



# **Pay Attention Now or Pay the Price Later:**

**How Reducing Elementary School Truancy  
Will Improve Public Safety  
and Save Public Resources**

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# **Pay Attention Now or Pay the Price Later: How Reducing Elementary School Truancy Will Improve Public Safety and Save Public Resources**

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## Introduction:

### Why Elementary School Truancy Matters to Law Enforcement

When Michael was in kindergarten, he wasn't in class very often. Michael was only 6 years old, yet he missed more than 80 days in one school year. He was not ill and no one from Michael's family ever called to say why he was not attending. Unfortunately, Michael is not the only child missing so many days of elementary school.

After I was elected District Attorney for the City and County of San Francisco, I inquired and learned that 5,500 students in San Francisco were habitually truant and, shockingly, 44 percent of the truant students were in *elementary school*. That is when I partnered with the San Francisco Unified School District to combat truancy. Yet at the time, many asked why the city's chief prosecutor was so concerned with the problem of elementary school attendance.

The answer is simple: when it comes to breaking the cycle of crime, we can either pay attention to the signs of trouble now, or we can pay the price later. We pay that price in more ways than one. Elementary school children who fail to attend school today become tomorrow's high school dropouts. Dropouts are those most likely to end up in the streets as either victims or perpetrators of crime. Cities, counties, and the state must spend millions to police our streets, prosecute criminals and send them to prison. If we are serious about changing the factors that lead to bloated prisons and depleted budgets, we need to get serious about getting our young children in school. Combating elementary school truancy is a smart approach to crime prevention.

The statistics speak volumes. Habitual truants become high school truants, and it is estimated that as many as 75 percent of all truant high school students will eventually drop out of school.<sup>1</sup> Statewide, three-fourths of prison inmates are high school dropouts.<sup>2</sup> In San Francisco, over 94 percent of all homicide victims under the age of 25 are high school dropouts.

For these reasons, I joined with the San Francisco Unified School District to begin a comprehensive initiative focused on elementary school truancy. Every fall I send out letters to parents of all SFUSD students informing them that truancy is against the law and that I will enforce the law. During the school year, prosecutors from my office hold mediations with parents and truant students at schools across the City to reinforce this message and urge them to get help to improve their children's attendance. In most cases, attendance improves. But when it does not, my office prosecutes parents in a specialized Truancy Court we created that combines close court monitoring with tailored family services. We have the school district and children and family services on hand to work with families and resolve underlying issues such as transportation, unstable housing, substance abuse, mental health issues, neglect or unresolved special education needs.

Our strategy has worked. After Michael's parents did not respond to repeated pleas from the school district, the district handed the case over to my office. My investigators went to Michael's home and served his parents with criminal complaints and citations to appear in court. The parents' attitude shifted quite a bit after getting served. They appeared in court and agreed to work with the court to get needed services and get Michael back in school. Since then, Michael's attendance greatly improved. He missed only three days the following school year. He got extra attention from teachers to get on track and one parent has even become a school volunteer.

Michael's story has forever changed. He's no longer on the path towards becoming a high school dropout and he's no longer more likely to be on the streets than in school. Michael is no longer a prime candidate to either commit a crime and end up in prison or be a victim of violence and die on the streets. While we ultimately don't know what Michael will choose to do with his life, we do know that now he has a chance.

Michael's success is similar to many other children in the district. In the last year alone, truancy among elementary school students in San Francisco declined by 20 percent.

Yet preventing truancy does more than protect public safety. It protects precious public resources in the midst of California's worst economic crisis in history. If ever there were a time to reassess how our state spends public resources, the time is now.

The University of California at Santa Barbara California Dropout Research Project recently released a devastating report examining the impact of high school dropouts on California's economy. The report found that high school dropouts account for a disproportionate amount of juvenile crime, and that being a high school graduate is associated with reductions in property crime by 9 percent, violent crime by 17 percent, and drug-related crimes by 10 percent. The crimes that dropouts commit cost the state \$1.1 billion per year. Adding in the social and medical costs, wage taxes lost, and other associated economic losses, the report estimates that dropouts cost the state as much as \$46.15 billion annually.<sup>3</sup>

As our economy free falls, this is an important wakeup call: by doing what it takes to keep kids in school in every corner of our state, we will save literally billions of dollars in public resources and we will greatly improve public safety. Children like Michael will either get their education in the streets or in the school. The fabric of our community, and the future of our economy, depends on our ability to ensure that education happens in the classroom.

## **Elementary School is the Foundation: What Happens to Truant Children**

Despite the seriousness of the consequences, substantial reductions in truancy rates for California students remain elusive. According to the California Department of Education, over 1.5 million students were truant in California in the 2008-2009 school year, constituting almost one quarter of California's student body.<sup>4</sup>

Nearly 40 percent of the truant students in California are in elementary school.<sup>5</sup> Chronic elementary school truancy contributes to juvenile truancy and delinquency, high school dropout rates, and increased rates of poverty and incarceration among adults.

### The Role of Elementary School in Children's Development

Ensuring our children get a good elementary school education is perhaps one of the most important contributions we can make to their future success, health, and security. During elementary school, children learn the building blocks for everything that follows. They build crucial academic and life skills including reading, writing, math, science, socialization, and cooperative skills. Head Start conducted a study of their students and found that language ability in the first and second grades accounts for 88 percent of differences in ability among third and fourth graders.<sup>6</sup> Harvard University's Center on the Developing Child reports that education is particularly important for early childhood because young children's brains are more malleable. The wiring of the brain is harder to change as a child matures. They conclude that remedial education is both less effective and more costly compared to early childhood education.<sup>7</sup> Just as a house cannot be built without a foundation, a child cannot learn without the basic skills acquired in elementary school.

In their article, "Present, Engaged, and Accounted For," Hedy Chang and Maria José Romero state the obvious: students have to be present in school in order to

learn.<sup>8</sup> The more school students miss in the early grades, the harder it is to catch up. In 2007, the National Center for Children in Poverty issued a study finding that children who miss 10 percent or more of the days in a given school year are the most likely to suffer lower academic performance in subsequent school years.<sup>9</sup> That means missing 10 percent or more is a tipping point: children who miss less than 10 percent can recover, while children who miss more than 10 percent begin to fall through the cracks.

#### Truant Elementary School Students Will Likely Become Dropouts

Chang and Romero note that students who are not present and do not learn essential elementary school skills in the early grades are at great risk of permanently falling behind and dropping out of school.<sup>10</sup> The Center for Social Organization of Schools at Johns Hopkins University concluded that poor attendance in elementary school is one of the most reliable predictors of who will drop out of high school.<sup>11</sup>

#### Truant Elementary School Students Will Likely Become Juvenile Delinquents

In addition to predicting future dropout rates, elementary school truancy also leads to truancy and associated problems among older children, before students drop out. Numerous studies demonstrate a strong correlation between teenage truancy and juvenile delinquency. The California Department of Education identified truancy as the most powerful predictor of juvenile delinquent behavior.<sup>12</sup> The Office of Juvenile Justice and Delinquency Prevention reported that truancy correlates with substance abuse, gang involvement, and other criminal activity.<sup>13</sup> A report by Fight Crime: Invest in Kids concluded that increasing graduation rates by 10 percentage points would decrease rates of violent crime by 20 percent, and prevent 500 murders and more than 20,000 aggravated assaults each year in California.<sup>14</sup> Similarly, Sacramento Police Chief Rick Braziel notes that a 10 percent increase in graduation rates would mean 22 fewer homicides and 1,100 fewer aggravated assaults in Sacramento County each year.<sup>15</sup>

## Truant Elementary School Students Will Likely Become Adults Dealing with Poverty, Poor Health, and Incarceration

Chronic truancy impacts outcomes into adulthood, beyond high school years. Adults who were frequently truant are much more likely to be in poor health, have lower paying jobs, rely on welfare, and experience an increased rate of incarceration.<sup>16</sup> High school dropouts are 72 percent more likely to be unemployed than graduates, and, for those who work, they earn far less than their graduate counterparts.<sup>17</sup>



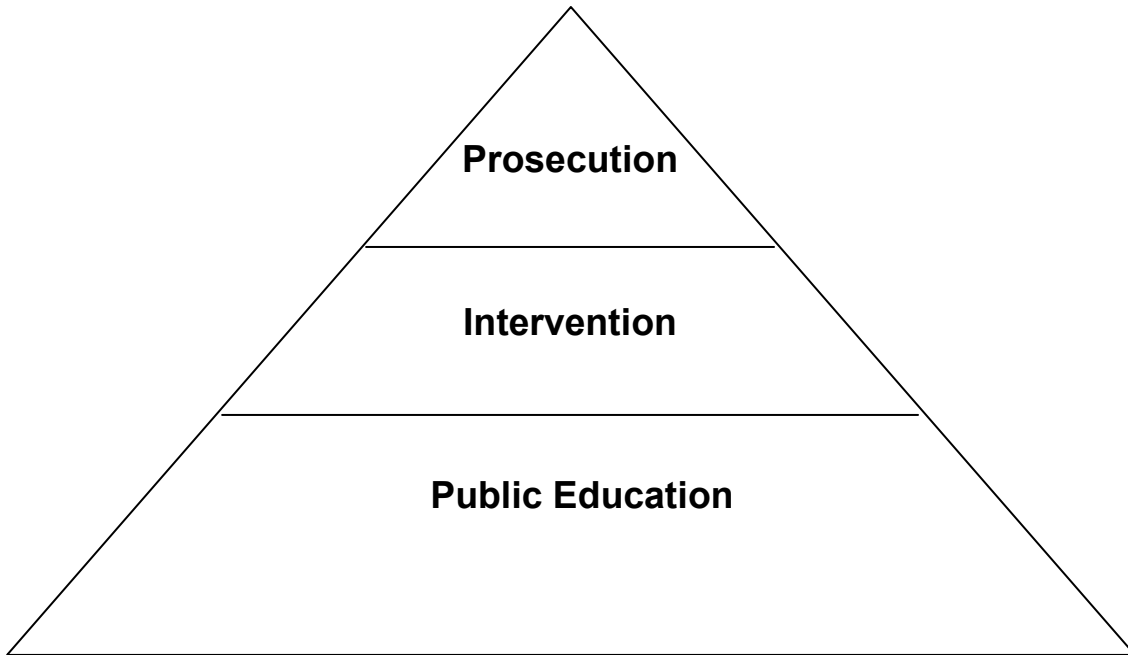
## **San Francisco's Approach to Enforcing Truancy Laws**

San Francisco, like the rest of California, has struggled with unacceptable truancy rates for many years. In the 2008-2009 school year, roughly 5,000 students were truant in San Francisco's public schools, 44 percent of which were in elementary school.

In the District Attorney's Office, we are in a unique position to bring a new kind of accountability to this problem. Because California law requires that children between 6 and 18 years of age attend school, prosecutors have the statutory right to prosecute parents who do not make sure their children get to school.

We began the San Francisco Truancy Reduction Initiative three years ago by convening a meeting with all the principals and school administrators in the City. There, we announced that we intended to prosecute parents for truancy. Half of the room applauded while the other half was visibly upset, concerned that law enforcement cannot solve what is often a complicated social problem.

Despite the controversy, we forged ahead, recognizing that no action was tantamount to complicity. We developed what has become a three-stage "pyramid" approach to truancy reduction. At the bottom of the pyramid, where most families of elementary students are, we engage in widespread public education. Next, we engage in intervention for families showing signs of trouble. Finally, at the top of the pyramid, for families with severe and repeated problems of chronic truancy, we engage in prosecution.



Stage 1: Public Education

In the first stage, in partnership with the school district, we utilize posters, local media, and school-wide forums to educate all parents about the consequences of truancy. We send letters to every parent of every child in the San Francisco Unified School District, warning parents about the law and explaining why it is important to keep their children in school. The letter enumerates the consequences that parents could face if their child is truant, including prosecution.

We also set up a hotline for parents who need help getting their kids back in school: 415-701-STAY. Then, we designed and implemented a bus billboard campaign to advertise that hotline number and raise awareness about the problem of truancy. We also provide parents with referrals to community and faith-based organizations that can support families in need.

## Stage 2: Intervention

The second stage in our pyramid approach is intervention. In this stage, the school district identifies students whose attendance is beginning to fall off and we organize “DA mediations” at the schools. There, the parents of these children meet with school administrators and prosecutors to understand the impact of their child’s absence, work together to build solutions, and understand the consequences of their failure to act. Counselors and service providers are on hand to offer support to the families. These mediations work. Without hauling a single parent to court, we saw attendance at one school improve 40 percent among the students whose families participated in the mediation sessions. At another school, we saw a 75 percent drop in truancy.

Parents are also asked by the school district to participate in School Attendance Review Board (SARB) meetings where parents discuss the underlying causes of their children’s attendance problems and agree to take remedial actions. Representatives from our office attend these meetings to observe and understand patterns, remind the parents and students of the legal consequences of truancy, and ensure all appropriate steps are being taken in the event the truancy problems continue.

## Stage 3: Prosecution

The final stage of our pyramid is designed to address the parents who still do not improve their child’s attendance rates, even after education, mediations, and SARB interventions. This stage of the process is reserved for parents of chronically truant children, defined in San Francisco as children who have missed 20 or more days of school. These parents are subject to criminal charges and prosecution. We serve them with notice, give them a court date, and bring them in front of a judge facing charges of violating Education Code section 48260.

We do not simply require these parents to pay a fine and send them home. We recognize that for parents of severely chronic truants simply paying a fine will not likely

result in improved attendance. Instead, we developed formal working relationships with the school district, Child Protective Services, and children and family service providers to compel these parents to address the underlying problems resulting in chronic truancy. In Truancy Court, the parents are given three options: they can plead guilty and pay the fine; they can plead guilty and enter a deferred entry of judgment (DEJ) program, or they can plead not guilty. The vast majority of parents choose the DEJ program. In this program, the judge accepts their guilty plea but delays sentencing and allows the parents time to work with the appropriate service providers, who are in court, to address their underlying issues and get their children in school. If the parents can turn their circumstances around and their children's attendance improves, the judge will withdraw their guilty plea and dismiss the case. Parents are subject to regular court monitoring and the school district reports on attendance rates for each student.

Part of the success of this model has come from the participation of our partnering agencies. The San Francisco Unified School District is very involved in the Truancy Court process. The district sends multiple representatives to court, including staff from Student Support Services, staff from the student's school, and on occasion, even the school principal will appear in court to emphasize the importance of school attendance. As well, the San Francisco Department of Human Services/Child Protective Services appointed a truancy social worker to attend Truancy Court. If a family is involved with Child Protective Services (CPS) prior to truancy prosecution, the family's assigned CPS social worker attends court and becomes part of the truancy team for that family. The San Francisco Department of Public Health also provides services to families and a representative from CalWORKs attends Truancy Court to motivate families to do what is necessary in order to keep their benefits.

As an example of how our model works, we recently prosecuted the parents of a second grade girl who, in the first grade, had 32 unexcused absences and 74 tardies. The school reported that this child regularly arrived at school 1 to 3 hours late, and that her truant behavior began when she was in kindergarten. Standardized tests revealed that the child was exceedingly bright and studious, but was falling behind because her

continued absences meant that she was missing key material. When the district tried to coordinate SARB hearings with the family, the child's parents did not attend. As a last resort, the school district referred the family to our truancy prosecutor, and we decided to prosecute.

We charged the parents and served them with criminal complaints for allowing their seven-year-old child to be chronically truant. After listening to their legal options and facing significant consequences, both parents agreed to the DEJ program and showed up for every court appearance and met the terms of their contract with the court. Their child's attendance dramatically improved. In the second grade, their daughter only had three unexcused absences for the first semester of school. The school recognized her improvement and presented her with an award for improved attendance.

Like these parents, the vast majority of parents we prosecute show tremendous improvements. Out of the more than 20 cases we have pursued, to date, we have only had to terminate one case unsuccessfully. The strategy as a whole also has had an impact on parents beyond those we had to formally prosecute. In the last year alone, truancy rates for elementary school students in San Francisco have dropped by an average of 20 percent.

## **Opportunities for Innovation**

Decades of research on early childhood education point to numerous factors that contribute to elementary school truancy. Problems in the home, in the community, or in the schools can lead to high rates of truancy and absence. There may be transportation issues, child abuse or substance abuse in the home, language barriers, high student/teacher ratios, a lack of connection between schools and families, insufficient student tutoring or support, learning disabilities, community violence, childhood trauma, or numerous other factors.

To solve the problem it will take a sustained and coordinated effort that involves everyone in our communities and government to address these complex and interrelated contributing factors. Cities, school districts, law enforcement agencies, and community organizations across California have been working for decades to develop and implement numerous innovative solutions to reduce truancy and give children a chance. These approaches should be studied, replicated, supported, and expanded.

Additionally, there are specific steps that can be taken at the state level to improve our ability to both identify the problem on the front end and strengthen the tools available to law enforcement to take action that results in truancy reduction on the back end.

### Improve the Basics: Data Collection on Elementary School Students

The California Department of Education requires schools to track truancy. However, there are no uniform guidelines regarding how this information must be reported. The limited guidance results in a lack of clarity and accountability. Reporting differs across districts and some relevant information is incorrectly reported or omitted. As well, there is little to no consensus on what constitutes an excused absence and school districts have widely varying standards. Finally, there is inadequate tracking for all absences, regardless of whether they are excused or unexcused. Excessive

absences are clear indicators of problems that need to be addressed, as much as unexcused absences are, and should be tracked and reported uniformly across the state.

Since data is the cornerstone of understanding and finding solutions to the truancy problem in our schools, it is imperative to improve upon the methods that we use to gather information about attendance and truancy. We need to examine the standards of reporting by districts, and ensure that the California Department of Education is asking districts to report on data that will have a meaningful impact on understanding the rates of attendance and truancy that each district is experiencing. It is also important that there is an effective means for gathering this information.

In the last decade, California has taken significant steps to standardize and track statewide educational data. In 2002, the state created the California Longitudinal Pupil Achievement Data System (CALPADS) that includes statewide assessment data, enrollment data, and other elements. Recently the state began assigning unique identifiers to every schoolchild, an important advance to track student risks and outcomes. However, currently CALPADS does not track school attendance data.

Experts in the field agree that perhaps the most helpful change to implement is creating a process by which districts track and report on the attendance of each individual student. This would help schools, service providers, and other agencies to have aggregate data regarding attendance rather than being forced to rely on arbitrary or inaccurate numbers. This would also be crucial in being able to track the attendance of individual students.

#### Focus on the Serious Problems: Defining the Difference between Playing Hooky and Chronic Elementary School Truancy

The California Education Code establishes that it is a crime for a child to go without an education. The Education Code establishes that any child who has three or

more unexcused absences from school is truant, and that the responsible parent or caretaker can be cited with an infraction for breaking the law after five unexcused absences. Surprisingly, however, the Education Code does not establish the definition of, or the consequences for, more serious episodes of truancy. The Penal Code also does not directly address truancy in any section.

This failure to distinguish between levels of truancy leaves parents of children who have missed five days to be considered as legally liable as parents of children who have missed 50 days for failing to ensure access to education.

The Education Code should be amended to identify and define the serious problems. There should be a uniform definition of chronic truancy in the Education Code that recognizes the tipping point for children. The definition should establish chronic truancy as missing 10 percent or more unexcused days of a school year and chronic absence as missing 10 percent or more school days, excused or unexcused. When children fall into these categories, it should trigger a comprehensive response by schools and their partner agencies.

#### Set the Right Standards: Chronic Elementary School Truancy Is an Indication of Neglect

Currently, county prosecutors must rely on Penal Code section 272, “contributing to the delinquency of a minor,” to seek stronger sanctions against parents of chronically truant children. Although section 272 does not specifically address truancy, courts have found parents guilty of this misdemeanor if their failure to get their child in school results in delinquent juvenile behavior. Under this statute, parents can be fined up to \$2,500 or placed in jail for 6 months.

Unfortunately, however, neither the Education Code nor the Penal Code effectively addresses chronic elementary school truancy, the most serious problem that needs the most immediate attention.



The Penal Code's silence on the issue of truancy leaves prosecutors and courts with the only option of focusing on whether the child is delinquent as a result of missing school, rather than focusing on the parents' failure to provide a basic need. Parents who allow their young children to have chronic levels of truancy are neglecting their child's needs, regardless of whether that child demonstrates delinquent behavior. These children are too young to get themselves to school. Failing to educate a child is an issue of neglect, just like failing to feed or clothe them.

When prosecutors do invoke the Penal Code's "contributing to the delinquency of a minor" to bring misdemeanor charges against parents of severely truant children, criminal courts have widely varying responses to these charges. Some courts may levy a fine or jail time on the parent but that may not result in the return of the child to school. Other courts may not take these misdemeanor charges seriously, given the gravity of other criminal offenses being addressed in most other cases.

The Penal Code should be amended to include chronic truancy as a violation of parents' responsibilities to provide for their children, under Section 270, *Failure to Provide*, and adopt a deferred entry of judgment (DEJ) program approach that courts and prosecutors can employ to address underlying causes and compel parents to get their kids in school.

Under the umbrella of neglect fall failure to feed, clothe, or shelter a child, all basic rights of children and necessary to thrive. It has already been established that the lack of an education puts a child at risk for adverse consequences later in life. Education is another basic right and, according to California law, a requirement of all children. Because of the grave impacts that failing to educate a child has, and because education is largely classified as a right and necessity, sound public policy requires that failure to educate a child should fall under the definition of general neglect as defined in the California Penal Code.

## **Conclusion**

Addressing chronic elementary school truancy is an urgent public safety issue. We must engage in strong partnerships between law enforcement, schools, and service providers to implement effective interventions and get our children back in school. We need the right data, a sharp focus on the most serious truants, and we need to set new standards for our families, schools, and communities. In the end, this will not only give our children a chance, it will also save precious public resources and help bring peace to our neighborhoods.

Throughout the world, the first 25 years of life involve a series of forks in the road. Researchers studying the ingredients of a long and healthy life say that the single most important factor in determining how well a person will age – how long the individual will live and how healthy and secure those years are likely to be – is the person's educational path. In the new world economy, those without an education and an ability to understand and adapt to change will be left far behind. Those left behind, meanwhile, represent the population most likely to require attention from law enforcement. Every community must embrace the critical role education plays in reducing the supply of criminals and redirecting young offenders from a negative course. A sharp focus on education must permeate every aspect of our strategies to prevent crime and improve public safety.

## ENDNOTES

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- <sup>16</sup> U.S. Department of Justice, *supra*, note 13, at 1.
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