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R.I. truants who offend magistrates are sent straight to jail

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Anabel Pichardo, 15, spent a night in the Rhode Island Training School after a truancy court magistrate found her in criminal contempt of court for failing to answer questions and for being “very disrespectful.” At left is her 10-month-old sister, Victoria. Their mother, Maribel, was in labor the night Anabel was incarcerated. Sitting with Mrs. Pichardo are, from top to bottom, Anabel’s brother, Leewy, her stepfather, Lorenzo Tavarez, and her disabled older brother, Michael.

The Providence Journal / Kris Craig

For years, magistrates for Rhode Island Family Court’s truancy program have imprisoned students who misbehave during hearings on their attendance, despite a state law created to keep the government from locking up juveniles for noncriminal offenses.

The magistrates, who run the weekly truancy court in classrooms, cafeterias and school offices around the state, have declared youths as young as 12 in criminal contempt of court for not answering their questions, swearing, slamming a door on their way out of the room or otherwise showing “total disregard for authority,” according to court documents and interviews.

Once inside the state’s juvenile correctional system, the youths are forced to undergo strip searches, urine and blood tests. They wear prison uniforms and, for a night or two, mix with teenagers accused of drug dealing, robbery, weapons possession, assault and other violent crimes.

Juveniles who skip school — like those who drink alcohol or violate a curfew — are considered “status offenders” because their transgressions would not be considered crimes if they were adults.

Rhode Island law states that that no child should be detained at the state Training School for a status offense.

But since 2005, the magistrates have sent at least 28 youths from truancy court to the Training

School, records show, under an exception in the state law for criminal contempt of court. Few if any have been represented by a lawyer prior to their detention, as is their constitutionally guaranteed right. The proceedings are closed to the public, and the records are private.

"These are blatant violations," Rhode Island Public Defender John J. Hardiman said. "There's no 'this is a gray area of the law.' It's clear you can't detain [in] these cases."

More than 6,100 students entered the Family Court's truancy program from 2005 through 2009, according to data the state reported to the federal Department of Justice. The Journal confirmed that at least 28 students were detained during those years, a small fraction of the total who participated in the program. But juvenile-justice advocates and a former U.S. Justice Department official say that even one detention of a status offender is troubling.

John J. Wilson, a lawyer in Washington, D.C., who worked almost 31 years for the Justice Department, wrote the federal regulations for compliance with the Juvenile Justice and Delinquency Prevention Act of 1974. The act provides money to states, including Rhode Island, if they abide by federal protections for youths in the justice system. To incarcerate juveniles for noncriminal offenses, even for one night, Wilson said violates the basic premise of the federal act.

"We don't punish adults for doing things that are not criminal," he said, "so why in heaven's name would we punish children for doing things that aren't criminal?"

For Rhode Island to use its criminal-contempt statute to lock up truants, Wilson said, is "an abuse of judicial authority.... And it's a practice that should be stopped."

The state's detention of these youths, Wilson said, could jeopardize Rhode Island's eligibility for federal funding. But the detentions have gone largely unnoticed because the state has failed to report them to the federal justice officials who monitor state compliance with federal regulations.

Joanne Minaya was 12 when her mother received a summons to appear with her in truancy court at the Gilbert Stuart Middle School in Providence. Joanne, who was in sixth grade, had been absent 28 of the first 109 days of the school year according to a Family Court petition.

Although Joanne and her mother, Wanda Burgos, maintain that some of the absences should have been excused for doctors' appointments, they agreed in April 2008 to participate in the truancy court. Each Wednesday morning, a classroom became courtroom where Magistrate Edward H. Newman, seated behind a desk, reviewed progress reports about the girl's attendance, grades and behavior.

On the morning of May 21, 2008, during third period, Joanne stood alone before Magistrate Newman. A truant officer and another school official were there, and so was a police officer, according to a hearing sheet in the court file. Joanne had been suspended for one day, tardy one day and was "failing everything," Newman wrote on the hearing sheet.

There is no record of what was said during the proceeding; the truancy court has no

stenographers and, at the time, the hearings were not recorded. But as Joanne left the classroom, she “slammed or loudly closed the door to the classroom,” according to court documents.

Joanne heard the magistrate’s voice boom: Get that girl back in here!

The magistrate ordered Joanne to the Training School for two nights.

The police officer escorted Joanne to the guidance office, where he phoned her mother.

Joanne began to cry.

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