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JUVENILE COURTS

A select few get the cases, and the cash The attorneys judges pick most are also campaign contributors

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A relatively small group of attorneys, some of them old friends and all financial backers of judges handing out work, regularly receives close to half of all the tax-funded appointments to represent the poor in the juvenile courts, a Houston Chronicle analysis has found.

The system, criticized as cronyism by some, has made several attorneys between \$100,000 and \$200,000 a year on the public dime, according to county payment records from January 2005 to February 2008. It also has saddled a handful, including a few who take outside jobs, with caseloads exceeding the recommended number.

Some lawyers who seek a share of the work say local juvenile judges have found loopholes in a state law passed seven years ago meant to take the favoritism out of the appointment process. And some parents complain of lawyers who don't return phone calls, continually reset hearings or pressure their children to plead guilty to crimes they say they didn't commit.

Court-appointed attorneys given the most cases argue that talent and tenacity get them more work. All three judges in the juvenile courts, which see cases involving kids who are abused or in trouble with the law, defend the system and deny playing favorites. When not relying on a random computer system to pick attorneys, each says, he chooses the best attorney for the job.

"All the people who practice in these courts, everybody has known each other for years and years," said state District Judge Mike Schneider. "And you have a feeling of who does what."

But criticism is mounting. In March, state Sen. Rodney Ellis, D-Houston, called for a public defender officer for all the courts in Harris County, pointing out that this is the only major urban area in the nation without one. Harris County Commissioners Court agreed to study this issue.

And late last month, a report by a national juvenile justice group studying the county's overbooked juvenile offender system found fault with the juvenile courts in Harris County.

"Defense appears to be lacking here," John Rhoads, a consultant with the group, told a roundtable of officials, including County Judge Ed Emmett.

A 2001 law

The juvenile courts downtown are an epicenter of human drama. Each day Judges John Phillips, Pat Shelton, Schneider and their associate judges see some of the rawest tragedies: babies with iron burns, 14-year-old girls tattooed with gang symbols, drug-addicted mothers forced to surrender child after child to the state.

Amid the mess, the judges are the conductors and the attorneys are the instruments.

When a child welfare case is on the docket, as many as six attorneys huddle around the judge's bench: one for the child, one for the mother, one to represent Child Protective Services, and, depending on the number of children involved, one or more to represent the fathers. Usually, each of these lawyers, except the state attorney, is appointed by a judge. And, depending on the docket, for some attorneys that client may be the the 20th that day, county records show.

'Too many cases'

These CPS cases are not subject to state indigent defense laws, meaning judges can pick whichever lawyers they want. About 22 attorneys get the bulk of assignments.

"There are some attorneys there that are very good, and because they do a lot of work they have a lot of experience," said attorney Troy Sanchez, who works child abuse cases. "But then you have some that are maybe given too many cases, and they can't put in the time that needs to be put into cases."

Under the Texas Fair Defense Act, a law passed in 2001, courts should randomly choose attorneys from a pre-approved list of qualified lawyers. But the law also lets judges develop more flexible appointment plans, which the juvenile courts here have done.

Nearly half of all juvenile delinquency appointments have gone to about two dozen of the nearly 165 attorneys vying to represent these young offenders, payment records show. Two attorneys regularly appointed have disciplinary records with the Texas Bar.

Judges say they don't check the disciplinary records of those they appoint and that they rely on the most experienced or available. But many of their top picks also are juggling additional cases in family or criminal courts.

One of the top earners, attorney Oliver Sprott Jr., has done court-appointed work in the adult criminal courts and helped handle a death penalty case while making nearly \$200,000 a year in the juvenile courts since 2005, records show. Public defenders working full time on juvenile or child abuse cases in Dallas County earn between \$70,000 and \$113,000; Travis County pays between \$50,000 and \$100,000. Sprott declined to comment for this story.

Caseload of 400

Another attorney, Mark Castillo, works as a part-time municipal judge in South Houston while pleading approximately 400 cases involving young offenders each year in Harris County. The

National Advisory Commission on Criminal Justice Standards and Goals recommends a juvenile caseload of 200.

Castillo, who works most Thursday afternoons in the South Houston courts and does arraignments there every other afternoon, said he finds time to give juveniles a good defense and thinks public defenders would be even more pressed for time.

"A lot of them are just misdemeanors — a graffiti case, a marijuana case — those can be disposed of pretty easily," he said. "You just try to get the best ... you can for them."

Friends, contributors

All three juvenile court judges have been accused, privately at least, of favoring longtime friends or campaign contributors when appointing lawyers to represent the poor.

But Shelton and Phillips bear the brunt of criticism. Both received more than 90 percent of their campaign contributions from those they appoint; Schneider took in about 74 percent from these lawyers, according to a Chronicle analysis of contributions since 2005.

Mark Sandoval, an attorney appointed almost entirely in Shelton's court, has also represented Shelton's wife in a lawsuit related to a fatal car crash involving their daughter, who was convicted of intoxicated manslaughter late last year. Sandoval, who did not return calls for comment, continues to get appointments despite being twice suspended between 1997 and 2000 by the State Bar of Texas for professional misconduct.

And two of the courts' top earners, Sprott and Glenn Devlin, who together earned \$1 million from taxpayers since 2005, are longtime friends of Phillips and Shelton. Devlin was Phillips' campaign treasurer and former law partner. And each year during baseball season another top earner, attorney Gary Polland, lets Phillips sit in his seats near home plate for a dozen or so games. The judge says he always repays Polland for the cost of the tickets and has taken pains — including limiting all donations to his campaign to \$500 per person — to erase any appearance of impropriety.

For his part, Shelton says he gets no joy from his appointment powers and plans to study public defender offices in other cities. All three judges deny any correlation between contributions and appointments.

"I would be happier if there was a public defender system," Shelton said.

The only formal complaint against the courts thus far took aim at Phillips. In 2004 and again in July 2006, attorney Marc Isenberg wrote to the state's Task Force on Indigent Defense, which monitors compliance with the Fair Defense Act, noting that a handful of the same lawyers regularly represented poor clients in that judge's court. The task force referred him to the Texas State Bar or State Commission on Judicial Conduct and sent courtesy carbon copies to the county and Phillips. Last year both Isenberg and his wife, attorney Miriam Riskind, were

removed, in a secret vote by at least two of the three judges, from the list of attorneys allowed to take juvenile offender cases.

Phillips faults Isenberg, who got work in his court, for not coming to him with his concerns earlier but says he encouraged the defense attorney and his wife to reapply for the list, which they have done.

Client complaints

Leaving court recently, Falcia Stroud said she was impressed with the attorney appointed for her youngest son. But three years ago, her older boy, now 18, got sent to the Texas Youth Commission after his court-appointed lawyer advised him to plead guilty to a crime he said he didn't commit, she said. Afterward, Stroud said, she tried several times to reach the attorney.

"Once they sign the paper, the lawyer doesn't want to talk to you," she said.

When she finally got through, Stroud said, the attorney told her he wasn't paid enough to take the case to trial. Lawyers in Harris County are paid according to a fee schedule, usually between \$300 and \$800 per day for a trial or \$50 to \$100 an hour for out-of-court work.

Complaints such as Stroud's are not uncommon.

Yolanda Washington took off work to take her 14-year-old son to court late last month. He got in trouble for stealing a car, she said, and they met Sprott, his appointed attorney, for the first time at his initial court date in May. Sprott rescheduled that hearing and did so again last month, Washington said, telling her he was busy with a trial.

For each reset, Sprott usually makes \$75, and Washington misses a morning of work.

But many lawyers appointed in the juvenile courts say they take the jobs because they care. Even those who see cracks in the system doubt a public defenders office would be the fix.

"The thing is most of us are parents that work up there," said Natalia Oakes, one of the top earners. "I am speaking for myself, but I think other people feel this way. We like helping children."

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