different types of youths in each program. Even for juvenile justice programs, it is also vital that recidivism not be the only benchmark. Of course, even within recidivism, analyses should factor in a violent or sex felony much more heavily than marijuana possession or minor in possession of alcohol. Moreover, the benchmark recidivism measure is three-years, although one-year re-arrest rate is often used as well.

While recidivism over the medium and long term remains a critical barometer, it is also helpful to gauge a program's effectiveness on an ongoing basis and to minimize the impact of extraneous factors that can influence recidivism during the year or more following a youth's conclusion of a program. One way to accomplish this is to administer inventories like the Ohio Scales to the youth, parent, probation officer, and/or therapist on a recurring basis to determine if the youth is making progress while in the program in areas such as avoiding anti-social activities and engaging in pro-social activities and relationships. Also, other positive benchmarks can and should be tracked on an ongoing basis to the extent relevant, such as school attendance, educational achievement, substance use desistance, and, for older youths who are pursuing employment or are employed, progress in finding or maintaining work or progress in obtaining a degree or vocational certificate. If the youth owes restitution to a victim, satisfaction of that obligation should also be a performance measure.

Programs should also include evaluation forms for youth, their parents, and program staff. These subjective evaluations, coupled with the performance metrics noted above, will help provide a more complete picture of the impact of the program. If the program involves a victim of crime, victim satisfaction should also be assessed.

D. Adopt a portfolio approach pioneered by the Washington State Institute for Public Policy in which cost-effective programs are prioritized as performance and the funding mix are regularly reassessed.

Just as an investment manager seeks the right mix of investments in a portfolio, policymakers and administrators funding programs should seek to allocate funding to maximize the return on taxpayers' investments. In Washington State, the WSIPP cost-benefit data has enabled their legislature to take this approach, rebalancing their portfolio in different legislative sessions in response to the latest data, the needs of the state, and the changing fiscal climate. In the most recent legislative session when the state had less to spend due to lower revenues, lawmakers relied upon the WSIPP data to run simulations in the model that demonstrated that they could shift funds away from unnecessary incarceration by expanding the number of youths diverted by existing community-based programs that had proven records of cost-effectively lowering recidivism for such youths. This enabled a budget to be crafted that reduced net juvenile justice spending, but reallocated the funds in a way that is projected to reduce the state's juvenile crime rate.

E. Streamline California's portfolio of anti-delinquency programs and promote information sharing across agencies that serve and supervise youths

Too often, each agency is its own silo. This is a particular challenge given that the Governor's inventory of programs addressing juvenile delinquency indicates that there are programs in some 15 different state agencies. It might make sense in some cases where an agency has only or a few small programs to transfer the program to another related agency that has a larger portfolio of programs that involve the same focus and require the same type of administrative oversight and personnel. Also, some programs are extremely small, involving less than \$100,000. Given monitoring, administrative, and oversight costs, it may make more sense to fold such tiny programs into larger, programs, such as the juvenile justice block grants. The same logic applies to programs that are designated for certain cities and counties. Given that these issues impact the entire state and that there is considerable block grant funding which cities and counties can use for specific programs of their choice, line items for individual jurisdictions should be reexamined.

When information is not shared between agencies, duplication can result. For example, the juvenile probation department and child welfare department may within a matter of days perform the same assessment on the mother or child. Similarly, does a juvenile probation officer know that one of the youths they supervising did not show up for school? One reason that information sharing can be so useful in providing better services and reducing duplication is that there is such significant overlap between systems such as juvenile probation, child welfare, education, and mental health. For example, at least 20 percent of the youths in the juvenile justice system are also in the child welfare system.

In regard to the K-12 system, it is vital that juvenile probation and child welfare caseworkers have collaborative relationships with school districts. A simple example is verifying whether the youth is attending school. While the federal Family Educational Rights and Privacy Act (FERPA) places certain limitations on information sharing of educational records, there may be ways for the juvenile probation and child welfare systems to nonetheless enhance their capacity to cooperate with school districts to most efficiently and effectively serve and supervise youths and their families. Additionally, state legislatures can pass measures to opt out of certain parts of FERPA.

Another aspect of information sharing is between programs. Not only might the same youth be in more than one program, but siblings from a household may be in various prevention, early intervention, and other programs simultaneously. Interestingly, the research showing the effectiveness of in-home programs such as multi-systemic therapy and functional family therapy does not even capture the potential benefits to other siblings. Clearly, if the family can be strengthened in their capacity to provide discipline at home, those

benefits can accrue for all children in the household and, ultimately, the stronger the family, the less the need for government involvement over the long term.

There may also be appropriate opportunities to benefit from involving law enforcement in information sharing, although precautions should be taken so that information shared in a civil context is only disclosed to law enforcement when warranted.

F. Foster competition in the provision of services to youth

There are numerous non-profit organizations that develop and operate delinquency prevention and early intervention programs. It is important to determine what entity can most effectively implement each program being funded by taxpayers. While it may be a juvenile probation department or school district, it may also be a non-governmental entity such as a non-profit organization. Even with the more than half a billion California spends annually on after-school programs pursuant to Proposition 49, a non-profit could operate the program while the school is reimbursed for the share of operational costs attributable to the facility. Proposition 49 should also be modified so it is not on autopilot.

Currently, funding for programs pursuant to Proposition 49 takes legal precedence over funding for the basic school programs, which the Legislative Analyst's Office has said is unwarranted given current budget challenges.¹⁶ Additionally, more flexibility would be helpful, so districts could use the money for other interventions with at-risk students, whether it is a program before school or during the school day. Also, funding for after-school programs should be based on a combination of outcomes and the number of students participating in the program and average daily attendance, not enrollment at the beginning of the school year. When funding is linked to attendance each day, it creates a positive fiscal incentive for schools to reduce drop-outs and truancy, both of which are highly correlated to subsequent involvement in the juvenile and adult justice systems.

By regularly issuing requests for proposals and opening up contracts for program operation to competitive bidding, policymakers and administrators can ensure that taxpayers' dollars are being used to maximum effect. However, achieving the benefits of outsourcing often depends on the use of best practices in procurement must be utilized. For example, funding should be tied to some degree to measureable outcomes, not based simply on the number of youths participating in the program. Also, contractors should be screened for solvency and stability to help avoid disruptions in the delivery of the service that can occur when a contractor becomes insolvent. With proper procurement practices, policymakers and administrators can tap into the advantages the private sector offers, such as innovative new approaches and competitive pressures that incentivize efficiencies, without taking undue risks with taxpayers' dollars.

G. Expand use of police diversion

In Texas, police can divert a case even before it reaches juvenile court, either through a simple warning or by "disposition without referral to court," as described in Section 52.03 of the Family Code or a "first offender program," as described in Section 52.031.¹⁷ Section 52.032 states: "The juvenile board of each county, in cooperation with each law enforcement agency in the county, shall adopt guidelines for the disposition of a child under Section 52.03 or 52.031."¹⁸

A disposition with referral to court may involve referral of the child to an agency other than the juvenile court, a brief conference with the child and his parent, or referral of child and parent to services such as crisis family intervention, family counseling, parenting skills training, youth coping skills training, and mentoring. A first offender program may involve voluntary monetary restitution; voluntary community service restitution; educational, vocational training, counseling, or other rehabilitative services; and periodic reporting by the child to the law enforcement agency.

The Tarrant County First Offender Program is a police diversion program that is jointly funded by the probation department and the Fort Worth and Arlington police departments and operated by the non-profit Lena Pope Home at a cost of \$7.47 per day.¹⁹ After a youth is referred by the police department for a Class A

or B misdemeanor or state jail felony, the parent – 92 percent are single mothers – must consent to participation, with seven working days to schedule an appointment. For offenses with a victim, the police department arranges a restitution agreement before referral. The Lena Pope Home program features separate classes for both the youth and parent. These last for seven weeks, with 90 days of follow-up requiring the youth to engage in pro-social activities.

The classes teach skills to modify the adolescent’s inappropriate behavior, strengthen family relationships, develop victim empathy, and improve communication and decision-making skills. The program also incorporates substance abuse and educational components, including referrals to tutoring and credit recovery for youths needing academic remediation. The completion rate is 95 percent.²⁰ Youths who are removed from the program, typically for failure to attend the program or school, are re-referred to law enforcement, which results in adjudication and formal probation. An audit by the juvenile probation department found that, of 809 graduates from 2005 to 2008, only eight were adjudicated for another offense within a year.²¹ A January 2009 Legislative Budget Board focus group involving stakeholders such as probation leaders, prosecutors, law enforcement, and defense attorneys found broad support for expanded use of first offender programs.²²

Similarly, an Urban Institute study of a youth police diversion program in Maryland found that the six month re-arrest rate was only 4 percent.²³ The program targeted first-time minor property offenders, requiring them to make restitution, perform community service, write essays, and send an apology letter to the victim.

The Texas Administrative Code requires the immediate destruction of information regarding a juvenile, including photographs and fingerprints, when the youth successfully completes disposition without referral to court, and expungement within 90 days for youths successfully completing a first offender program.²⁴ This likely assists these youths in obtaining employment. For Texas, California, and other states, police diversion can serve a valuable triage function, ensuring that youths who can be put on the right track without the formal, time-consuming, and costly involvement of courts, prosecutors, and probation are redirected, leaving more resources to address seriously and persistently delinquent youths.

H. Focus prevention efforts using existing funds on students in alternative schools who are at high-risk of delinquency.

In California, there are 294 district or county-administered community day schools designed for students who have been expelled from traditional schools for disciplinary reasons, or who are on probation and referred from the juvenile justice system.²⁵

Many of these students were suspended for misbehavior in school, but did not commit a criminal offense. However, research suggests many of these youths may gravitate towards criminality if there is not effective intervention.²⁶ Alternative schools must be held accountable just like other schools to ensure that they provide a strong curriculum and incorporate disciplinary practices and programs such as character education that effectively address the misbehavior that brought these students to the alternative school.

In 2007, enacted legislation we recommended in Texas required an intake and outtake exam to determine whether students placed at a DAEP for 90 days or more advanced academically, but the Texas Education Agency is still working to implement this provision. A review of DAEPs and relevant research is needed to identify best practices that can reduce the number of these students who ultimately enter the juvenile and adult criminal justice systems and lead to positive educational and career outcomes for these students.

I. Continue and expand initiatives pursuant to federal Title IV-E waiver involving child welfare and juvenile justice

It is important to emphasize that the majority of investigations and foster home placements concern alleged neglect, not alleged abuse, according to a California study.²⁷ This report by the California State Assembly noted: “Most stakeholders agree that current federal funding mechanisms for child welfare place a greater priority on supports to children while in foster care at the expense of prevention efforts and supports to help at-risk families care for their children at home.”²⁸ Nearly all federal child welfare funding distributed to states

must be used for out-of-home placement while only 5 percent is allocated for prevention, early intervention, family preservation and support services, reunification services, and adoption promotion.²⁹ For this reason, the report observes: “Federal financing has historically been a barrier to the implementation of many strategies to prevent children and their families from unnecessarily entering foster care.”³⁰ Moreover, the cost of keeping children removed from their family in a group home can exceed \$6,000 per month.³¹

However, the federal government has created the Title IV-E Child Welfare Waiver Demonstrations through which states can apply to obtain waivers to use federal child welfare funds more innovatively and efficiently. The waivers that states may apply for include the Title IV-E Child Welfare Waiver Demonstration Capped Allocation Project (CAP). Through CAP, states can redirect some of the federal funds that would otherwise be required to be used for out-of-home placement to proven in-home programs that preserve and strengthen the family and prevent neglect and abuse.³²

California is among a handful of states that have obtained a CAP waiver and is using these funds to implement evidence-based alternatives to placement through collaborative and coordinated initiatives by child welfare and juvenile probation agencies in Los Angeles and Alameda counties, which began in July 2007. A 2010 academic study found that these counties have achieved positive outcomes attributable to the shift in resources and programming that the waiver permitted.³³ Fortunately, within the last few months, Congress has acted to extend the waiver option which otherwise would have expired.

Similarly, Indiana, North Carolina, Ohio, and Oregon have obtained waivers to implement initiatives that enabled counties or local entities to use capped amounts of title IV-E funds more flexibly to provide an array of services to prevent foster care placements and facilitate permanency for children in foster care. Examples of services funded through these waivers include assessment, substance abuse and mental health services, family decision meetings, new utilization review and quality assurance mechanisms, in-home parenting services, post-adoption services, and subsidized guardianships.³⁴

A meta-analysis by the Washington State Institute for Public Policy found the flexible funding waivers in North Carolina and Oregon produced \$947 in net benefits to program participants, taxpayers, and avoided crime victims per participating family. The benefits stemmed from lower crime, higher high school graduation rates, and reduced costs to state taxpayers from fewer out-of-home placements.³⁵ The study also found savings to taxpayers from particularly effective evidence-based child welfare interventions that could be funded through this waiver. According to the meta-analysis, Intensive Family Preservation Service Programs (Homebuilders® model), Parent-Child Interaction Therapy, and Dependency (or Family Treatment) Drug Courts –produced net benefits from lower crime, higher graduation rates, and reduced out-of-home placements of between \$2,801 and \$7,875 per participating family involved compared with the control group of comparable families.³⁶

Clearly, children must always be protected from abuse even when that requires removal from the home, but effective interventions can prevent neglect, promote better outcomes for children for every dollar spent, and deter damaging activities such as parental substance abuse that negatively impact children and often lead to family dissolution and incarceration. However, the results in Alameda and Los Angeles counties, as well as in other states, indicate that California could benefit from extended these projects beyond these two counties to other counties where there are significant child welfare and juvenile justice caseloads.

J. Conclusion

At a time when resources are scarce, it is particularly important to consider policy approaches that emphasize achieving efficiencies across multiple agencies and systems so that more can be accomplished with every dollar that is currently spent. It is self-evident that rigorous evaluations and strong performance measures that help separate the programs that are cost-effective from those that are not can help policymakers and agency leaders direct limited resources into the areas where they would be most productively spent. Similarly, strategies that involve risk and needs assessments to match the client and program can enable existing

resources to be better utilized. More flexibility in spending federal funds may also foster innovation and efficiency.

Given the large stake all Californians have in preventing juvenile delinquency, it is vital that policymakers, even while addressing the projected budget shortfall, keep their eyes on the ball of maximizing the effectiveness of our prevention and early intervention efforts to reduce the long-term costs that crimes imposes on both victims and taxpayers.

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² FBI Crime Rates for Texas, <http://www.disastercenter.com/crime/txcrime.htm>.

³ Texas Youth Commission, <http://www.tyc.state.tx.us/oig/index.html>.

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⁸ Texas Juvenile Probation Commission Newsletter, <http://www.tjpc.state.tx.us/publications/newsletters/NEWS0110.pdf>.

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http://www.lbb.state.tx.us/PubSafety_CrimJustice/4_Historical_CJ_Stats/Crime_and_Arrests_in_Texas_0111.pdf.

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¹⁵ Marc Levin, Texas Public Policy Foundation, "Getting More for Less in Juvenile Justice: Innovative and Cost-Effective Approaches to Reduce Crime, Restore Victims, and Preserve Families," Mar. 2010, <http://www.texaspolicy.com/pdf/2010-03-RR01-JuvenileJustice-m.pdf>.

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³⁰ Ibid.

³¹ Ibid.

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