

Copyright 1997 The Baltimore Sun Company

The Baltimore Sun

January 31, 1997, Friday, FINAL EDITION

SECTION: TELEGRAPH (NEWS), Pg. 1A

LENGTH: 1780 words

HEADLINE: Court program's hiring of judge's kin questioned; Jurists sit on panel that picks employees

BYLINE: Kate Shatzkin, SUN STAFF

BODY:

An unusual Baltimore court program to supervise criminals in the community hasn't had to look far for some of its workers -- employing the relatives and friends of the very circuit judges who sit on its personnel committee.

Baltimore Circuit Judges Roger W. Brown Sr. and Mabel E. H. Hubbard sit on the committee that selects employees for the Alternative Sentencing Unit. Since 1994, the unit has hired two of Brown's children, one of Hubbard's two sons, the son's friend and the child of a top assistant to Baltimore State's Attorney Patricia C. Jessamy.

The hirings illustrate a program that operates outside the normal channels of government, with positions based on contracts and funded by a quilt of grants. Privately, state and federal officials complain that they have had difficulty getting even basic information on offenders the employees are supposed to be supervising, even though those officials foot some of the bill for the program.

After The Sun began making inquiries about the judges' children and other employees with court connections, Leonard A. Sipes Jr., spokesman for the Department of Public Safety and Correctional Services, said the department was "concerned" about the hirings. He said department Secretary Bishop L. Robinson would be speaking with the judges about the matter.

Brown and Hubbard said in interviews that they had nothing to do with the hiring of their children. They stressed that they did not participate in interview panels for those positions -- though they did interview each other's children for their jobs.

Asked about how the unit's employment of his son and daughter might look to an outsider, Brown said: "The only thing I can say to that one is, I had nothing to do with either one of them being there, OK? It doesn't matter to me."

Maryland's code of judicial conduct cautions that judges "should avoid even the appearance of impropriety." It requires that "in exercising a power of appointment, a judge should appoint only qualified persons and should avoid nepotism and favoritism."

Thomas E. Kirk, manager of the Alternative Sentencing Unit, said the employees were well-qualified for their jobs, which pay about \$ 20,000 a year and include no benefits.

Kirk acknowledged knowing who the judges' children were when he reviewed their applications, but said connections to the court had "absolutely" no bearing on their hiring. But neither he nor public safety officials would release their resumes or applications of others who applied for the jobs, saying confidentiality laws prohibited it.

As a state agency, the Alternative Sentencing Unit, formally begun in 1989, is an unusual hybrid. On paper, it is part of the Department of Public Safety and Correctional Services and performs functions similar to those of the Division of Parole and Probation. Unit employees have a limit of 25 cases to allow for more intensive monitoring of suspects and convicted criminals. Kirk, its manager, is supervised ultimately by Robinson, secretary of the department.

But actually, Kirk answers principally to an oversight committee made up of judges, prosecutors, defense attorneys and probation officials, who set policy on how the unit should be run. Robinson did not return phone calls about the program.

This dual chain of command has created some conflicts as state and federal officials begin the task of trying to reform sentencing and drug treatment statewide.

For instance, an official from the Division of Parole and Probation recently wrote to Kirk requesting that lengthy forms be filled out on every Alternative Sentencing Unit offender tested in the unit's drug lab. He warned that a failure to provide the information could jeopardize the lab's funding.

But Joseph H. H. Kaplan, administrative judge of the Baltimore Circuit Court and a longtime supporter of the alternative sentencing concept, replied that the unit simply doesn't have the staff to fill out all the forms, and that the lab may indeed have to shut down at the end of February because of that.

The Alternative Sentencing Unit's personnel committee is made up of Brown and Hubbard, District Judge Charlotte Cooksey, Nicholas Conti of the Circuit Court Medical Office and Kirk.

Several experts in legal ethics said the judges should at least have taken more care to avoid the appearance of a conflict of interest in hiring.

Deborah S. Hellman, an assistant professor who teaches legal ethics at the University of Maryland Law School, said: "They're to be commended for recusing themselves from that particular job [of interviewing], but that's not far enough. In our current climate, where our public faith in public officials is not high, that's insufficient. It's not a huge sin that goes to their integrity."

Said Howard E. Wallin, a professor at the University of Baltimore Law School and a former secretary of the Commission on Judicial Disabilities: "I don't think it's such a big deal, [but] it doesn't look right. I don't think it casts any real aspersions on the judiciary or these judges in particular but it's a valid issue you're raising."

"My view is there is no violation of the legal standard, but they should have known better," said David Luban, a legal ethics professor at the University of Maryland Law School.

Kaplan not bothered

The connections did not trouble Kaplan. In fact, he and others said, the program has been lucky to get such dedicated workers for a \$ 20,000 salary and no benefits. "It's not like they were getting some plum," he said. "I support unequivocally Judges Brown and Hubbard. They have done absolutely nothing wrong."

Kirk said he could not remember exactly how many people had applied for the jobs ultimately won by the workers with connections to the court. Generally, despite ads in newspapers and at local colleges for the positions, he didn't remember the jobs garnering many more than 20 applicants each. And Kirk said that in most cases, few of those applicants met the minimum qualifications necessary even to put them before an interview panel.

A graduate of Claflin College in South Carolina, John A. Hubbard, 27, was hired as a drug court case manager shortly after the Alternative Sentencing Unit began handling offenders in 1994. According to Kirk, six applicants, including Hubbard, were interviewed for two positions.

Judge Hubbard said she encouraged her son to apply for the job, but her involvement ended there.

"Oh my, no," the judge said, when asked whether she had been present at her son's interview. "That would be [a conflict] and I just wouldn't do that. As a matter of fact, John was in that program for a year before the people in the district [court] knew he was my son.

"I don't have any problem with anyone's knowing that, nor do I have any feeling he was hired just because he was my kid. I think he got the job on his own merits and said the right things to somebody," she said.

A friend of her son's, Daniel E. Gibson, 25, was recently hired by the unit to work with offenders being treated for drug addiction with acupuncture. Judge Hubbard said she did not interview Gibson. "I don't know who interviewed Danny," she said. "I've known Danny for a long time. He's a nice kid."

Handful interviewed

Judge Brown's son, Roger W. Brown Jr., majored in political science at Virginia Tech, then spent four years playing professional football before suffering a knee injury. He was hired as a drug court case manager in 1995, out of a pool of four or five people who were interviewed, according to Kirk.

Judge Hubbard said she "guessed" who the younger Brown was while interviewing him. "I remember him because he looks like his father spat him out of his mouth," the judge said. "I had never seen him before in life."

Roger Brown Jr., 30, who left the unit in October, said judges' children had worked for the Alternative Sentencing Unit out of a common dedication to public service. "We're all in touch with the city. We all have passion for the city, despite who our parents might be," he said.

His sister, Andrea G. Brown, 33, was hired two years ago to oversee the after-care component of a program that treated drug-addicted female offenders with acupuncture. That program was discontinued in September amid concerns about its effectiveness, and Brown has been working since on an acupuncture program for male inmates at the Baltimore City Detention Center. That program is not supervised by Kirk.

According to her father's financial disclosure forms, Andrea Brown previously worked at the Baltimore County Department of Social Services. Kirk said she also had experience setting up a treatment program for another agency, and had the master's degree required for the Alternative Sentencing Unit job. He also said Brown was not the first choice of about eight people interviewed for the position by the panel, which included Judge Hubbard but not Judge Brown.

Reached by telephone, Andrea Brown declined to comment.

Roger Brown Jr. and John Hubbard both received praise from District Judge Jamey H. Weitzman, who presides over the district drug-treatment court. "They're really talented guys," the judge said. "They seem to be very caring about the defendants for whom they are managing cases."

Neither Roger Brown Jr. nor John Hubbard had prior experience monitoring inmates, but Kirk said that was actually an asset.

"It is my judgment that if we hire someone fresh out of college that we can train since it's difficult to find somebody with this kind of experience, and somebody that can be trained, and we do train, I think they'll work out better than somebody with a lot of experience," Kirk said.

Said Judge Hubbard: "I think that what we were looking for was enthusiasm, some appreciation for the possible needs of the job. I think it was just the kind of criterion that says, are you smart? Are you ready to work? Do you have a good feel about people and are you ready to help them?"

Francine Stokes, the prosecutor whose 25-year-old son, Michael, got a job with the program last fall, said she had heard Kirk was hiring and forwarded a copy of her son's resume. She said her son had been a juvenile counselor for

several years with the CHOICE program, and was looking for a related job. Kirk said the prosecutor approached him in the hallway one day and asked if she could send a resume. Shortly thereafter, Michael Stokes' application arrived. As it turned out, Kirk said, there were very few other applicants for that position. Since the unit was short of staff, the normal committee interview was waived, and Kirk was given permission to fill the slot.

Pub Date: 1/31/97

LOAD-DATE: February 2, 1997