

County JP indicted in jailings

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The Monitor

EDINBURG — Hidalgo County Justice of the Peace Mary Alice Palacios' legal problems mounted Wednesday, a day after she became the focus of a federal civil rights lawsuit.

An Hidalgo County grand jury returned a criminal indictment against the embattled judge charging her with official oppression in her work with truant students, District Attorney Rene Guerra said.

In March, a *Monitor* investigation revealed that Palacios had sent dozens of teens to jail for terms as long as four months on legally questionable grounds.

Although each was incarcerated for failure to pay fines associated with missing classes, Palacios' court had no records that any had been advised of their right to an attorney or that they could dispense with their charges through alternate means like a payment plan or through community service, the newspaper found.

In many cases, extended jail terms exacerbated the students' original attendance problems and in some cases resulted in them being kicked out of school.

Copies of Wednesday's indictment were not immediately available that evening.

Palacios declined to comment when reached by phone. It was not clear whether she had retained an attorney.

QUESTIONABLE SENTENCES

Since 2008, the judge has handled the vast majority of truancy matters in Hidalgo County, including all the cases coming from the Donna, Edcouch-Elsa, Edinburg and Hidalgo school districts.

Her court sent more than 137 teens — all 17 or older — to jail last year for failure to pay fines associated with missing school.

State law protects minors from serving jail sentences for truancy. But once they become legal adults, arrest warrants can be filed against them should they fail to pay fines on open cases or miss scheduled court appearances.

One option available to courts is to sentence them to jail time, with credit awarded toward their fines at a rate of \$100 for each day served. However, a judge must first prove they have the ability to pay but have not made a good-faith effort to clear up the debt through other means such as payment plans or through community service, according to statute.

Many of the teens profiled in *The Monitor* story said incarceration was presented as their only option. Their files in Palacios' court were missing key documents that would have proven such legally required checks had taken place.

"These people are being intimidated into accepting the court's decision," Guerra said in March. "And there's something that's very questionable as to her legal authority here."

For Fernando de Luna, an 18-year-old former student of Edinburg's Economedes High School, that lapse resulted in a jail sentence of more than four months to pay off more than \$11,000 he allegedly owed for missing one hearing on 24 separate counts.

His file showed that Palacios' court had sent notice of that hearing to the wrong address. And when he was arrested in January, he was not advised of his other options or of his right to have an attorney represent him.

Were it not for the intervention of a county court-at-law judge two weeks after De Luna landed behind bars, he likely would have served out a sentence of 132 days.

"It's particularly ironic that this happened with laws that are created to keep kids in school," said Gouri Bhat, an attorney with the American Civil Liberties Union of Texas. Bhat is now representing De Luna and another Edinburg teen in a federal lawsuit filed Tuesday against the county and Palacios.

The lawsuit, which also names Sheriff Lupe Treviño and the county's eight other justices of the peace as defendants, asks the court to evaluate county practices of debt-related jailings and award damages to the teens for emotional pain and suffering.

POLITICAL PAYBACK?

Palacios' indictment Wednesday sets up a rematch of sorts between her and Guerra, who has openly sparred with her in the past.

In 2008, the district attorney tried to block the judge from receiving a U.S. Department of Justice grant to take on more truancy cases. He said her practice of accepting cases outside her jurisdiction — which covers Edinburg and surrounding areas — was illegal and overstepped her authority.

But Texas Attorney General Greg Abbott sided with Palacios in an opinion released last year, saying she could hear cases from any school district in the county.

Should she be convicted of official oppression, though, the county would likely have to pay back that \$500,000 in grant money, Guerra said. Most federal grants include stipulations that the money cannot be used in a way that violates civil rights.

In addition, Palacios could face up to a year in the county jail and \$4,000 in fines if found guilty.