

Educational & Mental Health Neglect Leads to Truancy

By Joan T. Esposito

The Santa Barbara District Attorney's 1997-2003 "Truancy Prevention & Parent Accountability Program." The profound problems associated with the Program's impact on students with Learning and Mental Health disabilities and the need for immediate attention.

**Report to Santa Barbara Mayor Marty Blum & City Council members
August 26, 2003**

"What brings about the delinquency is not the academic failure *per se*, but sustained frustration which results from continued failure to achieve selected academic goals. When frustration can find no resolution into constructive or productive activity, one response, although not necessarily the only one, is aggression, anti-social behavior."

By Michael S. Brunner, "Retarding America, the Imprisonment of Potential", National Institute of Justice, Office of Justice Programs, U.S. Department of Justice.

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- Attachments: # 22. Truancy Prevention Grant Application.
- # 23. Sheriff Jim Thomas Report to County Supervisors.
- # 24. Letters to parents from School & District Attorney.
- # 25. Truancy Diagrams of program steps from 1997 and 2000.
- # 26. Five Highly Successful Programs. Solutions to help students with disabilities and truancy problems.

**Dyslexia Awareness and Resource Center
928 Carpinteria Street, Suite 2
Santa Barbara, CA 93103
(805) 963-7339**

August 26, 2003

Mayor Marty Blum and City Council Members
Santa Barbara City Council
City Hall
735 Anacapa Street
Santa Barbara, CA 93102

RE: The Santa Barbara District Attorney's 1997- 2003 Truancy Prevention and Parent Accountability Program.¹ The profound problems associated with the Program's impact on students with Learning and Mental Health disabilities and the need for immediate attention.

Dear Mayor Blum and City Council Members:

The purpose of this letter is to provide you with specific information regarding the Santa Barbara Truancy Prevention & Parents Accountability Program in the hope of bringing to your attention that this program is not functioning for the benefit of all students and our community. In its present form, it is causing incalculable damage to the lives of many children and families. I am urging you, as public officials, to take action to improve or disband this program.

The truancy program has been intertwined with non-compliance of special education laws since it's inception. Yet it was not set up either by the Santa Barbara District Attorney's office or the Santa Barbara School District to address the needs of students with disabilities. Many students with dyslexia and attention disabilities who need special education services are being overlooked by the school system *and then punished by the justice system*. These students are born with neurological differences over which they have no control. Having dyslexia does not mean that one cannot learn, rather that one learns in a different way. Children with attention disabilities can be helped with specific therapies. The majority of children I advocate for in the Truancy Program not only have dyslexia, other learning disabilities and Attention Deficit Disorder, **they also have, serious, unidentified and untreated mental health disorders.**

This document is lengthy, as it has been prepared so as to provide you and other agencies with necessary information for an investigation of the truancy program. The Santa Barbara School District the Santa Barbara County Office of Education. The County Office of "Special Education Local Plan Area" (SELPA) and SELPA attorneys, have perpetuated special education violations through out the county for many years and the violations are ongoing.

¹ Attachment # 22 Truancy Grant Application 1997. The District Attorney's program is now called "Truancy Intervention and Parent Accountability Program. The original program on grant application was the Targeted Truancy and Safety Program.

I believe the information contained in this document and the attachments will show that the above mentioned education agencies and schools brought in law enforcement, by way of the Truancy Program, to aid them in avoiding compliance with special education laws.

“Individuals With Disabilities Act (IDEA): Juvenile Court System Cannot Be Used To Avoid IDEA Compliance.”

29 Individual with Disabilities Education. Law Rep 3000. Arkansas. Cabot School District. No. H-99-02. September 21, 1998.

1. Overview of the truancy problem:

Civil rights are being denied and children with disabilities are being punished and criminalized, instead of having their disabilities addressed. Every year, a number of students with assessed and un-assessed learning and attention disabilities are forced into the Truancy Program because of alleged truancy. Students are ordered to appear before a judge, put on probation and threatened with time in Juvenile Hall. As you will read later on in this document, parents are threatened with both jail time and monetary sanctions, up to \$5000.00. For unsophisticated parents, economically deprived families, single-parent households, or English-illiterate parents, the program creates a great burden of emotional and economic stress.

Truancy Program is quick to allocate harsh sanctions for the symptoms of truancy, while failing to address the underlying problems that many of these students have: learning and or attention disabilities and depression. Many children with disabilities have been through all the required phases in the truancy program several times, over many years, and are still not getting the services they need. Furthermore, even students with a high rate of truancy recidivism are **still not** receiving the special education services they need. These students soon find themselves back in the truancy program. Two such students, who have aged out of the truancy program, were in the Santa Barbara Superior Court House last month waiting to go in front of a judge. Both of these girls are now young women and they are still reading at a third grade level, as will be elaborated on below.

The Santa Barbara District's Special Education Director wrote the grant application for the Truancy Program but it was never designed to address students' special education needs. However, it can be argued, that the Truancy Program has become a "catch-all" for local schools to avoid compliance with special education laws. Instead of servicing the special education needs of allegedly truant students, schools are avoiding their responsibility by placing these students in the Truancy Program and criminalizing them.

An equally controversial component of the program is its very conception. This will be discussed in greater detail below. The Truancy Program dovetails with the 1991 Federal Legislature requiring the "mainstreaming" of special education students, in public schools, into the regular education classrooms. In 1991 students in Santa Barbara County were removed from their special education classes and forced into regular education classes without trained special education teachers.

The Truancy Program implemented in 1987 also dovetailed with the findings by the State Department of Education that the Santa Barbara School District was out of compliance with special education laws both in 1995 and 1996. Both investigations found the district was out of compliance for not identifying students with learning disabilities and serving them. Article 1 section 56300 "Identification and Referral – Systematically Seek Out" of the California Special Education Laws.

The apparent strategies used to set up the Truancy Program enables the Santa Barbara School District and the County Office of Education to avoid implementing the special education laws and dealing with students' special education needs.

Santa Barbara District Attorney Sneddon continues to inform the public and the Santa Barbara School District Trustees that his Truancy Program is a success while concealing the real facts. Time and time again, he has presented accountings to the public by way of the media, at public meetings and at school board meetings of students involved in the Truancy Program. He has given the same documentation to the grantors of the Truancy Grant. Time and time again, he has refused to account for those students whose parents have had the wherewithal to escape the unrelenting unfairness, harshness and violations of Constitutional Rights of the Truancy Program. Other families, with low incomes, have resorted to changing school districts, home schooling, independent studies or searching for scholarships for private schools, in order to save them from the Truancy Program. These, to, are students whose civil rights for special education services were denied and overlooked by the schools and the Truancy Program. These students are also the ones that are "missing" from the District Attorney's truancy accounting reports.

In December of 2001, I spoke with a Santa Barbara Deputy Probation Officer in Santa Barbara Juvenile Court regarding the erroneous accounting of students in the Truancy Program. The officer with whom I spoke could not give me the number of unaccounted-for truant students since the program started. Instead, he responded with a flippant remark, **"We've only lost about fifty kids this year; that's not bad."** When I asked him where those 50 students from the Truancy program were, he replied, **"We don't know, but fifty kids is not a lot of kids."**

The Truancy Program is not functioning properly if even one truancy student is unaccounted for or "lost" in the system. Furthermore, fifty kids **is** a lot of kids. This is only one problem, among the many others, I will be presenting regarding the Truancy Program.

As governing officials of Santa Barbara, it is imperative that you understand that the Santa Barbara District Attorney's Truancy Prevention and Parent Accountability Program is not functioning as it should be which is for the benefit and betterment of the students in our community. In fact, in its present form, it is harming rather than helping students. I am asking you, as public officials, to help reform this program, or failing meaningful reform, to abolish it.

2. Damage to students caused by the Truancy Program and five illustrative cases

Children who are not remediated continue to suffer throughout their lives. Often in high school they begin to skip school because it is too painful to keep hearing over and over again, "You could read if you try" or "You're just lazy." The students for whom I advocate often feel hopeless, depressed or in despair. In some cases, some have attempted to cope by turning to illegal drugs. These children have lost all hope of ever being able to read. They feel the future holds little for them. Many stay illiterate, become homeless, live on welfare, live in abusive marriages and do not have the skills to support themselves or their children.

Not all of the children in the truancy program have unrecognized disabilities. Some of these students are in special education and have documented disabilities. Even with documentation on their disabilities, the students are still not receiving the special education services they need. Services they are entitled to receive by law.

District Attorney Thomas Sneddon's own words indicate his lack of knowledge about the connection between learning disabilities and truancy. In a quote taken from the *Santa Barbara Independent* article on August 22, 2002, Mr. Sneddon was quoted when questioned about the truant students in his program being criminalized **"It's all bullshit. We're not criminalizing anything."** The District Attorney minimized the problem of truant students with learning

disabilities. He is quoted as saying "**the reality is these guys get more bites out of the apple than they ever deserve before they end up in the criminal justice system.**"²

Following are five cases of such students. You are free to decide for yourselves, if these children have had "more bites out of the apple than they ever deserve."

We have numerous, well-documented cases, which are similar to the examples documented below. They date back to 1998 and illustrate the problems of the Truancy Program.

a) Jenny

In 1998, an article appeared in *the Santa Barbara Independent* about a student named Jenny. Jenny had never been in trouble with law enforcement until she was ordered to make numerous appearances in Juvenile Court as a result of the Truancy Program. In elementary school Jenny's mother was told her daughter did not have any learning disabilities. Her mother did not believe the school. As a single mother, she had to borrow money to have her daughter privately assessed for dyslexia. The private assessment showed that Jenny had dyslexia and several other learning disabilities. With no help from the school, Jenny's mother traveled the Santa Barbara community asking for scholarships to pay for private tutoring. Jenny was eventually placed in special education classes but her teachers were not trained to teach her how to read and write. Her mother tried and tried for years to get the schools to teach Jenny how to read and write but all her efforts failed. Jenny soon became depressed and did not want to attend school. The district placed Jenny in the truancy program and a deputy district attorney, against my advice, ordered Jenny into a rat-infested school, El Puente Court School. I called and wrote to the Deputy District Attorney asking her not to place Jenny in El Puente because they did not have trained staff to teach her. My request was ignored. Rather than remediation, Jenny faced recrimination by the District Attorney's Office, and while attending court one day, Jenny was told again by the Deputy District Attorney she would be locked-up in Juvenile Hall if she did not attend El Puente. Jenny walked out of the courtroom and said to me "It would be better for my mother if I was dead." Out of fear for Jenny's life and her education, her mother, once again, borrowed money to send her daughter to a private school in another state. The private school did not deal with her reading and writing problem; it only dealt with Jenny's depression, which was most important at that time.

Jenny is nineteen now. I met her last month at the Santa Barbara Court House. She was on her way to appear in front of a judge. She is still illiterate and filled with low self-esteem. I asked her how she is doing. Her response to me was "**I am still stupid.**"

b) Ann

Ann is a special education student, I began to advocate for her in August 2002. Ann had never been in trouble with law enforcement until she entered the truancy program. She spent all her school day in special education classes until 7th grade. The school removed her from her special education class and placed her in regular education classes. Ann could not function in her regular education classes. She started to become depressed and then truant. She is totally illiterate and has been diagnosed with severe multiple learning disabilities. Ann was ordered into court many times because of the truancy program. She has been through every phase of the Truancy Program for two

² Refer to attachment # 19 Santa Barbara, Independent Magazine feature article "The Untouchable" on District Attorney Thomas Sneddon by, Reporter Nick Welsh.

years, including the County Office of Education's, Attendance Review Board (SARB). Last year her depression was documented on her Individual Education Plan (IEP). Her probation officer, assigned to her through the truancy program, was in attendance at an IEP meeting, but still no one addressed Ann's depression or illiteracy. Ann aged out of the truancy program when she became eighteen.

I met Ann one week before she aged out of the truancy program. I attended her last court appearance. Ann's probation officer's report to the court stated: "*The subject has not fulfilled all the requirements of her probation.*" "*The subject failed to become rehabilitated: "Probation facilitated an alternative school site, yet the subject has failed to progress toward graduation. She has failed to enroll in summer school and keep probation aware of her whereabouts."* I had to inform the judge that Ann could not fulfill her probation requirements to progress towards graduation. She is illiterate and the school in which probation placed her in, El Puente, County Office of Education Court School, did not have the trained staff to teach her. Ann needs intensive one on one educational therapy.

Since September 2002 I have been advocating for Ann in the Santa Barbara High School and with the members of the Santa Barbara School Board. The Santa Barbara District Director of Special Education has repeatedly delayed giving this child the remedial treatment and other services she needs. In September 2002 at Ann's special education meeting (IEP) instead of giving Ann what was recommended in her assessment, the Director of Special Education recommended Ann go to a program at Santa Barbara City College, where they would teach her how to read and write. At the next IEP meeting in January 2003 the Director of Special Education again delayed giving Ann what she needed. At the meeting a special education teacher recommended that Ann read "Glamour Magazine and she would learn how to read."

Ann was recently locked up in prison as an adult. A recent neuropsychological assessment documents that Ann is illiterate and because of her multiple severe learning disabilities, she functions psychologically at the level of a seven to eight-year-old child.

c) John

When I first met John in 2001, he was 17 years old and his truancy case was set for trial. He had been in the Truancy Program for two years and was on informal probation. Prior to his being placed in the Truancy Program he had never been in trouble at school and was very polite and shy. He was a low-profile student and his learning disabilities were overlooked until he was fifteen. During his freshman year, John suffered from and was treated for anxiety attacks and depression. He was identified as a special education student, but still did not receive the services he needed. The only help he was given was assistance with his schoolwork one hour a day. He became increasingly depressed and lethargic until he couldn't get out of bed to attend school. John was required to appear before the School Attendance Review Board (SARB) as part of the Truancy Program. They ignored his depression and learning disabilities. Ultimately, John was ordered to Juvenile Court and to attend El Puente, County Court school. John was searched every day for drugs. John has never used illegal drugs. Furthermore, he is a bright, extremely sensitive young man who has never had any behavioral problems in or out of school. He is still depressed and still has not received services for his special needs. John is out of school now and is still very depressed.

d) Tommy

I met Tommy in 2000. He was in the truancy program and was in trouble with the law. Tommy's mother had begged the Santa Barbara School District, throughout his

elementary school years, to assess he son to see what was wrong with him. The school did several assessments over the years but never qualified him for special education services even when he was years behind in his reading and writing skills. Tommy's learning disabilities were finally diagnosed at age fifteen after he had been placed in the court system as a teenager.

The following assessment report documents all of the wasted years when his schools were denying Tommy appropriate assessments and services. Documentation of inappropriate assessments by the school from 2nd grade to age fifteen, after he got into trouble with law enforcement. I have changed the students name and left out the names of his schools:

Assessment report by El Puente County Court School, November 2001:

"Tommy has been assessed on multiple occasions throughout his schooling, an initial screening was conducted by the resource specialist at - - school in March 1994, Tommy's 2nd grade year. The screening identified Tommy as being approximately one year below grade level in reading, math and written language. Signs of attention difficulties as well as challenges with listening comprehension were indicated at that time. Another screening was conducted by the School Psychologist at - - school in January 1997, Tommy's 5th grade year. That screening identified strengths with visual-perceptual skills and weaknesses with auditory processing. Additional regular education interventions were recommended at that time".

"A complete psycho educational evaluation was conducted in November 1999. That report indicated severe discrepancies between Tommy's apparent abilities and his academic skill levels. However, the IEP team failed to determine a processing weakness, which was contributing to that discrepancy at that time and therefore did not find him eligible for special education services."

The November 2000 report goes on to describe Tommy's sever learning disabilities:

*Verbal = 23% Low Average
Nonverbal Reasoning = 19% Low Average
Listening Comprehension = Below Average = grade 2.8
Overall writing skills = below average = grade 2.1
Math = Well below average (he performed better than only approximately 1%
Of his peers. = Grade 5.0
Oral expression = grade 5.5
Written expression = 2.1*

After many years, Tommy finally qualified for special education services. However, the earlier lack of much needed services to address his needs undoubtedly contributed to his behavior problems. Today Tommy is functionally illiterate and is at high risk for future problems with law enforcement.

e) Carlos: Age 15, April 2003. Carlos has never been in trouble with the law until he was placed in the truancy program. Carlos' parents had been requesting an assessment for learning disabilities from the Santa Barbara District for two years when Carlos was seven years old. Their requests were ignored. The Principal informed the parents their son would be placed on a two-year waiting list. The child could not read or write. A teacher told the parent the school was violating the law and she needed to go outside the school for some help. April 17, 1996, I helped the mother write a letter to the district requesting an assessment. She was told he would have to wait until December (this is a violation of the law.) April 18, 1996, I met with a compliance officer from the State Department of Education to discuss several other parents' complaints on the same issue

of the district denying assessments. I reported Carlos' case to her. The compliance officer met with district administrators after our meeting and three hours later Carlos' father received a call from the district administrator informing him his son would be assessed. Carlos was assessed with learning and attention disabilities and qualified for special education services.

Carlos has been in special education classes for the past seven years and he has still not received the services he needed for his disabilities. In March 2003, Carlos' mother contacted me to attend an IEP meeting (special education meeting) with Carlos and his mother. Carlos was failing all his classes (he still struggles with reading and spelling) he has become so depressed he does not want to attend school. Carlos had over 163 unexcused absences from school. He is now in the Truancy Prevention Program. Carlos has not receiving the special services he needs and he, not the school district personnel, is being punished by way of the Truancy Program. As Carlos' truanancies increased school personnel who attended his special education meetings (IEP) never suggested further assessment to see why he did not want to attend school. No one at his special education meetings suggested an assessment to see how severely depressed he was, nor did they review his special education services to see to see if they are appropriate. The only thing the assistant principal and the special education team did was to try and push Carlos out of their school into El Puente County Court School. Through the truancy program Carlos was ordered to attend a meeting with the "School Attendance Review Board" (SARB) through the truancy program. One more time, Carlos' special education needs were not taken into consideration. SARB members recommended that Carlos be sent to El Puente County Court School.

At the March 2003 IEP (special education meeting) Carlos' mother and I refused to agree and let the assistant principal of San Marcos High School send him to El Puente Court School or Santa Barbara High School. San Marcos High School has a responsibility under the law to find out why Carlos was truant and depressed. The assistant principal banged his hand on the desk and said, "He is not staying in my school. I will write a letter if I have to, but he is not staying." In April, three weeks after the IEP meeting, the assistant principal wrote his letter to the Juvenile court Judge for the Truancy Court hearing. **The letter made no mention of Carlos' special education program, his learning disabilities or his depression.** The letter stated the following:

"Carlos has accumulated 163 period cuts this year. All of these absences are unexcused. We at San Marcos High School have worked hard to provide Carlos with a program that is workable. We have changed his schedule numerous times to accommodate his wishes and to try to get him to actually attend class. This week we even changed his schedule, at his mother's request from Reading to Computer Typing so that Carlos would attend first period. Subsequently, Carlos is still cutting first period."

*"Obviously, the comprehensive high school is the least restrictive environment available for a student. San Marcos High School is **not a match** for Carlos due to his continued blatant pattern of truancy. In my six years as assistant principal, I do not recall a student accumulating 163 unexcused period absences without having SARB move the student to a **more restrictive environment**. Subsequent to Carlos' March 5, 2003 SARB meeting he has had plenty of opportunities to attend class. He has not improved and has accumulated another 30 period cuts."*

Carlos has since been diagnosed privately with additional disabilities: **Anxiety, depression and insomnia.** Carlos' case is just one example of how the Truancy Prevention Program has been, and continues to be used by some school district administrators to deny appropriate special education services to students and move the students from school to school without addressing the students' special needs.

Educational and Mental Health neglect led to student' truancy.

All five teenagers have serious untreated learning and attention disabilities and have developed secondary emotional disabilities. What led these teenagers into the truancy program is the culmination of years of educational and mental health neglect. Inadequate assessments have guided their educational programs.

3. Spanish Translators are available in Juvenile Court while Learning Disability Specialists and Advocates, trained in Special Education Rights and Responsibilities are not available for the Judge, Public Defender, parents and students.

The truancy program employs law-enforcement techniques such as requiring the payment of court costs, the threat of sanctions up to \$5000.00, and threatening parents with jail time. If the students do not respond to the sanctions, they are then placed on probation. When they appear in court for their truancy actions, they do so without an advocate specializing in disabilities. There is always a Spanish translator available to parents but no learning disability specialist. There is no information available on learning disabilities or Special Education Rights for parents attending the Juvenile Court. Learning Disability Specialists and Advocates, trained in Special Education Rights and Responsibilities are not available for the Judge, Public Defender, parents and students.

The Truancy Program is focused on "truancy" only and does not account nor provide for children with special education needs. In fact, even though documentation often clearly defines the special education needs of the child, the District Attorney's office and its partnered institutions often choose to ignore the special education needs of the children and deals exclusively with the issue of truancy.

Many people with good intentions work in our Juvenile Court system. But good intentions are not always helpful to students with learning and attention disabilities. This is where an unbiased, trained special education advocate is needed. An advocate or an attorney who is not part of the Truancy Program I have observed probation officers recommending to the judge inappropriate alternative school placements for students in the Truancy Program. These schools do not have the staff needed to provide the intensive services these students need. I have read probation reports given to the judge, which blame the child for actions related to their disabilities, without the probation officer first speaking to, or asking advice from, a specialist in the field of learning and attention disabilities. The result is, the student is ordered by the judge to spend extra time in Juvenile Hall for a medical condition her/she was born with. In some cases as much as 100, or more, extra days in juvenile Hall.

I have observed students in court who simply cannot process what is being asked of them. They are expected to respond to questions without the assistance of a specialist in learning or attention disabilities. Student's who have a reading disability often have word retrieval disabilities. They struggle to find the words to respond to the judge or other court and probation personnel. Students come out of court and they cannot tell you one thing that what was said to them by their public defender, the district attorney or the judge. Students are told by the judge to attend school yet they don't have the verbal skills to explain to the judge why they are truant. Students who are too embarrassed in front of strangers in the courtroom, to say they cannot read or write because they often don't know why they cannot read or write. They just feel stupid. Yet no one is present who is a trained professional in disabilities to defend these children and speak up for them in court. No one to explain why the child does not comprehend what is being said or asked of them by the judge

I have seen a County Mental Health psychologist; used by the district attorney in court, recommend inappropriate school placements without a full assessment of all the child's disabilities. Students who came from spending full days in special education classes now being placed in the County Office of Education Probation Court Schools without the services they were receiving at their local school.

3. A Brief History of the Truancy Program and it's Problems

On March 31, 1997, the director of student services for Santa Barbara District and the Santa Barbara School District special education director wrote a grant application for a countywide truancy program. It was funded for \$1,016,614. with matching resources totaling \$2,038,205.³

Former Santa Barbara School District's Superintendent Michael Caston assisted Santa Barbara District Attorney Thomas Sneddon in starting and implementing the Truancy Program. It was during Caston's tenure as superintendent that parents filed compliance complaints with the California State Department of Education and the Office for Civil Rights (OCR) about the District's non-compliance with Special Education laws. **In 1996 and 1998 the District was found out of compliance for not identifying students with learning disabilities.** The parents did not hire attorneys for their complaints. Mr. Caston, on the other hand, hired attorneys from the County Office of Education, to represent the district and delay the State and the Office of Civil Rights investigations. Even after four years of tactical legal maneuvering Santa Barbara School District was found to be out-of-compliance with federal and state laws by the State Department of Education and the Office of Civil Rights (OCR.) **During the time of the State Department of Education and OCR investigations, Superintendent Caston was working with the Santa Barbara District Attorney to set up the Truancy Program and he also he hired a "Public Relations" specialist for the district.**

How could parents, with little or no financial means and no expertise in special education laws, compete with the power of a District Attorney backing up the District and the influence of the District's Public Relations personnel whose job it is to make the District's public image look good. Many of these parents could not even write a letter to the newspapers.

A letter was sent to the Santa Barbara School District from the American Civil Liberties Union, Santa Barbara Chapter, dated May 14, 2001, calls further attention to the Truancy Program problems:

"Agency personnel participating in the Truancy Prevention program do not appear to make systematic attempts, as required by law, to identify and assess two groups of truant students; (a) those who are suffering from undiagnosed and/or unremediated learning disabilities and related conditions, and (b) those who have been identified and assessed but not attending school because they are made to feel stupid and lazy, and their truancy is a symptom of a more significant problem. The ACLU's concern stems from the denial of these student's statutory rights."

As the result of local advocates and concerned citizens testifying against the Truancy Program at a Santa School Board meeting in 2002, the members of the School Board made a small attempt to correct some of the Truancy Program's problems. The members of the Board approved the hiring of a truancy coordinator at Santa Barbara High School instead a police officer. The Santa Barbara District Attorney, who also addressed the school board members at the same time as the advocates and concerned citizens, supported the position of a police office

³ Refer to Attachment # 22, Truancy Grant Application.

⁴ Refer to Attachment # 14, letter from ACLU regarding the Truancy Program, May 16, 2001

on the Santa Barbara High School Campus. The person hired as the truancy coordinator was recently instructed by two members of the Santa Barbara High School special education staff to stop giving parents written information to request assessments for learning disabilities. The coordinator has often met with resistance from high school personnel as she tries to advocate for children in the truancy program.

5. "Lost" Students of the Truancy Program

Unaccounted-for students were glaringly omitted from The Santa Barbara District Attorney's claims of success.

In March 2001, District Attorney Thomas Sneddon and his UCSB research specialist gave a presentation claiming the success of the Truancy Program to approximately sixty members of the Truancy Task Force. The UCSB research specialist's (who was hired with the truancy grant funding) report failed to account for many of the students that had been enrolled in the program. After the presentation, I asked Mr. Sneddon, the UCSB Truancy Project Researcher, Superintendent Flores, and the Probation Department manager if they had an accounting of those truant students who had entered the program but were now missing and, therefore, not mentioned in Mr. Sneddon's presentation. I questioned the Project Researcher about students who have dropped out of school, gone into the Home Hospital program or moved out of the area because of his program. The response from District Attorney Thomas Sneddon, after he spoke with The Project Researcher about my question was, **"No, we do not have any such accounting of those students."**

Because of my concern, I requested an accounting of students in the following programs who were formerly students in the Truancy Program. I asked to have the accounting include:

- School drop-outs: Many of these students' parents have had to take drastic measures such as having their child drop-out of school in order to get out of the TP&PA Program.
- Private schools: Parent's who placed their child in a private school, sometimes with borrowed money, in order to remove them from the Truancy Program.
- Independent Study Program: Truant students who fled to the Independent Study Program where they meet with a teacher for one hour a week.
- Home Hospital Program: Truant students in the Home-Hospital Program who receive one-hour a week of services.
- Home Schooling Program: Truant students who have gone into the Home Schooling Program and no longer receive special education services.
- Alternative Schools: Truant students in alternative court school such as El Puente, La Cuesta and La Costa.
- Moved from Santa Barbara: Truant students who have moved out of Santa Barbara because of the Truancy Program.
- Runaways: Truant students who have run away from home because of the Truancy Program.

To date, there still has no response to my request of a formal accounting from District Attorney Thomas Sneddon, the Truancy Project Researcher or Superintendent Flores. No accounting has been made available to the members of the Truancy Program Task Force or the members of the school board, regarding these "missing" students. Yet, Mr. Sneddon, in an article

published in the Santa Barbara News Press on October 5, 2001, claims the Truancy Program is a success and that only 39 habitual truancy petitions were filed in the juvenile court the previous year. Unaccounted-for students were subtly omitted from Mr. Sneddon's claims of success. **This slanted accounting was also given to the grantors to prove the program is successful.**

Data Collection and Evaluation on Truancy program

The original grant application, page ten, states, "We will collect the necessary components as follows:

- Student attendance
- Number of Truancies
- Number of Suspensions and Expulsions
- Subsequent Arrests or Proceedings in Court
- Grade Point Average

I do not have a copy of these reports to UCSB and the State Department of Education.

March, 200, Truancy Task Force meeting: District Attorney Thomas Sneddon could not give an accounting of lost students.

October 5, 2001: Santa Barbara News Press: District Attorney's letter to editor:⁵ Claims the TP&PA program is a success and that there were only 39 habitual truancy petitions. (Mr. Sneddon does not make any mention of an accounting of "lost" students. Nor does Mr. Sneddon explain why the 39 students are habitually truant? Do they have learning disabilities? And where are these students today?)

August 22, 2002: Santa Barbara Independent Magazine⁶, feature article on District Attorney Thomas Sneddon. Reporter Nick Welsh to the district attorney *Joan Esposito claims your truancy program is chasing kids away from, causing some to drop out, to leave school. When a lot of them have learning disabilities for which they've never been assessed. She says you don't track these numbers but you claim your program is a success.*" The District Attorneys response "*Joan is one of those people with a heart bigger than the state of Texas, but she's just wrong. She comes to these meetings and says all these things, then you ask her to back them up and she says it's confidential.*" The District Attorneys comments are inaccurate as I have provided him with information and asked him to meet with the Centers parent clients, which he refused. (Refer to section nine, paragraph three.)

Action Item: It is my recommendation that a true accounting of the Truancy Program must be made, which includes the above-mentioned groups and the learning disability assessments of the habitually truant students, so that a valid assessment may be made of the Truancy Program.

6. Violations of Laws Designed to Serve Students With Disabilities.

Over thirty years ago Congress found that children with disabilities were participating in regular school program and their disabilities were undetected. In 1975 the public schools were given an explicit mandate known as the "Continuous Child-find" by Public Law 94.142 (In 1987 the law was changed to the Individuals with Disabilities Education Act (IDEA) to "actively seek out and identify" students with suspected disabilities and to thoroughly assess them. If disabilities are

⁵ Refer to Attachment #18. Santa Barbara News-Press October 5, 2001. Letter to the editor from District Attorney Thomas Sneddon.

⁶ Refer to Attachment # 19 Santa Barbara, Independent Magazine feature article "The Untouchable" on District Attorney Thomas Sneddon by, Reporter Nick Welsh.

diagnosed, the schools are mandated to provide Special Education and related services, or, if the disabilities are milder, are mandated to provide assistance under Section 504 of the Rehabilitation Act of 1972.

The "seeking out" of children with disabilities is inadequate or nonexistent in the Santa Barbara School District and in the District Attorneys Truancy Program. There is nothing written in to the original Truancy Grant Application to guide any of the agencies involved with the Truancy Program on how to implement the special education laws.

If a child is not identified with a disability under the federal law IDEA, Section 504 of the Rehabilitation Code acts as safety net for those children who have fallen through the cracks in the public school system. The following is an excerpt from the California State Department of Education regarding the Section 504 Protection under Federal Law:

"When school staff should consider the existence of a handicap and possible Section 504 protection:

- (a) When a suspension or expulsion is being considered for any student.*
- (b) When retention is being considered for any student.*
- (c) When a student shows a pattern of not benefiting from the instruction provided.*
- (d) When a student returns to school after a serious illness or injury.*
- (e) When a student is referred for evaluation but it is determined not to do an evaluation under the IDEA.*
- (f) When a student is evaluated and is found not to qualify for Special Education services under IDEA.*
- (g) When a student exhibits a chronic health condition.*
- (h) When a student is identified 'at risk' or exhibits the potential for dropping out of school.*
- (i) When substance abuse is an issue.*
- (j) When a handicap of any kind is suspected.*
- (k) When a new building or remodeling is being considered."*

At the April 26, 2001 Truancy TASK Force Committee meeting I handed out a letter to the members of the committee. The committee consisted of parents, community members, Probation, District Attorney and his truancy staff, The Public Defender, the President of the Santa Barbara Chapter of ACLU and the Santa Barbara District Superintendent. The letter was in reference to special education laws and the truancy grant participants. It stated in part *"Every agency, including non-profit agencies involved in the Truancy Prevention Program, has a duty, under Federal and State laws, to identify and assess all children with disabilities and see that appropriate education services are provided to them."*⁷ District Attorney Thomas Sneddon announced that he did not have to comply with the laws. The President of ACLU informed Mr. Sneddon that my letter was correct. He was obliged to comply with the laws. Mr. Sneddon did not respond.

7. Truancy Program VS. Special Education. 1991 Federal Mandate for a "Full Inclusion" program, Precipitated Growth in Truancy.

The Truancy Program has been intertwined with Special Education since its inception. The Truancy Program was conceived in 1997 because truancy had become a major problem in the Santa Barbara community as well as throughout the State. The reason truancy escalated was

⁷ Refer to attachment # 12. Letter dated April 26, 2001 to TPP Committee.

because in 1991 (five years before the inception of the Truancy Program), parents of children with physical and developmental disabilities lobbied the United States Congress to have their children included in regular education classrooms. The Federal Government passed legislation mandating that students with disabilities must be "mainstreamed" into regular education classrooms in public schools.

Inclusion may have worked well for students with developmental and physical disabilities but it has worked against students with learning disabilities, especially those with dyslexia and attention disabilities. These students were removed from Special Education classes and placed in regular education classrooms where the teachers were not trained in teaching methods for children with such disabilities. Without special education assistance these students fail and continue to fall more and more behind in their academics. Many times, as the student begins to fail, emotional problems set in and what was once just a learning and/or attention disability, often becomes a mental health issue. Mental health issues, such as depression and anxiety, often lead to illegal drug use and truancy.

The National Institutes of Child Health and Human Development (NICHD) has been researching dyslexia since 1965. Since 1998 NICHD, has set up eleven research sites, specifically on dyslexia, in universities across the United States. The institute claims that between 15 and 20 percent of children have a significant reading disability (dyslexia). It is the largest neurobehavioral condition known to man. Dr. Reid Lyon, Chief of NICHD reading programs stated, " *Because reading is so critical to success in our society, reading failure constitutes not only an educational problem but also rises to a level of a major public health problem.*"

The 1991 Federal Mandate on the "Inclusion Program" was not in itself responsible for the rise in truancy rates. Rather it was the way in which the districts implemented the program.

--**1992-1996:** I had ongoing discussions, meetings and letters to the County Office of Education Superintendent Bill Cirone, Santa Barbara County Director of the Special Education Local Plan, Marsha McClish and Santa Barbara School District regarding the growing numbers of students with learning and attention disabilities whose needs were not being met due to the "**Inclusion Program.**" Parents have filed individual complaints with the Office for Civil Rights and the State Department of Education. The District was found out of compliance with laws.⁸

--**January 1996:** I wrote a letter to Marsha McClish, Santa Barbara County Special Education Local Plan (SELPA) Director. This agency is in charge of many aspects of Special Education for all the School Districts in Santa Barbara County. My letter, in part, was requesting information about *the escalation of expulsions and suspensions in the Santa Barbara Schools since the inception of the "Inclusion Program" (the "mainstreaming" of Special Education students) in 1991.* According to data I received, **17** students were expelled in 1991, **36** in 1992, and **67** in 1993. Copies of the letter were sent to Santa Barbara School Board Trustees, former Superintendent Caston, County Superintendent Bill Cirone and the California State Department of Education. I personally gave District Attorney Thomas Sneddon a copy of the letter, along with other documentation, when he spent two and half hours at my office on March 25, 1997.⁹

My letter also delineated for Ms. McClish the following:

⁸ Copies of the 1996 and 1997 State Compliance Complaints and reports are available upon request.

⁹ Refer to attachment # 2 Unanswered letter, to County SELPA Director Marcia McClish

Violations of Federal and State Special Education Mandates:

1. Search and Serve violations of the federal and state laws.
2. Delayed Testing of students with learning disabilities.
3. Incomplete Assessments.
4. Suspensions and Expulsions.

As of this writing July 2003, I have not received a response to my letter. I latter found out that Ms. McClish also did not respond to parent's letters when she worked in her last position as SELPA director of Orange County. Seven hundred parents signed a complaint petition against Ms. McClish and the business practices of their SELPA under the direction of Ms. Marsha McClish. The parents requested an investigation. Ms. McClish left Orange County before the investigation was completed. The Santa Barbara County Office of Education then hired Ms. McClish. Her position, as in Orange County, is the Director of the Santa Barbara Special Education Local Plan Area (SELPA.)

The following is part of a formal complaint against SELPA Director Marcia McClish signed in 1992 by seven hundred parents in Orange County, California:

Date: November 3, 1992¹⁰

To: Mrs. Bonnie Castrey, President of the Board of Trustees, Huntington Beach Union High School District and the Responsible Local Agency for Special Education

"We, the undersigned, families of children and adults with special needs and being voting taxpayers residing in the communities of Fountain Valley Huntington Beach and Westminster which encompass the West Orange County area do hereby request the following:"

"..... we request that this formal letter of complaint regarding the Senior Director of the West Orange County Consortium for Special Education (WOCCSE) be placed in her personnel file of record."

The document states that McClish holds "an administrative position of authority, which remains unchecked by her superiors and elected officials; the abuses of this position continue to thwart the proper balance of honest accountability and implementation of the people's business.... lacks the basic ability to promote a healthy relationship between special education and this community....continues her prevailing and long held agenda of building and preserving barriers to prevent parent involvement in public schools.....inability to manage and administer current special education programs toward a healthy, progressive delivery system for now and in the future by reason of her autocratic and tyrannical disrespect for public service."

The document continues; "Resolved, that in consideration of the injustices of our direct experiences, even beyond the aforementioned statements, this confirmed and reconfirmed that this individual is incapable and unwilling to provide the necessary leadership that the special education community deserves; hence, we believe this administrator cannot lead this consortium into the future. We hereby state a collective voice of no confidence."

¹⁰ Refer to attachment # 1. November 3, 1992 complaint to Mrs. Bonnie Castrey, President of the Board of Trustees, Huntington Beach Union High School District and the Responsible Local Agency for Special Education

Santa Barbara County Special Education (SELPA) Mission Statement

The Santa Barbara County SELPA is a consortium of educators dedicated to the provision of free and appropriate education for all children regardless of disabling condition, through a commitment to provide:

- Leadership in the development and evaluation of new and innovative quality programs
- Coordination of all available educational resources
- Ongoing training and development of staff
- Education and support for families
- Collaboration with community agencies
- Direction for child advocacy
- A climate that continues the partnership in regular education
- An atmosphere of pride and trust in all services

A question to be answered is who at the County Office of Education hired Ms. McClish and who investigated her background?

--**1996 & 1998:** Multiple families filed complaints against the Santa Barbara School district with the California State Department of Education Compliance Unit. Both times the state found the district systematically out of compliance with special education laws by "failure to systematically and continuously seek out individuals with special needs."

--**1998:** During the Office for Civil Rights investigation Superintendent Michael Caston informed the Santa Barbara News Press that he plans to cooperative fully with the investigation. *"We don't bring in attorneys or be combative with agencies," he said "When they make the recommendations, we implement them. We look on this more as a program review. We don't look on this as a bad thing."* Office of Civil Rights spokesperson said the federal investigators have had *"a measurable difficulty in obtaining information from the schools"* in the Santa Barbara District. He declined to elaborate. (The districts attorney spent three years obstruction the Office for Civil Rights investigators. Please refer to letter to school board in attachment # 7 dated January 11, 2002 pages 4 & 5. Tactics and games of delay with Office for Civil Rights)

--**1998:** Office for Civil Rights found the Santa Barbara District out of compliance with special education laws.

--**1998:** Santa Barbara School District Superintendent Michael Caston hires a "Public Relations Coordinator.

--**1998:** I assisted over twenty parents in filling a state compliance complaint for "Being out-of-compliance with special education laws." SELPA director Marcia McClish underhandedly made a "deal" with the State Department of Education to audio tape all parent interviews with the investigators, and all teachers interviews. The deal included that SELPA director McClish be present at teacher' interviews. The four state investigators were not informed about the unorthodox deal made by McClish until they arrived in Santa Barbara. The four state investigators spent over two hours in the parking lot of the County Office of Education arguing with Ms. McClish and the County attorney over the tapings. In the end the investigators gave in to McClish and her attorney.

--**1998:** El Puente County Court School, where many truant students are ordered to attend, was also under investigation by the state. One of many reasons for the investigation was because of rat-infestation. The week the state investigators were to visit El Puente County Court School, a whole class of students, including students with learning and attention disabilities, were

dismissed for the week, on orders from the Principal. The first day of the investigation a teacher met each student from this particular class at the front door of the school. They were told to return home and not return until the following Monday. No one at the school even checked to see if the students could get into their homes. One student could not leave because she was in some sort of probation housing so the teacher spent the day with one student in her class. THESE STUDENTS WENT ONE WHOLE WEEK WITHOUT AN EDUCATION. The reason given to the teachers was that these students were disruptive and it would not look good for the state investigators to see them.¹¹

--**1998-1999:** I was so disturbed about the money the School District was spending to hire attorneys to fight parents. I wrote several newspaper articles regarding not only the expenditures but also the inefficiencies of the Truancy Program. I was interviewed several times on a local radio show regarding the same subjects. I also began faxing parent's complaints directly to the homes of the members of the school board. After a few radio interviews some school board members contacted me.

--**September 1999:** I developed breast cancer and had limited energy to assist parents so wrote to the Santa Barbara School Board informing them I would be mailing all our parents' complaints directly to them. Furthermore, I directed parents to call the Santa Barbara School Board members at home.

--**January 11, 2000:**¹² I wrote a twelve-page letter to the President of the Santa Barbara School Board, Mr. Robert Pohl. The letter was written as a response to Superintendent Caston's letter of response to my September 1999 letter to the Board of Education President. Some of the issues raised in my letter were:

- Page 4: Parents defeated by the Santa Barbara School District.
- Page 4: The Office of Civil Rights investigation hindered by district's attorneys.
- Page 5: Tactics and games of delay played by District Special Education Director with the Office for Civil Rights.
- Page 5: District's Failure to Assess Students for Learning Disabilities.
- Page 7: Director of Special Education, Diana Rigby's quote "***Tell your parents to hire a lawyer.***" Ms. Rigby was the person selected to write the Truancy Grant Application.
- Page 7: Practical and possible solutions offered to Superintendent Caston.
- Page 8: Caston's refusal to meet with parents. One low-income single mother waited outside his office every day for a month and he refused to meet with her.
- Page 8: Caston's refusal of my offer to fund special education videos and books for parents and teachers in his school.
- Page 10: Santa Barbara Truancy Program. Caston's refusal of offer from DARC, to help educate parents on learning disabilities.
- Page 11: Effects and Burden On the Santa Barbara Community

--**April 2000:** I was contacted by the Federal Department of Education. They asked me to write and tell them about the compliance issues in Santa Barbara. **One of the fourteen non-compliance issues I addressed in my letter was the Truancy Program.** My letter concluded with the statement, "In order for your investigators to find the violations of IDEA (special education laws), you must investigate student files in the following areas:"

¹¹ Refer to attachment # 6, letters from Attorney Kirk Ah Tye to State Compliance Unit, 1998.

¹² Refer to attachment 7, letters, dated September 1999 and January 11, 2000 to Robert Pohl, School board President.

- (a) The Truancy Program
- (b) Student Study Teams
- (c) Expulsion files
- (d) El Puente and other alternative schools in the Santa Barbara SELPA.
- (e) The Office for Civil Rights

My letter was c.c. and forwarded to Congresswoman Capps, Assemblywoman Jackson and Dr. Alice Parker, Director of California Special Education. To date, I have received no response.¹³ Two special education attorneys also wrote letters they are attached to exhibit eight.

--**July 2000:** I was invited to a meeting with the School Board President and Superintendent Deborah Flores, to discuss the students in the Truancy Program, district non-compliance with special education laws and the district's spending on legal counsel to fight parents.

--**August 15, 2000:** As a result of my July 2000 meeting with former board president, Mr. Robert Pohl, board members, and Superintendent Flores, Ms. Diana Rigby, Director of Student Services in Santa Barbara School District met with me. Ms. Rigby requested that I offer no assistance to parents filing complaints with the State Department of Education Compliance Unit and The Office for Civil Rights. She asked me not to send parental complaints to the school board members. In exchange, she promised to give my clients the services they needed if their complaints were filtered through her office. In addition:

- a) Ms. Rigby agreed to train all personnel on special education laws and promised to work with me on recommendations for a specialist in special education laws.
- b) Ms. Rigby promised to review a successful program in the San Diego School District called "The Parent Facilitator Program for Special Education Students."
- c) Ms. Rigby promised to look into the Truancy Program and the lack of support for parents. She promised to work with DARC to help improve the Program. She invited me out to lunch several times and made promises in exchange for removing myself from the process of helping parents file complaints or directing parents' complaints to the members of her school board.

For several months, I faxed parents' complaints directly to Ms. Rigby hoping that she would help our clients as well as the other students in the district with learning and attention disabilities. Ms. Rigby did not keep her promises. In fact, I saw no observable changes in the way Ms. Rigby handled district compliance issues or the students in the Truancy Program. As greater numbers of truancy issues continued to come to DARC, I gave up hope of ever helping these children through Ms. Rigby's office.

--**November 20, 2000:** A parent of a student called Ms. Rigby and requested an emergency meeting to have her son tested for a learning disability. He had been receiving special education services three years earlier and had become argumentative and emotionally difficult at home. Instead of offering an assessment and placement back into a special education program, Ms. Rigby called the parent at home and instructed her to have her son arrested. She directed the mother to Officer Neil Sharp, former Santa Barbara High School Resource Officer. After I advocated in the school for him. He was assessed by the district and found to be eligible, **once again**, for special education services.¹⁴

¹³ Refer to attachment # 8. Three letters requested by the United States Department of Education, dated April 12, 20 & 25, 2000.

¹⁴ Copy of parents letter available on request.

--**May 14, 2001: The American Civil Liberties Union**, Santa Barbara Chapter wrote a letter to Superintendent D. Flores, it stated the following:

"Agency personnel participating in the Truancy Prevention Program do not appear to make systematic attempts, as required by law, to identify and assess two groups of truant students; (a) those who are suffering from undiagnosed and/or unremediated learning disabilities and related conditions, and (b) those who have been identified and assessed but are not attending school because they are made to feel stupid and lazy, and their truancy is a symptom of a more significant problem. The ACLU's concern stems from the denial of these students' statutory rights."¹⁵

Special education law mandates that behavioral problems be addressed in the Individual Education Plan (IEP) meetings. A Positive Behavior Plan should be implemented to help change the problem behaviors to more positive, functional ones. If the student does develop or already has attendance problems, the IEP teams is required to address this with a strong, specific program, including a Behavioral Modification Plan. The schools by law should only refer a special education student to a law enforcement-based program, such as Truancy Program, as a last resort and after they have exhausted all other special education remedies.

I do not and have never objected to a Truancy Prevention Program, per se, for those students for whom a juvenile justice type of program is appropriate. I do, however, object to a program that fails to address the underlying causes of truancy. I also object to schools that refer students to a truancy program while ignoring their duty and responsibility to recognize behaviors that legally demand a special education assessment.

The Truancy Program should be the last resort, after schools have exhausted all other IDEA-specified special education remedies.

May 23, 2001: My presentation ¹⁶ to the Santa Barbara School Board: *"Over the last 13 years I have spoken to your administrators, superintendent and school board presidents and lawyers trying to find out how much money you are spending on lawyers to fight parents whose children have learning and attention disorders. I have yet to hear a response to any of my inquires. I have consistently, for years, asked board members to find out who hires the law firm of Filarsky and Watt and I did not receive an answer until recently. Over the last twelve years in every due process case that I know of, concerning children with dyslexia the parents have prevailed. Yet you continue to hire the firm of Filarsky & Watt and in one case a law firm from Beverly Hills."* *"I recently met with a school board member and they where totally unaware of a case now in the Los Angeles court system. This case has been going on since 1994. All that the parent asked for was the district to teach her son how to read and write. Two years ago the 9th Circuit Court ruled in favor of the child. Your district has approved the law firm of Filarsky and Watt to appeal the case."* *"The district Special Education administrator once told me to "tell your parents if they want anything done they will have to hire a lawyer" "The same administrator, in December 2000, told the parents of special needs students to have her child arrested and even gave the parent the name of the policeman she should call. **This kind of action by your personnel leads to law suites.**"¹⁷*

"I find it amazing that your attorney lost every due process case, which I am aware of, in the last twelve or thirteen year and you continue to hire her."

¹⁵ Refer to attachment # 14, letter from Santa Barbara Chapter of ACLU

¹⁶ Refer to attachment # 17, May 23, 2001, Presentation to Santa Barbara School Board on the school districts attorney.

¹⁷ Refer to page 20 Santa Barbara Director of Special Education, Diana Rigby found personally liable, by a 9th Circuit Court Judge

“Are we not here for the children? The only winner I can see is your attorney. Before you invest any more taxpayer’s money in legal fees I am asking this board to have a meeting with the office for Civil Rights attorney Ms. Gail Sakowsky. I am also asking you to investigate the due process cases and law suites over the last twelve years involving children with learning disabilities. I have many of the files and I can ask the parents permission to help with your investigation.”

“Your attorney delay’s cases for years until the parent or parents can no longer afford a private lawyer. Parents have no choice but to give up. The district and your attorney have won. While the child an dour local community has lost.”

--June 11, 2002:

In a presentation to the Santa Barbara School Board I requested they not to renew their contract with the law firm of Filarsky and Watt. This firm has been combative with parents in Santa Barbara County for over fifteen years. This law firm spent public money fighting and delaying the State Department of Education’s and the Department’s Civil Rights Office investigations for three years

I informed the Board that the contract between the District and this law firm, which the board approves, states. “SCOPE OF SERVICES: Firm agrees to provide legal and conclusive services to the District, including representation in administrative and court proceedings, as requested by the District. The place and time for such services are to be designated by the Superintendent of the District. The problem is that Board members were never informed about these lawsuits for many years, until I informed them, or in the case of Special Education Director Diane Rigby when the board was informed by the 9th Circuit Court. I wrote about the Districts’ attorneys several times in local newspapers¹⁸

After my request, that the Board members not sign the Filarsky and Watt contract, there was much public discussion between board members about the law firm. Some board members were very open in questioning the concerns I presented to them. They hesitated in signing the contract, but as one board member explained, the Special Education Local Plan Agency (SELPA a program provided by The County Office of Education) had informed the board that unless they sign the contract for this particular law firm, they would not provide the district with an attorney. One board member asked me to consider what that would mean, it would leave them open to law suits without protection. The school board did try to avoid signing the contract and did question the actions of this law firm but the SELPA Director; Ms. McClish pressured the board members into signing the contract, which they did not want to sign.

8. Shortcomings of the Original Grant Application. Grant Application, written by the Santa Barbara School District, Director of Special Education Does Not Mention Learning or Attention Disabilities

Nowhere within the grant proposal does it state that truancy may be the result of unidentified or identified but untreated learning or attention disabilities. The devastating results of not properly implementing the “Inclusion” program were used for acquiring the truancy grant. The truancy program helps county and district schools to cover up the fact that they are not serving the needs of their students with disabilities.

The original truancy grant was over \$2 million. Nowhere in the grant application does it mention the laws protecting students with disabilities. Nowhere in the grant application does it

¹⁸ Refer to attachment # 5, 1998 article in Independent Magazine, “Quest for Full Citizenship” by Joan Esposito

mention that training or knowledge in special education laws are required for all agencies, including non profits benefiting from the grant funding and that these agencies should be made aware and trained in the special education rights and responsibilities of all disabled students. Amazingly, it was Ms. Diana Rigby herself, the Santa Barbara School District Special Education Director, who wrote the grant for the District Attorney's office.

The 9th Circuit Court recently found Ms. Rigby responsible for violating a special education student rights, over five years ago. The court held Ms. Rigby personally responsible. The school board agreed to pay two hundred thousand dollars to the mother and her attorney for Ms. Rigby's disregard of the student's rights. In this case a parent who hired an attorney exposed Ms. Rigby, who has a pattern of violating student's rights. Unfortunately the majority of parents cannot afford an attorney to expose the violations by school administrators.)

Ms. Rigby also stated in a response letter¹⁹ to a concerned citizen that "most of the students in the Truancy Program do not have learning disabilities".

An excerpt from the original Truancy Program Grant Application,²⁰ written by Ms. Rigby, states the following reasons for truancy growth:

"The South Coast Community is often perceived by outsiders as a community with few problems. The physical beauty of the setting masks the struggles of youth trying to carve out a future for themselves where the standard of living is one of the highest in the nation but the median annual income is under \$10,000. Its public high schools are among the most economically and ethnically diverse in all of California. The majority of parents live, work, and send their children to the public schools. The problems for youth become more exaggerated in the middle and high school years when students from feeder elementary school districts, (primarily upper middle class Anglo schools) merge with students at the secondary level.

"These factors, while present over the past thirty years, have intensified over the past five years due in part to the changing demographics including a 6% increase in minority students and a 10% increase in students in poverty. Certain factors, while never quantified, are believed to have affected the youth truancy and crime rate on the South Coast:

- *Increase numbers of parents working two jobs;*
- *Access to drugs and alcohol;*
- *Larger class size at the high school level raises the teacher/student ratio;*
- *Limited access to jobs for youth following the past six years of economic downturn;*
- *Increase in gang activity and easier accessibility to firearms."*

The grant further states, *"Data gathered from 14 elementary schools in both Santa Barbara and Carpinteria School District highlights the increasing number of chronic truants as well as the escalation of truants and youth offenders of young ages. The South Coast communities have demonstrated increasing numbers of truant students over the last five years, which correlates with the increases in incidents of vandalism and drug and alcohol citations."*

It is a nationally known fact among educators and other professionals in the field of learning disabilities that the 1991 Federal "Inclusion Mandate" was not implemented properly and was the cause of an escalation in trancies and expulsion rates. This information was well understood by Ms. Rigby, yet she chose to completely ignore it in writing the Truancy Program grant application. There is not the slightest mention or hint that truancy or juvenile crime may result from undiagnosed or underserved students with learning or attention disabilities.

¹⁹ Letter available on request, Letter from Diana Rigby in response to a concerned citizen.

²⁰ Refer to Attachment # 22, Copy of Truancy Grant Application.

9. Lack of knowledge on the part of the District Attorney's Office. Parents and Students are blamed not helped.

A lack of knowledge or interest plays the largest hand in the inadequate services for truant children with learning and attention difficulties. Far too many people feel that learning disabilities are a "hoax" or a "ruse" by children and their parents, to give students an upper hand in testing or an excuse for failing in the educational system. Ignorance exists because these people have never experienced learning or attention disabilities themselves or have never dealt with a child who has them. Anyone who has a learning or attention disability or who has a child who has one knows the incredible frustration, disappointment and hopelessness that a student feels in an educational setting.

District Attorney Thomas Sneddon has a lack of knowledge about learning and attention disabilities. I cannot fault him for this, but I do fault him for his continued reluctance to learn about these disabilities. His comments such as those in the *Santa Barbara Independent* article on August 22, 2002, **"the reality is these guys get more bites out of the apple than they ever deserve before they end up in the criminal justice system"**²¹ displayed in black-and-white Sneddon's determination to remain ignorant. His unwillingness to learn or understand how learning and attention disabilities are impacting his Truancy Program to the great detriment and demise of many students in the program.

I cannot understand Mr. Sneddon's continued choice of ignorance when I have had a multitude of meetings with him to educate him on the facts about learning and attention disabilities. On March 25, 1997, at The Dyslexia Awareness & Resource Center, Mr. Sneddon and I spent two-and-a-half hours discussing the issue of juvenile delinquents in our county. I brought up the out-of-compliance issues in Santa Barbara School District. I gave him numerous documents outlining the out-of-compliance issues, children not being assessed for learning and attention disabilities, testing being delayed by the district, incomplete assessments by the district, and the escalation of school suspensions and expulsions since 1991. One of the letters I gave him was dated January 1996 and addressed to the Santa Barbara County Special Education Local Plan Director, Marsha McClish, regarding the out-of-compliance issues in Santa Barbara School District. I told him about Superintendent Michael Caston hiring attorneys to fight single mothers and parents who have little or no incomes. Mr. Sneddon's only remark was, **"I'm sorry to hear about this. Michael** (the then Superintendent of Santa Barbara Schools) **is a good friend of mine."** My response to him was **"While you are all having tea parties together, my parents with low incomes are not invited. You only get to meet them in court with their children who cannot read or write."** He did not know what to say. I asked if he would like to meet with the parents. He just shook his head and said "No." Mr. Sneddon did not inform me at the time of our meeting that he and Superintendent Caston were already working on a grant to implement the truancy program.

For years, I have tried to educate Mr. Sneddon to the fact that an overwhelming amount of teenagers who have ended up in the Truancy Program were reading at a second to fourth grade level. Many are functionally illiterate and others are completely illiterate. Because of their disabilities, many of them have developed well-entrenched secondary disabilities including, but not limited to: poor self-esteem, depression, school phobia and test anxiety (sometimes accompanied by suicidal thoughts and attempts), substance abuse problems and rebellious characteristics. Any of these may be precursors to truancy.

²¹ Refer to Attachment # 19 Santa Barbara, Independent Magazine feature article "The Untouchable" on District Attorney Thomas Sneddon by, Reporter Nick Welsh

10. School Attendance (Truancy) Reports Full of Errors

Many students are being improperly reported to the Truancy Program because of erroneous attendance reports. Attendance is gathered and inputted through a computerized program at the schools. When the computerized program indicates a certain number of unexcused or truant absences, the student's name is automatically sent via a computer program to the District Attorney's office, apparently without any review.

As recently as a week ago, parents have reported that students are receiving unexcused absences when they were tardy and unexcused absences for erroneous accounting by substitute teachers. It seems that teachers and substitutes often do not know the legal difference between being tardy and being absent (a student is legally tardy if they are less than 1/2 hour late to class. Anything over a half-hour late is an unexcused absence.) Although this might seem a small point, the problem is significant because an accumulation of unexcused absences results in an automatic "truancy" designation. In fact, the Truancy Program Task Force formed by the Santa Barbara Board of Education in March 2001 to oversee the TP&PA Program and comprised of concerned community members and departmental officials, noted that teachers were marking down "unexcused absence" when the student was "tardy." They also noted that teachers were locking their doors after the bell rang so a student had no choice but to be marked truant.

In cases where attendance records have been scrutinized by parent's attorneys and advocates, over half of the reported unexcused absences/truancies were errors. Erroneous school attendance reports have also been used as a reason to lock students up in Juvenile Hall.

The outcome is that the schools, the County Office of Education, Probation Department and the District Attorney's office are issuing threats and criminal action against parents when (1) it is often the school's own attendance record keeping that is at fault and (2) they are shirking their legal responsibility to offer students with learning and attention disabilities the help they require under Special Education Laws. Perhaps the finger should be pointed back inwardly at the system instead of outwardly at the parents and students?

The lack of responsibility by the school's for accurate attendance keeping has taken its devastating toll on students. I am working with one student whose Deputy Probation Officer presented the Juvenile Court judge an inaccurate accounting of his truancies. This student could have been locked up in Juvenile Hall for violating probation if I had not been there to advocate on his behalf and explain the problem to the Public Defender. As we were entered the court room the Probation Officer said the mother was correct. The school had made a mistake and he would lower the truancy count by almost half. This problem is still ongoing today.

February 2003: The following is a written transcription²² of an audiotape. An audiotape of a Parent Truancy meeting at Santa Barbara High School. One of the parents taped the meeting with permission from the Sherry Robin, District Attorneys Office.

The following truancy personnel were in attendance at the meeting: Sherry Robin from the District Attorneys office, Dr. Cynthia White Assistant Principal and Head of Truancy and Angoline Morales Probation Officer.

First, Ms. Sherry Robin from the District Attorneys Office spoke to the parents. Not once did she mention anything about special education, learning or attention disabilities. Her comments to the parents and students were punitive and threatening. After Ms. Robin spoke, Officer Morales from the Probation Department made the following comments:

²² Refer to attachment # 21, transcription of audio tape from truancy meeting March 2003

“.....They must go to the school that we say. And that’s all ordered by the court and probation. Something that is usually rare, but is actually happening recently, is students that are truant are actually going to juvenile hall, it doesn’t happen that often, but the judges are getting sick and tired of kids being truant, so starting next week we’re having truants be in juvenile hall, which doesn’t usually happen, but like I said – and – that’s not free! Many times I’ve had kids come to my office parents coming in crying because they have a \$5000.00 bill for their child that was either sent to juvenile hall - to one of the boot camps to a placement, and they are saying “I can’t pay for this”, and I have to say “I have nothing to do with the bill”. You were warned! Your student was warned. We have parents that are prosecuted because maybe the judge sees that maybe parent hasn’t done everything they could to prevent their child from becoming a ward of the court or from missing school, so the parents are serving up to a year in the county jail or fined, so students’ it’s not just affecting you, it’s affecting the rest of your family, can your parents right now afford a \$5000.00 bill? Most people can’t. Another thing is that every time you go to court, that’s more fee, none of that is free. All of that, - there’s court fees for everything, there’s probation fees, also, child welfare services or CPS may step in and say “ya know what?” “Maybe your parent isn’t fit to care for you” “how many people here don’t want to live with their parents”? you don’t have to raise your hand. but, I can tell you this, even if your answer is: “no, I don’t want to lose my parents, foster care or placement is not fun. OK? – and it could happen. CPS could come take you out of the custody of your parents; the courts could come and take you out of the custody of your parents. once you’re on probation, it’s very difficult to get off. It’s not easy! You’re breaking old patterns. So I’m here today to, ah, just again to warn you, ah, because I hate to see people come into my office just to saying “I don’t know when I’ll see my parents next, I was just sent to placement.” or “I was sent to the boot camp”. I’m not----This is the third Christmas I won’t spend with my family”. Parent’s crying on the phone, can’t you please not send my kid to juvenile hall?” this Christmas? And I have no control over that. That’s up to the courts and its up to you students and up to your parents, we just enforce the law, it’s you that chooses to break the law or to abide by it like everybody else in this country is obligated to do. If you choose to disobey it then you must know that that comes with a price. It comes with a heavy price! And for some families it puts them in jeopardy of their status in this country. We had a parent recently that decided “Hey, I want to stay in this country, and they ended up sending their child back to Turkey”. The child had never been there before. The child was scared. I don’t want to see that happen to anyone, but again, there is nothing I can do about it. It’s in the students’ hands and parents it’s like we say in law enforcement be firm but fair. Tough Love. If you have any questions I’ll be available afterwards.”

Throughout the, February 2003, meeting there was no mention about special education or learning or attention disabilities by Truancy Program staff.

11. No Low Cost or Free Special Education Advocacy Groups for Parents. Parents stand alone in education Due Process Hearings facing the County Office of Education attorney and the SELPA director.

Unlike children with developmental or physical disabilities, who have several advocacy agencies in Santa Barbara to represent them in court and school, the families of children with learning and attention disabilities do not have even one federal, state or local-funded advocacy agency available to them. There is no low-cost or free legal advocacy agency in Santa Barbara County with legal expertise in special education law available to these parents.

The following is a section of my letter and presentation to the Santa Barbara Board of Education on May 13, 2003. My letter addressed the district’s Due Process System and the dishonest actions of their attorney and the SELPA director Ms. McClish:

*“The discrimination is not only against children with learning disabilities but also **discrimination against those parents who have learning disabilities themselves.** These parents face discrimination when they try to access the Due Process System. Many of our parents are undiagnosed, unremediated and they have very little practical knowledge of their own*

learning disabilities. **Yet they are forced, by the district and SELPA, to advocate for their children with out any help.**

*“Parents with learning disabilities are required to access the due process system by way of the written word, reading and reading comprehension skills, auditory processing, work within legal guidelines and time frames, prepare documents according to legal guidelines, prepare lists of witnesses, understand legal terminology, organize and present facts and cross examine the district’s witnesses in the Due Process Hearings. These are just some of the obstacles these parents face when encountering the Due Process system. Parents, with learning disabilities are expected to go through this process and follow legal guild lines without any accommodations for their handicapping condition. **Parents with learning disabilities, who live in the Santa Barbara SELPA area, are forced to stay away from the due process procedures or abandon due process. Parents who have no money to hire a lawyer are forced to accept inferior and unequal education for their children with learning disabilities.**”*

“There is not one federal, state or local funded program in the Santa Barbara Tri-Counties area to help these parents, while SELPA continues to pay lawyers to obstruct, delay and deny services to children with learning disabilities.”

(Copy of May 13, 2003 letter available on request)

When a child is truant, the parents receive a letter from the Santa Barbara District Attorney's Office. Below is an excerpt from said letter:

“Your failure to ensure that your child regularly attends school may subject you to criminal prosecution for: (1) Contributing to the Delinquency of a Minor, Penal Code 272, which is a misdemeanor and carries a possible penalty of up to one-year in jail and up to a \$2,500 fine or (2) Violating the Compulsory Education Law, Ed. Code 48291, an infraction which carries a fine of up to \$500. In addition, court action may be taken against your child that is not attending school. (Ed. Code 48264.5, Welfare and Institutions Code 601(b)). Your child may be subject to: (1) probation; (2) up to 4-years suspension, restriction, or delay in driving privileges; (3) community service; (4) fines up to \$100; (5) a court-ordered curfew to be in his or her residence between 10 p.m. and 6 a.m. and/or (6) attendance in a truancy prevention program.”

A letter from the child's Santa Barbara public school mailed to parents states:

“This school is working in close cooperation with the Santa Barbara County Attorney's Truancy Intervention and Parents Accountability Program. Failure to ensure that your minor child attended school may subject you and your child to criminal prosecution.”

My wish is that they would be working closely with the children and parents and then this letter would be unnecessary. The schools and the County Office of Education are neglecting their responsibility under the federal and state special education laws by sending complaints against truant children to the District Attorney. The District Attorney upholds the school's position without issuing any regard to students' special needs. This is evidenced by the written communication from the District Attorney's office where no reference is made to special education rights.

12. No funding allocated from the District Attorneys Truancy Prevention Program Grant funding to the Public Defenders Office for truancy cases.

At the inception of the program, an earnest attempt was made by former Santa Barbara Public Defender Glenn Mowrer to establish a liaison public defender for truant students. Even though Mowrer was initially invited to the Truancy Program meetings, he was informed, after the receipt of grant monies, that no funds were available for such a liaison.

An excerpt from page seven of the grant application specifically states that "The Santa Barbara School District has joined with Carpinteria School District and the Santa Barbara County Office of Education in partnership with the Santa Barbara County Probation Department, local law enforcement agencies, the District Attorney's Office and community-based organization to develop an effective school-based truancy prevention program." Yet, not one of the TP&PA program partners has ever filed a complaint on behalf of a child with a local school district or the State Department of Education. Furthermore, when an individual employee of a partner does call the Dyslexia Awareness and Resource Center (DARC) for to request assistance with assessment for learning disabilities in the public school system, they often ask to remain anonymous for fear of losing their job.

13. Local Advocacy groups fall silent.

Perhaps the Latino Education Task Force of Santa Barbara said it best in a letter regarding the Truancy Program dated March 21, 2001:

"We are finding that individuals, groups and agencies that historically came to the defense of those being discriminated against have fallen silent due to their desire to continue receiving funds from those they should be criticizing. And those that have dared raise a voice in opposition are being unjustly and illegally targeted for doing so. Recently, it has come to our attention that threatening acts by parties involved as collaborative partners with the School District have included outright intimidation of individuals, and even physical assault."

14. Example of what may be a larger problem with grant funding.

We need "approximately 90 families to be enrolled in New Vistas in the next 10 weeks if we are to meet our contractual obligations for year two."²³

This issue came to my attention in 2001, when I received a copy of an internal memo, (e-mail) sent by The Santa Barbara Probation Manager to his staff. The e-mail stressed the need for "approximately 90 families to be enrolled in New Vistas in the next 10 weeks if we are to meet our contractual obligations for year two." Another e-mail even suggests probation staff ask the students if any of their family members have substance abuse problems. (This is the same pattern of questioning used in the truancy mediation meetings when probation and district attorney staff ask students, without legal representation, if they know of any other students taking drugs.) It would appear after reading the e-mail that probation needs to seek out students in order to continue to perpetuate their programs such as The New Vistas program, rather than responding to a social problem. (Copy of internal probation memo, dated April 19, 2001, available on request.)

Are these children being used as a source of grant funds? New Vistas was intended as a multi-disciplinary approach to truant student with substance abuse problems; the Truancy Program is one of several "gateways" into the New Vistas program. One of my many concerns is that this may be happening in other probation and truancy related programs in other parts of the county.

In October and November 2001, I met with three members of the Santa Barbara Board of Supervisors and Assembly Member Hanna Beth-Jackson's assistant. The reason for my meetings was Probation's "Internal Memo" and to discuss my concerns about the Truancy

²³ Refer to attachment # 9, Probation Internal Memo, April 19 2001

program. I provided all four officials with a letter²⁴ explaining my issues and the documentation I provided to them relating to my concerns. One of the supervisors said she would talk to Santa Barbara County Chief Probation Officer Susan J. Gionfriddo about the internal memo from probation and my concerns with the truancy program. I have not received a response to my concerns.

After my meeting with the County Supervisors in November 2001, I learned that probation had decided to close down the New Vistas Program in October 2002. My concern goes deeper than just the New Vistas Program. Closing a program down, to maybe avoid accountability, is not the answer to my concerns. I feel the community needs a response to Probation's internal memo and just how they seek out students in order to fulfill grant requirements.

15. Probation: Pressure applied to not advocate for special education assessments for truancy clients in court

On May 21, 2001, I was asked by a parent (and a Family Coach from the New Vistas Program, a new probation program) to attend a Juvenile Court Hearing for her two children.

While I was at Juvenile Court another Family Court Coach introduced me to one of her clients and asked me to speak with the child to see if I felt she had any signs of learning or attention disabilities. After speaking with the child I suggested to the Family Coach that she ask her probation for an assessment. The Family Coach said she had asked her Probation Officer for an assessment several times and she was ignored. The Family Coach said that she did not know anything about the laws and could I please help her with he client's case. I accompanied the Family Coach, the child and the parent into the courtroom and I advised the Family Coach on how to ask the judge for an assessment.

Just a few hours after I appeared in court with the Family Coach, the Probation Manager sent out a memo. The beginning of the memo referred to two of the Family Coaches, who had asked that I appear in Juvenile Court on May 21, 2001. The document mentions that the coaches are difficult for parents to reach. It goes on to discuss two Family Coaches attending Juvenile Court with "Joan Esposito." (I have not used the names of the Family Coaches.)

"Family Coach Jane S. along with Joan Esposito (Director of DARC) were in Court on the case of a New Vistas client supervised by Carrie Anderson. Anderson was recommending 601 (b) Wardship (was on 654) as the minor has not been complying with school, CADA, and disrespecting her mother."

"Jane S. stated to the Court that she has requested an IEP several times, and "nothing has been done." Judge Ochoa advised her that there is a proper process that one must go through and a request must be made in writing. (Family coach) said nothing further. Esposito made no comments."

"Members of the collaborative, non-Probation Dept. staff are presenting to the Court orally. When they present information at Court time to the Judge and to the other involved parties, it "Blindsides" our Department. It also looks like the P.O. and the family coach are not communicating on their cases. The P.O. of record is not present in Court, and the Probation Department is represented by a Court Hearing Officer. The family coach has presented information in Court which is not communicated to the P.O. of record."

*"I hope this matter can be resolved, because I believe it reflects poorly on our dept."
Signed, The Probation Manager.²⁵*

²⁴ Letters and documentation, dated November 19, 2001, given to the Supervisors and Assembly member Hanna Beth Jackson available on request

²⁵ Refer to Attachment # 15, Probation Department e-mail, May 21, 2001

I think it would have been more appropriate and sensitive if the Probation Manager would have complimented the two Family Coaches for going out of their way to find an advocate who could help identify the child's learning or attention disabilities.

On May 23, 2001, an internal memo²⁶ and hand written notes were sent between two probation administrators on the issue of "2 Family Coaches showing up in court". The e-mail suggests that the two Family Coaches are "not doing their job." The notes question if they are doing their job. This memo, the notes and the May 21, 2001 letter from the Probation Manager were all written after my appearance in Juvenile Court, with the Family Coaches from the New Vista program, to advocate on behalf of a child in the Truancy Program. This kind of documentation prevents Family Court Coaches, or anyone else in the probation department, advocating or turning to an outside agency for assistance for fear of losing their job. This is not the first time a probation employee has turned to our office for help with a probation client. (Refer to section E 7: Advocacy Groups fall Silent)

16. Rejected Offers Of Free Assistance by Community Members to Help advocate for Students In the Truancy Program and their Families

A. Offers for free assistance, were rejected by the District Attorney, County Office of Education, Probation and the School District. These were offers to assist the parents and students referred to the Truancy Program.

Below is a partial list of offers made by community members, advocates, legal professionals in special education law and professionals in learning disabilities. One person offered to write a grant to pay for an advocate:

-June 23, 1997: My letter sent to the Santa Barbara County Board of Supervisors'. It was a written request to Supervisors asking that "*every student that would be returned to the school under the truancy ordinance be tested for learning disabilities and if found to be learning disabled, to have a special education plan established for him or her.*"²⁷ I also offered the free services of the Dyslexia Awareness and Resource Center, to screen students for disabilities and train parents and family members on how the disability affects their child and to help the family demystify the disability and work with their child's strengths.

-June 24, 1997: Santa Barbara County Board of Supervisors' meeting the first reading of the truancy ordinance. I gave testimony to the County Supervisors "...I am here today to respond to the proposed ordinance on juvenile curfew. I would like to propose that included in this ordinance would be a provision to identify students with learning disabilities and attention deficit disorder...." "*The proposed ordinance may be the last chance a child with a learning disability has to be tested and identified before they go to juvenile court....*" "*The staff at the Dyslexia Awareness & Resource Center are available to offer assistance in regards to these proposals.*"²⁸

-July 9, 1997: I gave testimony, for a second time, to the Board of Supervisors regarding the connection between learning and attention disabilities and truancy. Attending the hearing were Santa Barbara District Attorney Thomas W. Sneddon, County Sheriff Jim Thomas, and Chief Probation Officer Susan Gionfriddo, they were requesting amendments to the County

²⁶ Refer to Attachment # 16, Probation Department memo on Family Coaches, May 23, 2001.

²⁷ Refer to attachment # 3, June 23, 1997, letter to County Board of Supervisors on truancy program

²⁸ Refer to attachment # 4, June 24 1997, testimony at County Board Of Supervisor Meeting at first hearing on new truancy program.

Curfew Ordinance. In their report²⁹ to the Board it stated that **“Administrative remedies for truancy within the school system have been ineffective.”** “*The Sheriff and the District Attorney request the Board to adopt a day time curfew or anti-loitering ordinance.”* “*The ordinance.... would supplement State truancy law...*”

Before the hearing I tried to explain to Sheriff Thomas about dyslexia and the connection with truancy but he would not listen. He said it was a school problem not his. I offered the free services of the Dyslexia Awareness and Resource Center to the Sheriff's department but he just walked away.

During the hearing I testified that this problem was not just a school problem, it is a problem for the community, the County Supervisors, the District Attorney, the Sheriff and Chief Probation Officer Susan Gionfriddo.

-June 24, 1997: Truancy hearing at the county Board of Supervisors. The president of the Santa Barbara Chapter of Children & Adults with Attention-Deficit Disorder (CHADD) offered his organization's assistance in advocating, free of charge, for students in the truancy program with learning and attention disorders. His offer was rejected.

-Summer, 1997: A local special education attorney telephoned the District Attorney's Office and offered her assistance pro bono. The Deputy District Attorney, whose salary was paid for by the truancy grant and who was hired specifically for the truancy program, rejected the private attorney's offer.

-August 19, 1997: County Office of Education: One of the DARC board members wrote to Superintendent Michael Caston and County Superintendent William Cirone. He suggested they use the expertise of the DARC staff for the implementation of the Truancy Program. His suggestion was rejected. In a return letter from Superintendent William Cirone dated September 8, 1997, he said, *“The grant you refer to is a Santa Barbara School District grant and is administered exclusively by that district, which is why it is a good idea to follow-up with Dr. Caston.”* Yet, the County Office of Education is listed on the grant application form as a member of the Truancy Consortium. Many of DARC's clients have been placed in the County Office of Education Court School El Puente under the Truancy Prevention Program. The County Office of Education receives funding through the Truancy Program for their Court Schools Program and possibly their School Attendance Review Board (SARB.) (Refer to section seventeen of this document. Letter from Public Defender on the Santa Barbara County Office of Education SARB program.) There does not seem to be any public school administrator in Santa Barbara County willing to, take responsibility for the Truancy Program or look into the problems in the program.

-August 26, 1997: I received a copy of a letter from Santa Barbara Schools Director of Special Education, Ms. Rigby, in response to a letter from a DARC board member offering our services--*“We appreciate your interest in our collaborative efforts to reduce truancy and we share your concerns regarding the lack of academic skills amongst the juvenile delinquent population. Unfortunately, there are multiple risk factors associate with their poor school performance, and dyslexia or learning disabilities is not the predominant causal factor for our truant students...Our school psychologists will participate in the Truancy Mediation Team meetings to evaluate our truant students. We are confident in their assessment expertise. An agency representative from Mental Health, Klein Bottle, Fighting Back, District Attorney Community Mediation, and Probation will also participate in the Truancy Mediation Team meetings to provide information and resources, and assist in developing an individualized attendance plan for the truant student and*

²⁹ Attachment # 23 County Curfew Ordinance report to S.B. County Supervisors June 23, 1997 from Sheriff Jim Thomas, District Attorney Thomas Sneddon and Shane Stark, County Counsel.

*their family. Our goal is to coordinate school and community resources to assist students and their families in removing obstacles that interfere with their school attendance."*³⁰

-September 1997: A letter was sent to District Attorney Sneddon by a parent residing in Carpinteria requesting that he seek assistance from DARC for the Truancy Program. The parent said in her letter, *"I feel it would be a serious mistake if, in creating the Truancy Program, the Center is not involved. The program is supposed to be maximizing the use of existing resources of all agencies concerned with the well being of all school students and to see them succeed where, in the past, we have failed them. Please take note of what I am saying because I have been there with my child and felt her frustration as well as my own. We need all the help we can get and the DARC is an invaluable resource that I don't think you can afford to ignore."* The request was ignored.³¹

-March 2001 through present--At every Truancy Task Force meeting, community members and I have offered free services to help the students in the Truancy Program. The Santa Barbara Teen Legal Clinic offered its free services and Mr. Babatunde Foleyami, then Director of the Pro-Youth Coalition, offered to write a grant to pay an advocate. All of our offers were rejected.

-June 2002--At the last Task Force meeting, I offered DARC's services to the Superintendent of the Santa Barbara District to do free screenings on all students in the TP&PA program. Again I offered the help of other learning disability specialists in the community. Again, all offers were rejected.

The District Attorney and the Santa Barbara School District Administrators continue to reject any free offers of support.

B. Truancy Program Coordinators did not use the services of The Community Mediation agency as of June 2002. The Community Mediation agency was listed on the Truancy Grant Application dated March 31 1987, as one of the Non-Profit agencies used to get the Truancy grant approved. The director of the Community mediation Program signed her name on Form 4 of the grant application. I don't know how many other agencies that collaborated with the grant application, whose services were also not used.

17. Santa Barbara Public Defender's letter of violations and concerns, May 9, 2001.³² **School Attendance Review Board (SARB): Violations of students rights.**

The Student Attendance Review Board (SARB), administered by the Santa Barbara County Office of Education, is one of the steps in the Truancy Program. In a Truancy Task Force meeting, several parents complained about SARB's violation of students' Constitutional rights. In response, Santa Barbara Public Defender Jim Egar, a Task Force member, spent a day observing the SARB meetings and issued a letter after his observations, dated May 9, 2001, identifying the following issues:

1. *"Students are asked to waive Fourth Amendment rights without counsel..."*

³⁰ Copy of letter available on request.

³¹ Copy of letter available on request.

³² Refer to attachment # 13, letter from Santa Barbara Public Defender James Egar in reference to the SARB meetings violation of student's 4th amendment rights.

2. *“Issues concerning search-and-seizure and drug testing are of great significance in the criminal justice system. None of the youths or their families were asked to waive these rights at the SARB hearings I attended received any explanation of the significance of their waivers. The same waivers (that) are contained in the Truancy Mediation Team contracts with students, though the search-and-seizure provisions are not contained in the T.M.T. contracts with parents...”*
3. *“There were six law enforcement personnel present at the SARB hearings I attended. Some of the youths present had pending criminal charges and had been to court and had legal counsel appointed. Nevertheless, they were questioned about the facts of their case by law enforcement persons at these hearings”.*
4. *“All of the youths and their families who were calendared for SARB hearings which I attended were Latino.”*

18. Wavers of Fourth Amendment Rights, Search and seizure waivers written on Santa Barbara County Office of Education letterhead to accommodate the Probation Department at SARB meetings.

At the time Mr. Egar wrote his letter, dated May 9, 2001, the waivers for search and seizure by the police department and probation and signed by students at the School Attendance Review Board meeting (SARB), were written on the letterhead of the County Office of Education. When questioned by the Public Defender, Mr. James Egar, at a Truancy Task Force meeting, The County Office of Education Director of SARB, Mr. Steven Powell informed the Task Force members and Mr. Egar that they were just trying to accommodate probation. He also promised the waivers would be removed from the County Office of Education letterhead.

Since Mr. Egar’s letter was written, SARB continues to violate the rights of truant special education students. In October 2002, Attorney Karolyn Reynard filed a complaint with the Office for Civil Rights.³³ It also has come to light that SARB has been in violation of the Brown Act for years, likely since its inception, for not holding their meetings open to the public, and for discussion of issues completely out of the public view. In addition, they continue to violate 4th Amendment rights and operate in a manner that is in violation of their legally mandated role, and do not take the actions that they are supposed to. They act essentially as an appendage of Probation and the District Attorney’s Office, which is a travesty of their specifically mandated role to redirect students from law enforcement involvement through coordinated use of community and School resources.

SARB must be made legally responsible for strict adherence to Constitutional rights and to the intent of its legislative creation.

19. Truancy Grant Monies Wasted on Experimental Schools.³⁴

As part of the grant, monies were allocated for the establishment of three new schools that would accommodate the chronically tardy students who did not thrive in other alternative classroom environments available within the district. No money was allocated for the assessment of students for learning or attention disabilities and no trained teachers were hired to provide the special services needs for these students.

³³ Refer to attachment # 20, Office for Civil Rights complaint against Santa Barbara County School, School Attendance Review Board. October 2002.

³⁴ Refer to attachment # 10 article in Santa Barbara News-Press “Learning Disabilities; Cycle of Pain,” by Joan Esposito and attachment # 22 pages 6-7 in Truancy Grant Application.

I met with the director of special education and the Principal of the Expeditionary Learning Academy. We met in the Carpinteria district at a special education meeting for a student with learning disabilities, attending the Academy. The principal of the Expeditionary Learning Center for Carpinteria informed me that his school was not designed for students with learning and attention disabilities. Furthermore, he said that he did not know whether or not there were any more students in his school who had learning or attention disabilities.

20. Five Possible Solutions to Help These Students ³⁵

1. San Diego County Schools--Parent Facilitator Program for special education students.
2. San Diego County Schools--Ombudsman Program.
3. San Jose County--Board of Supervisors Project Yea! Founded by Judge Read Ambler of the Santa Clara Superior Court and the Juvenile Delinquency Court.
4. San Diego "Literacy Project for Juvenile Offenders." "A Project of Hope" funded by private foundations and by the San Diego Department of Probation, County Office of Education and the San Diego County District Attorney's Office.
4. The Office for Civil Rights offers free trainings in special education laws. The trainings are available to the Probation Department, District Attorney, and non-profit agencies that collaborated with the original truancy grant or any current and future grants.

A quote from the "Literacy Project for Juvenile Offenders:

"None of these children will have much of a future if they cannot read after leaving our institutions"-by Judge James R. Milliken Presiding Judge of the San Diego Juvenile Court.

Two quotes from founders of the YEA program are:

"Let's ask ourselves some tough questions: How is that we have short-changed our most vulnerable children? There is an indisputable relationship between juvenile delinquency and learning disabilities."

-Blanca Alvarado, Chairperson of Project YEA!
Santa Clara Board of Supervisors

"When the court takes custody legally, and often physically, of a minor who is not in school or who is failing in school because of unidentified...learning disabilities, it is our legal and moral duty to see to it that an effective plan is immediately implemented to remedy this glaring deficit. What could possibly be more central to the development of a child than education?"

-Honorary Read Ambler, Superior Court Judge

³⁵ Available on request, Copy of Possible solutions to help these students.

21. Santa Barbara School Board members:

After fifteen years of bad experiences with local school boards, I am happy to report that the current Board of Education members for the Santa Barbara District are trying to work with parents and their children with disabilities. The board members also keep coming up against obstacles just like the parents. The obstacles come from the County Office of Education through the Special Education Local Plan Area (SELPA) director Ms. McClish and the county special education attorney's. The Santa Barbara Board of Education members should be interviewed as to their problems with SELPA. The Santa Barbara School District Trustees seem to have little or no control over the Santa Barbara District Attorney, the Santa Barbara Probation Department or the County Office of Education's School Attendance Review Board (SARB.)

22. Conclusion

It is time to stop pretending that the Truancy Program and its partnered systems are working. Several Santa Barbara officials have suggested I take my information to the Santa Barbara Grand Jury. On two separate occasions, in 1996 and 1998, parents and professionals wrote to the Grand Jury and provided documentation and evidence. Both times, the Grand Jury has ruled in favor of the schools.

Was the process equitable? Hardly. In the 1998 attempt to get help from the Grand Jury, parents' calls to the committee chairperson were ignored. Requests for meetings with the committee chairperson were ignored. All interviews, except mine, were done with the school district. Both times, the Grand Jury refused to investigate the laws that were being broken by the school district by not offering assessment or treatment for learning and attention disabled children. Both times the Grand Jury refused to investigate the monies spent by the school on attorney's fees to fight parents, the Office of Civil Rights and the State Department of Education.

I now turn to you, our elected officials, for your wisdom in realizing the seriousness of this continuing oversight. It is imperative that you stand up and take notice of how truant children with learning and attention disabilities are being overlooked and unattended to and how the Truancy Program criminalizes them for their learning differences.

These children are every bit a part of the future of Santa Barbara as are the children that do not have learning and attention problems. They are the out-of-the box thinkers whose uniqueness is not created out of want or desire, but out of a scientifically proven neurological difference in their brains. Research conducted by the National Institutes of Health and Humans Services has shown conclusively that children are born with dyslexia. Time and time again, scientists and researchers have proven how the brains of a student with learning or attention disabilities function differently. Isn't it time that someone in the city stood up and paid attention? Which is the greater cost? Truancy charges, court time, and juvenile time or the assessment and services to a student with a disability? And, which costs more long-term? An identified and treated learning disabled student who is now a productive citizen of the Santa Barbara community or a unidentified and criminalized student who grows to be an unproductive and chronically-criminal citizen of the Santa Barbara community?

Students with neurological learning and attention disorder cannot change what they are born with, but we can. We can offer them an academic chance. We can coach them on how to best use their traits in educational settings and other venues. We can identify their disabilities and use the tools of teaching and accommodation, tools that are already at our fingertips, to help them succeed. We can help break their endless cycle of frustration and despair that leads to depression, truancy, and criminality. And, we must help them break this cycle.

How do we start? By changing the system--a punitive system that berates and punishes them for things they cannot change. By implementing the recommendations and looking to other

programs to enhance or abolish the Truancy Program. By providing the students with their legal rights to special education services, and by demanding that the schools be held accountable for accurate attendance record keeping.

It's time to take action. It's time to bring back hope to the lives of these students. As Superior Court Judge Frank Ochoa said in an article in the Santa Barbara News-Press:

" 'Schools may say that (assessment and diagnosis) is happening, but I have anecdotal evidence to show that it is not happening. They are not being treated well in the public school system...They are not being assessed, diagnosed or treat in the public schools, and they end up failing in school and participating in aberrant behavior.' Ochoa said he routinely speaks with parents who say they told school officials that their children had learning disabilities, and those concerns were not checked out. He said many of the children in his courtroom may have avoided criminality if they had been diagnosed and treated for learning disorders much sooner."

-Excerpt from article from Santa Barbara News-Press, May 25, 1998. One-year after the TP&PA Program was implemented.

There are numerous studies dating back to 1977 when the National Juvenile Justice and Delinquency Prevention Act of 1977, H.R. 1137. On April 22, 1977 hearings took place before the Subcommittee on Economic Opportunity, in Washington D.C., on the high correlation between Juvenile crime and learning disabilities, H.R. 1137 was amended by H.R 6111.³⁶

Recent Statistics on Learning Disabilities and Juvenile Delinquency:

- **70% of America's adult incarcerated population is functionally illiterate.**
- **85% of juvenile offenders have reading difficulties**
- **35% of America's juvenile offenders have learning disabilities**
- **Nearly 40% of America's juvenile offenders at the tenth grade level read below the forth grade level**

Please, let us not lose another child. I look forward to hearing from you and working together for the benefit of the children in Santa Barbara.

Sincerely,

Joan Esposito
Founder/Program Director
Dyslexia Awareness and Resource Center

³⁶ Copy of the 1977 hearings, a 383-page document available to view on request.

List of Attachments

I have attached twenty-seven documents. They will further explain the concerns I have raised and some solutions. The following is explanatory information for each of the documents, which are arranged by date:

1. November 3, 1992: Complaint Petition: Seven hundred parents signed a complaint petition against Ms. McClish and the business practices of their SELPA under the direction of Ms. McClish. The parents requested an investigation. Ms. McClish left Orange County before the investigation was completed. After Ms. McClish left her position on Orange County the Santa Barbara County Office of Education hired her. She was hired as the Director of the Santa Barbara Special Education Local Plan Area (SELPA.)

2. January 1996: Letter from Joan Esposito to Marsha McLish, Santa Barbara County Special Education Local Plan Director. One of the problems I delineated for her the escalation in expulsions and suspensions in the Santa Barbara Schools since the inception of the Inclusion program in 1991. From information I was given I understood that in 1991 17 students were expelled; 36 the next year; and 67 the following year. Ms. McLish has never responded to my letter.

3. June 23, 1997: -June 23, 1997: My letter to the Santa Barbara County Board of Supervisors', it was a written request to the Supervisors asking that *"every student that would be returned to the school under the truancy ordinance be tested for learning disabilities and if found to be learning disabled, to have a special education plan established for him or her."*

4. June 24, 1997: Santa Barbara County Board of Supervisors' meeting the first reading of the truancy ordinance. Testimony to the County Supervisors *"...I am here today to respond to the proposed ordinance on juvenile curfew. I would like to propose that included in this ordinance would be a provision to identify students with learning disabilities and attention deficit disorder...."* *"The proposed ordinance may be the last chance a child with a learning disability has to be tested and identified before they go to juvenile court...."*

5. June 18, 1998: *"Quest For Full Citizenship"* by Joan Esposito. Santa Barbara Independent Magazine. Jenny's story.

6. November 2, 1998: Letter from Attorney Kirk Ah Tye to Ca. State Compliance Unit, in reference to problems with their compliance investigation in the County Office of Education and the Santa Barbara District.

7. September 1999/October 13, 1999 and January 11, 2000: Three letters of correspondence to Santa Barbara School Board from Joan Esposito and then Superintendent Michael Caston. Re: Parents denied services. Solution offered to Caston, which he refused. Award winning videotapes for teachers to teach students with dyslexia how to read and write, turned down by Caston and The County Office of Education. Director of Special Education, Diana Rigby's quote "Tell your parents to hire a lawyer."

8. April 12, 2000: Three letters to the Federal Department of Education date April 12, 20 & 25 2002. I was contacted by the Federal Department of Education. They asked me to write and tell them about the compliance issues in Santa Barbara. One of the fourteen issues I addressed was the Truancy Program. Two special education attorneys were also asked to document the violations.

9. March 21, 2001: Letter from the Latino Education Task Force of Santa Barbara in regard to the TPP demonstrates another reason why these problems have been intractable: "We are

finding that individuals, groups and agencies that historically came to the defense of those being discriminated against have fallen silent due to their desire to continue receiving funds from those they should be criticizing.

10. March 26, 2001: Santa Barbara News-Press, 'Learning Disabilities: Cycle of pain, humiliation' " by Joan Esposito. This is in reference to District Attorney Thomas Sneddon's lack of accountability for those students who started in the TPP and subsequently dropped out.

11. April 19, 2001: Copy of an internal e-mail sent by Probation manager Mr. Martin Conoley to his staff. The e-mail stresses the need for "approximately 90 families to be enrolled in New Vistas in the next 10 weeks if we are to meet our contractual obligations with the for year two."

12. April 26, 2001: Letter from Joan Esposito to the TPP Committee which included District Attorney Thomas Sneddon and Santa Barbara School District Superintendent Deborah Flores. It, in essence, requests that participating agencies (specifically, the District Attorney, Probation, and Mental Health) train their personnel in federal and state special education requirements, consistent with the federal and state laws. I handed out a copy of a 1990 Santa Barbara District Superintendent's, Task Force on Dyslexia that states "[a]ll school Administrators will receive training via workshop regarding Federal and State laws and regulations which apply to learning disabled." (The full Task Force report follows my April 26 letter). None of the recipients of this letter have responded to my call for training.

13. May 9, 2001: A letter from James S. Egar, Santa Barbara County Public Defender, to Ms. Flores (with copies to Mr. Sneddon, Ms. Gionfriddo, and Ms. Ramos, the Current Truancy Liaison Officer employed by the S.B. School District), which expresses concern about participating agencies' conduct in the Student Attendance Review Board (S.A.R.B.) process and describes the essential "law enforcement: atmosphere" of those meetings. The stated legislative purpose of SARB's is to steer truants away from a law enforcement path.

14. May 16, 2001: Letter from the American Civil Liberties Union, Santa Barbara Chapter, to Supt. of Schools Ms. Flores (with copies to Mr. Sneddon, District Attorney; Ms. Gionfriddo, Chief Probation Officer; and Mr. Jim Egar, S. B. County Public Defender) which identifies the legal requirements for participating agencies to both identify and assess truants with special education needs and to ensure that those eligible for such services actually get them in a meaningful way.

15. May 21, 2001: Internal memo from Martin Conoley of the Probation Department to other probation officers. The memo was written the day I appeared in Juvenile Court at the request of a Family Coach from the New Vistas Program. The coach felt the child had learning disabilities and had made several requests for an assessment from probation. Probation ignored the requests. I informed the coach that she could request the assessment from the judge at the hearing, which she did. As you can see from the internal memo Mr. Conoley did not thank the New Vista' coach for going out of her way to find someone who could identify the child's learning disability. Instead Mr. Conoley states in his memo, "It blindsides our department" and "I hope this matter can be resolved, because I believe it reflects poorly on our Dept."

16. May 23, 2001: Internal memo from Martin Conoley of the Probation Department. After the May 21, 2001 court appearance, other memos came from the probation department, questioning and criticizing the work ethic of the two Family Coaches from the New Vistas Program. The memos would lead to discouraging other Family Coaches from bringing in an outside advocate on behalf of the students with learning and attention disabilities who are in Juvenile Court as a result of the TPP or any other violation.

17. May 23, 2001: Three page presentation to Santa Barbara School Board requesting them not to sign a contract with the law firm of Filarsky and Watt. This firm has been combative with parents in Santa Barbara County for over fifteen years. The law firm who spends money fighting the Office for Civil Rights and the State Department of Education investigations. A copy of my

presentation is on the district video of school board meetings. After my request a board member stated that unless they signed the contract for this particular law firm, the county office of education told the board that they would not provide the district with an attorney. The board member asked me to consider what that would mean. It would leave them open to law suits without protection. THE COUNTY OFFICE OF EDUCATION PRESSURED THE S.B. SCHOOL BOARD INTO SIGNING THE CONTRACT. The public attending the meeting were not informed as to, who at the county placed this pressure on the board members.

18. October 5, 2001: Letter to the editor of the Santa Barbara News Press, from District Attorney Tom Sneddon, published October 5, 2001; District Attorney Tom Sneddon states that only 39 habitual truancy petitions were filed in juvenile court the previous year. Mr. Sneddon's letter did not inform the public about the numerous students who have fled the TPP.

19. August 2002: Santa Barbara Independent News-Paper, article on S.B. District Attorney Thomas Sneddon, "The Untouchable" by reporter Nick Welsh.

20. October 4, 2002: Complaint file against the County Office of Education School Attendance Review Board (SARB) with The Office for Civil Rights. Complainant: Attorney Karolyn Reynard detailing the problems she experienced when she attended a SARB meeting as an observer, and guest of the Santa Barbara High School Truancy Intervention family advocate.

21. March 2003: Transcription of truancy meeting at Santa Barbara High School, held by the District Attorneys Office and Probation. No mention of learning or attention disabilities. No mention of students attending the truancy meeting needing special education assessments or services. No mention of students with special needs. The whole meeting was punitive for parents and their children.

Truancy Program Exhibits

22. March 31, 1997 Truancy Grant Application

23. June 10, 1997 Report to Santa Barbara County Board of Supervisors on County Curfew Ordinance. Report from Sheriff Jim Thomas, District Attorney Thomas Sneddon Jr. and Shane Stark, County Council.

24. Two Truancy letters to parents from the Santa Barbara High School and The S.B. District Attorney.

25. Truancy Program diagrams of the steps in the Truancy Program. First diagram dated September 1997. Second diagram revised in September 2000.

26. Description of Five Successful Programs:

- 1 San Diego County Schools--Parent Facilitator Program for special education students.
2. San Diego County Schools--Ombudsman Program.
3. San Jose County--Board of Supervisors Project Yea! Founded by Judge Read Ambler of the Santa Clara Superior Court and the Juvenile Delinquency Court.
4. San Diego "Literacy Project for Juvenile Offenders."
5. The Office for Civil Rights offers free trainings in special education laws. The trainings are available to the Probation Department, District Attorney, and non-profit agencies that collaborated with the original truancy grant or any current and future grants.