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June 21, 2004

The Honorable Judge Frederick P. Horn  
Presiding Judge  
Orange County Superior Court  
700 Civic Center Drive West  
Santa Ana, CA 92701

RE: Orange County Grand Jury Report "Combating Truancy in Orange County"

Dear Judge Horn:

Our office is in receipt of the above referenced Grand Jury Report. Please find attached the Office of the District Attorney's response to the specific Grand Jury Report.

Sincerely,

Tony Rackauckas  
Orange County District Attorney

REPLY TO: ORANGE COUNTY DISTRICT ATTORNEY'S OFFICE

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## ORANGE COUNTY DISTRICT ATTORNEY

### RESPONSE TO FINDINGS OF GRAND JURY – TRUANCY

**Finding # 14:** Some school districts believe: that SAR Boards are ineffective, particularly at the high-school level; that SAR Boards are “a lot of work for no consequences at the D.A. level,” and that threats of SARB intervention and consequences that are not reinforced by the District Attorney’s office make the efforts of a SARB hollow and ineffective.

**Disagrees with Finding:** The District Attorney’s Office is a committed partner in the Truancy Response Program (TRP). As indicated in Figure 3 attached to the Grand Jury Report, the Office of the District Attorney becomes involved in combating truancy at two separate times during the truancy process. After a student has been designated a habitual truant by the school district a letter on District Attorney letterhead is sent to the student and parent requesting their attendance at a District Attorney/Parent Meeting. During this meeting a deputy district attorney gives a power point presentation regarding the law and consequences of truancy. The students and parents are warned that further truancy violations will result in their being brought before a School Attendance Review Board (SARB) by their school district. They are further told that if, after a SARB hearing, they continue to have truanancies, they will be referred to the Probation Department and there after the Office of the District Attorney for the filing of charges. They are told in very specific terms what will happen once charges are filed, and what the consequences will be.

Following the DA/Parent meeting, the school districts are responsible for monitoring the truanancies of the students who have been referred to the DA/Parent Meetings. Any additional truanancies are to result in a SARB hearing by the District.

The effectiveness of a District SARB is highly dependent on the individual school district and how they operate their board and to what degree they are committed. The districts who participate in TRP, and who follow up on each case, referring minors and parents to the Probation Department following a SARB contract violation, have very successful SARB Boards. The Boards are used as a tool to resolve truancy issues at the district level and to keep minors out of the juvenile system. In most instances, truancy is a symptom of a larger issue that is best handled at the school or district level where there are resources available. In those hard cases where the minor or parents do not get the message, the authority of the Probation Department and District Attorney combined with the Juvenile Court is available if necessary.

If the student violates the District’s SARB contract, or fails to appear for the SARB hearing, the next step in the TRP guidelines calls for the District to forward the case to the Probation Department. However, it does not appear that all Districts comply with the guidelines. Once a student is referred to the Probation Department that agency then interviews the student and parents and devises appropriate measures to resolve the truancy issues. The minor is placed on a Probation contract, which among other things, requires they attend school everyday and on time. If the minor successfully completes probation and attends school regularly, the case is dismissed by Probation, and the school district is notified.

The District Attorney becomes involved in the process again only if (1) the minor and parents fail to cooperate with Probation, (2) the minor violates the Probation contract by having additional truanancies, or (3) Probation determines the minor is too young to qualify for their services. The Probation Department then submits a Request for Petition to the District Attorney for the filing of charges under the truancy statutes.

Once a petition has been submitted to the District Attorney, it is reviewed for legal sufficiency and appropriateness for prosecution. Depending on the age of the child, charges are filed against the minor, the parents,

or both. All cases are filed with the Juvenile Court. Of the cases submitted to the District Attorney since the inception of the TRP program in 2001, approximately 73 percent have been filed with the Court. Reasons for rejection include: minor is too close to 18<sup>th</sup> birthday, absences are excused, medical reasons make filing inappropriate, the minor and parents have left the county, or the minor is already a ward of the court pursuant to Welfare and Institutions Code section 602. In the case of incomplete documentation for filing, the district is contacted to ensure the file is complete prior to filing.

Once the case has been filed with the court, the minor and/or parent(s) are arraigned. On the first appearance in court, the minor and family are ordered into counseling and/or parenting classes. If they do not appear in court, a warrant is issued for their arrest. The judge harshly warns the minor and parents and orders the minor to attend school every day and on time. He tells them in no uncertain terms that if they are truant again, he will take them into custody. The Court generally monitors their attendance for a complete school year. If a minor successfully completes a school year with good attendance, the case is dismissed. If a minor does incur additional trancies, the Judge has a variety of options at his disposal. In the very rare case where it is necessary, he takes the minor into custody. With very few exceptions, there are no further trancies after the case is before the Court.

The Truancy Response Program at the District Attorney and Court level does indeed have consequences and it has been very successful.

**Finding # 17:** School districts repeatedly identified three particular skills as being essential if SAR Boards are to be effective: law-enforcement skills (e.g., a School Resource Officer), prosecutorial skills (e.g., a Deputy District Attorney), and probation skills (e.g., a Probation Officer). Yet, more often than not, these skills are not present at district SAR Board meetings.

**Disagree with Findings:** The SARB hearing is a district intervention and tool to identify and resolve issues related to truancy and to make a final effort to correct the behavior of the student and/or parent. They are not adversarial or criminal proceedings which would require the presence or skills of a prosecutor. While the Grand Jury Report indicates that prosecutorial skills are essential to a SARB, it does not indicate why. The Report states that two districts would like a district attorney to attend because of the weight of authority it would add. The weight and authority of the District Attorney's Office is brought to bear prior to the SARB hearing in the form of a letter on District Attorney Letterhead instructing the minor and parent to be present at the District Attorney/Parent Meeting, and the presence of a Deputy District Attorney at the District Attorney Parent Meeting held prior to the SARB. During the meeting, the law regarding trancies and the consequences which will result if there are any further trancies is explained in detail by a deputy district attorney. A SARB would only occur if there are additional trancies after being warned at the DA/Parent meeting. The weight and authority of the DA's office would be diminished if after being officially warned, we appear at the SARB to warn them yet again. The District Attorney's Office would be in the position of saying "well, we really mean it this time."

If after receiving the letter to attend the DA/Parent meeting, the minor and parents chose not to attend the meeting, which happens in approximately half of the cases, our presence at the SARB sends the message that you may disregard the DA's Office and we will give you another chance to ignore us before we file charges. The most effective warning is at the DA/Parent meeting. The consequences for disregarding that warning should be the filing of charges after all district efforts have failed. District personnel, perhaps with the aid of a probation officer and/or school resource officer, are in the best position to address all issues at a district SARB hearing.

**Finding #21:** School districts that have chosen to embrace the Truancy Response Project have experienced significant improvements in their truancy problem and increased awareness among parents and students of the importance of regular attendance.

**Agree with Finding:** As indicated in the Grand Jury Report, school districts which are participating in TRP are experiencing improved attendance. The District Attorney/Parent meetings are very effective in getting the message across to students and parents the importance of regular school attendance and consequences of failure to do so. Feedback from the meetings is positive with districts reporting 50-60 percent of the students who attend a District Attorney/Parent meeting have no further truancy problems. The follow through by school districts is critical in the success of the program. Following the District Attorney/Parent meeting, referral to SARB, Probation, and ultimately to the District Attorneys Office, has provided real consequences to the students and parents if the students fail to improve their school attendance. As a result, in even the hard cases, where nothing else has resolved the problem, requiring the minor and/or parent(s) to appear before Judge Hutson has in almost all cases ended the truancy problem.

**Finding #25:** Truancy support by the Probation Department and the District Attorney's Office needs to be fully funded if these organizations are to be as effective as the school districts would like them to be.

**Agree with Finding:** The Truancy Response Program is funded by a grant from the Juvenile Justice Crime Prevention Act (JJCPA). The Funding for the 2004-2005 fiscal year has been approved. The amount, approximately \$131,000.00, covers about the cost of one full time deputy district attorney assigned to the Truancy Response Project. During the last JJCPA meeting, which allocates the grant funding to various projects, there was a strong indication that there would be no further funding for the Truancy Response Project after the 2004-2005 fiscal year. The members indicated that since the school districts were receiving the benefit of increased dollars from the State, due to an increase in their average daily attendance (ADA), the school districts should pay for the program. In light of that indication, Judge Hutson, the Department of Education, the District Attorney's Office and the Probation Department are in the process of preparing a proposal to the school districts to share in the cost of the program. In the event that the grant funding ends before the school districts agree to share in the costs of the TRP, additional funds will be necessary to continue the program. Without the additional funds, the DA/Parent meeting portion of TRP may be eliminated.

## ORANGE COUNTY DISTRICT ATTORNEY

### RESPONSE TO RECOMMENDATIONS OF GRAND JURY – TRUANCY

**Recommendation #13:** The District Attorney respond to school districts’ views that “SAR Boards are a lot of work for no consequences at the District Attorney level” and that “when SARB interventions and consequences are not reinforced by the District Attorney’s office, efforts of the SARBs become hollow and ineffective.” (Finding 14)

**Recommendation not Implemented:** As discussed in Finding 14, effective consequences exist and are reinforced at the District Attorney level. Effectiveness of a SARB is dependant on each school district designating their students as habitual truants as defined by the law, sending the students and parents to District Attorney Meetings, and then following up by referral to the SAR Board if the truancies continue. There must be further follow-up and follow through if truancies continue by referral to the Probation Department and District Attorney’s Office. Those school districts participating in TRP are aware of the effectiveness and successful outcomes from Probation, the Court and District Attorney’s Office. The efforts to educate districts about TRP have been extensive and ongoing.

**Recommendation #16:** The Probation Department and District Attorney improve the operational effectiveness of district-level SAR Boards by assigning, respectively, a Probation Officer and a Deputy District Attorney to attend SAR Board meetings in those school districts that request such participation (Finding 17)

**Recommendation not Implemented:** As discussed in Finding 17, the Office of the District Attorney is involved in the Truancy process at two separate times. Each school district sends out letters, on District Attorney letterhead, requiring habitual truants and their parents to attend a District Attorney/Parent Meeting. At that meeting a deputy district attorney gives a presentation informing the attendees of the law on truancy and the consequences to students and parents if the truancies do not cease. The attendees are told that if they fail to correct their behavior they will be called before a District SARB to address the problems and if necessary will be referred to the Probation Department and District Attorney’s Office for prosecution. It would dilute the authority of the District Attorney, if after having given an official warning at the District Attorney/Parent meeting, we show up at the SARB to warn them again.

In addition, staffing each SARB meeting with a Deputy District Attorney would require additional funding which is simply not available at this time.

Currently, when available, a deputy district attorney attends a district SARB while the district is in the process of setting up their SARB or if they are having special difficulties and need guidance in their SARB process. This will continue as needed and based on the availability of deputy district attorneys.

**Recommendation #18:** The District Attorney provide for the periodic training of school administrators in preparing SARB-referral documentation packages (Finding 19)

**Recommendation Previously Implemented:** As indicated during the Grand Jury investigation, the Orange County Department of Education and Office of the District Attorney are currently preparing for a Truancy Training and Conference for school districts in Orange County. The tentative date is for late October, after the 2004-2005 school year begins. Preparation of a filing package for truancy court is among the topics to be included.

In addition, Deputy District Attorneys have already conducted training sessions with school personnel. We would welcome an opportunity to participate in more such trainings as the need arises.