

### Teaming Up to Help Children

Grants from Buchalter, Nemer, Fields & Younger and Ralph M. Parsons Foundation support children's projects

"Teri," who has been blind since birth, was removed from her mother's home at the age of 13 after years of physical, sexual and emotional abuse. Given the trauma she had experienced, it was not surprising that she had serious mental health problems, including depression and suicidal thoughts. Unfortunately, entering the foster care system did not solve Teri's problems. Her behavior was out of control, and she was shuttled from one foster care placement to another. Each foster home, unable to handle Teri for more than a few days, would call her social worker and request that she be removed. Teri felt abandoned by the "system" and every person she had ever counted on for help. She attempted suicide several times and spent a significant amount of time in psychiatric hospitals.

Under the Individuals with Disabilities Education Act, children with disabilities are entitled to a free and appropriate education, including the special services they need to benefit from their education. In Teri's case, mental health treatment and assistive technology (for visual impairment) were just a few of the many services needed. Teri's attorney in dependency court was aware of MHAS' expertise in obtaining services for children with serious mental health problems, so she called MHAS for help.

Thanks to a major donation from the law firm of Buchalter, Nemer, Fields & Younger, MHAS was able to take on Teri's case as part of a special project providing intensive representation to ensure access to mental health and special education services. The project targets children at risk of being institutionalized, children who are likely to "fall through the cracks" of the fragmented service delivery system due to their complex needs, and abused and neglected children in, or at risk of entering, the juvenile delinquency system.

Teri's case presents formidable challenges, and MHAS attorney Kim McReynolds Bell's

advocacy takes many forms: negotiating with the school district for appropriate services; monitoring Teri's progress; holding all of the involved agencies accountable for the services they are legally required to provide; and ensuring that Teri's schooling and services aren't disrupted when she moves from one foster home to another. Just as important as Kim's legal expertise is the relationship she has developed with Teri. It took some time to gain Teri's trust, but now Teri knows she can count on Kim.

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A disturbing trend in recent years has been the increasing criminalization of behaviors resulting from mental disability. Too often, children with serious emotional problems are denied appropriate mental health services, and when they cannot control their behavior they are arrested rather than treated. As a result, a critical objective of representing children in the foster care system is to prevent them from "crossing over" to the juvenile justice system. At the same time, since so many minors in the delinquency system have significant mental health needs, it has become increasingly important to advocate for provision of mental health services in juvenile detention facilities.

MHAS has represented abused and neglected children in juvenile dependency court for many years. In 2001, based largely on MHAS' experiences with foster youth who ended up in juvenile hall, MHAS and Public Counsel attorneys launched the Juvenile Hall Advocacy Clinic to address inadequate conditions in Los Angeles County's juvenile detention facilities and provide advocacy to minors being held in Central Juvenile Hall. The clinic provides detained minors an opportunity to express their complaints to the attorneys, who then seek resolution with the Probation Department, both individually and on a systemic level.

These efforts are being expanded, thanks to a grant MHAS recently received from the Ralph M. Parsons Foundation. Under this new grant, MHAS will provide intensive representation with a focus on abused and neglected children, in particular children who are stuck in psychiatric hospitals because appropriate community-based services have not been made available to them. MHAS attorneys will work with all of the responsible agencies to facilitate provision of the services children need to leave

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### Housing and Hope

"Sally" is diagnosed with depression, which has caused her to isolate herself from others and struggle to cope with the details of daily life. In 2001, she began receiving mental health treatment at a County clinic, but her condition continued to deteriorate due to several deaths in her family and her own physical health problems. Last year, Sally attended a disability resource fair and learned about the benefits of emotional support animals for people with disabilities. She liked the idea of getting a cat and was hopeful that having a pet would make her feel better.

Sally asked the resident manager of her apartment building if he would make an exception to the building's no-pets policy so she could have a companion animal. While the resident manager said he did not personally object, the property management company cited the no-pets policy and denied Sally's request. Her psychiatrist wrote to the landlord, indicating both the expected therapeutic benefit of a pet and Sally's ability to care for a small animal, but the management company again denied her request. Sally then contacted MHAS for help.

MHAS law clerk Vanessa Eckert researched the issue and notified the management company that it was required under fair housing law to provide reasonable accommodation to tenants with disabilities. Vanessa also educated Sally's psychiatrist about the legal issues, and the doctor agreed to write additional letters, including one

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"Sally" proudly introduces her new companion animal to law clerk Vanessa Eckert.



Attorney Jodi Oguro and board member Jane Anderson on a recent visit to Central Juvenile Hall.

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the hospital and succeed in community placements. Also, the grant has allowed MHAS to continue participating in the Juvenile Hall Advocacy Clinic. MHAS attorneys will continue to visit two juvenile halls on a weekly basis, help resolve minors' individual grievances, and work with Probation officials to resolve ongoing problems in the facilities.

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## **A Wanted Man?**

A recent article in the Des Moines Register reported that a 46-year old Iowa man suffering from paranoid schizophrenia was found dead in an empty garage from an apparent seizure. The newspaper reported that when the local Social Security office denied his claim for SSI disability benefits because of an outstanding warrant in California, he stated: "Just forget it, I'll live on the streets."

A law prohibiting benefits to persons who are considered to be fleeing to avoid prosecution or incarceration, i.e., "fleeing felons," was enacted in 1996 and has been actively enforced by the Social Security Administration (SSA) for the past several years. SSA pays Sheriff's Departments throughout the country to provide listings that are matched against the SSA's computer listing of beneficiaries. Typically, the individuals who lose their SSI benefits because of the "fugitive felon" penalty are those whom law enforcement is not interested in pursuing because the alleged infraction is too minor in nature, e.g. a missed parole or probation appointment, or too remote in time. In many cases too, these individuals are unaware that there are warrants pending against them. In these cases, with effective advocacy, the

warrant is often dismissed (because the underlying offense is not a felony, or because the individual did not have an intent to avoid prosecution). But a very high proportion of the so-called "fleeing felons" who lose their SSI benefits under this provision have mental disabilities, and do not find advocates to represent them. Without legal representation, most end up on the streets, or worse.

The case of "John" illustrates the problem. John, also diagnosed with schizophrenia, received notice that his SSI benefits had been suspended because of a 12 year-old warrant for his arrest issued by the District Attorney in Multnomah County, Oregon. For the last ten years John has been living in Los Angeles; he is in regular treatment at a County mental health clinic and is responding well to medication. He left Oregon in 1991 after falling from a second story window while drunk, and breaking his back. He was unaware of the existence of the warrant and thus did not "flee to avoid prosecution," as required under the law for termination of benefits. And most important, John found MHAS.

Sherrill Martin came to MHAS in 1987 after working for the Social Security Administration for 30 years. Sherrill and her staff of four MHAS advocates work with County mental health clinics, helping their clients obtain government benefits. She also makes presentations to National Alliance for the Mentally Ill (NAMI) chapters, which in turn refer members (often parents of adults with mental disabilities) to Sherrill for help. In John's case, Sherrill enlisted the assistance of the Public Defender's office in Portland, researched the case, and then wrote a letter to be presented to the court, documenting John's current mental health condition and treatment and the progress he has made in overcoming an alcohol problem. (Apparently John's drinking was an attempt to self-medicate, and with stabilization from appropriate medication he has discontinued drinking and been sober for three years.) Her letter concludes: "We think and hope the court would agree, that no useful purpose is served by the continuation of this 12 year-old warrant. . ."

The court did agree. The warrant was dismissed and John's benefits were reinstated. In notifying Sherrill of the dismissal, the Public Defender wrote: "Your letter did a great deal to convince the District Attorney that the dismissal of [John's] case was necessary. [John] is fortunate to have such a strong advocate working on his behalf."

Sherrill is indeed a strong and effective advocate. A recent article in the Journal of Poverty Law and Policy reported that "advocates for SSI recipients

and homeless people across the country reported being inundated with people losing desperately needed SSI benefits because of a determination that they were fugitive felons." To date, cases involving suspension of checks due to outstanding warrants constitute a relatively small percentage of MHAS' government benefits advocacy. But without such help from Sherrill and other advocates there would certainly be a greater number of people with mental disabilities who have no option other than the streets.

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### **Housing and Hope**

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in which he prescribed an emotional support animal as treatment for Sally's depression. After several months of negotiations, the management company finally agreed to allow Sally to have a pet. Vanessa and the landlord worked out an agreement detailing each party's responsibilities, and within a week Sally brought home a one year-old female cat. When we visited Sally the following month, she told us that she loved her cat and looked forward to sharing her home with her new friend for many years to come.

In addition to representing individual clients like Sally, MHAS also works to increase the supply of desperately needed affordable housing for people with disabilities. Under a grant from the U.S. Department of Housing & Urban Development, MHAS attorney Kim Savage is currently providing outreach and education on fair housing laws in seven California counties. In MHAS' "Getting It Built" project Kim has conducted training sessions and provided technical assistance to numerous non-profit housing developers, local governments and social service organizations to improve their ability to develop housing for people with disabilities. In 2005 the project will produce and distribute educational materials, including a pamphlet entitled "Fair Housing In Your Neighborhood," to increase awareness of fair housing laws and land use and zoning issues as they relate to people with disabilities.

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## **Education or the Army**

"Steve" is a 15 year-old who immigrated to the United States from Taiwan with his parents and sister. Steve has been diagnosed with ODD (Oppositional Deficit Disorder) and ADHD (Attention Deficit Hyperactivity Disorder). As a result of his disabilities he has a great deal of difficulty interacting with other children, including his sister, and behavioral problems that have

resulted in him being suspended from school seven times, and then expelled.

In Taiwan, if a boy is not in school at age 15, he is required to join the army. And in desperation, Steve's parents were seriously thinking of sending him back to Taiwan to become a soldier. But through a neighbor, Steve's parents were referred to MHAS attorney Kim McReynolds Bell, who specializes in advocating for special education services for children with mental disabilities.

Kim has many years of experience in navigating the special education system, and her experience is invaluable. In most cases children diagnosed with mental health problems qualify for special education services under the federal Individuals with Disabilities Education Act. Unfortunately, in Steve's case, his parents' request for special education services was denied. Undaunted, Kim sought services under Section 504 of the federal Rehabilitation Act, which is enforced by the Office of Civil Rights (OCR) of the U.S. Department of Education. Working with Steve's parents and the psychotherapist who initially assessed Steve (and who determined that he was intellectually gifted), Kim developed a 504 plan that would meet Steve's special needs without unnecessarily segregating him from "regular" students. She also filed two complaints with OCR: one against the school district for expelling Steve after failing to provide him English language development, translation and other services he needed; and one against the county for its unwillingness to re-enroll Steve in school because of his special needs. OCR ruled that the school district had violated the law and ordered that Steve be re-enrolled and provided all of the services Kim requested.

Steve reentered school, and within a month the school district updated the accommodation plan to include extra language classes, peer tutoring, and modifications (such as simplified homework instructions and extra time to complete standardized tests) that would enable him to succeed in school. When Kim later visited Steve, he expressed his gratitude by baking a cheesecake for her. His parents were also thankful for Kim's help and hopeful that Steve would be able to stay in school until graduation. In an email to Kim, Steve said:

"Hi Kim: I have starting to go to school now and so far nothing is happen and the homework is not too hard for me so the grade I got now is normal. Also I have some friend at school and is kind of normal friend so I don't have trouble with it. Thank you for your care and I'll email you some other days. STEVE "

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## Mental Health Advocacy Services, Inc.

3255 Wilshire Blvd. #902  
Los Angeles, California 90010  
(213) 389-2077

Mental Health Advocacy Services, Inc. is a private non-profit 501(c)(3) corporation sponsored by the Los Angeles County and Beverly Hills Bar Associations and the Mental Health Association in California. Since its founding in 1977 MHAS has provided free legal services to more than 47,000 people with mental and developmental disabilities in Los Angeles County. MHAS assists both children and adults, with an emphasis on obtaining government benefits and services, protecting rights and fighting discrimination. MHAS also serves as a resource to the community by providing training and technical assistance to attorneys, mental health professionals, consumer and family member groups, and other advocates. In addition, MHAS participates in impact litigation in an effort to improve the lives of people with mental and developmental disabilities.