



**TENNESSEE BUREAU OF INVESTIGATION
AND THE DEPARTMENT OF MENTAL
HEALTH AND SUBSTANCE ABUSE**

Comptroller's Investigative Report
August 21, 2018

Justin P. Wilson, Comptroller





JUSTIN P. WILSON
Comptroller

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August 21, 2018

Honorable Bill Haslam, Governor
State of Tennessee
Mr. David Rausch, Director
Tennessee Bureau of Investigation
Ms. Marie Williams, Commissioner
Department of Mental Health and Substance Abuse

Ladies and Gentlemen:

The Office of the Comptroller of the Treasury, in conjunction with the Department of Safety and Homeland Security, conducted an investigation of selected records of the Tennessee Bureau of Investigation and the Department of Mental Health and Substance Abuse, and the results are presented herein.

Copies of this report are being forwarded to the State Attorney General, the District Attorney General, certain state legislators, and various other interested parties. A copy is available for public inspection in our office and may be viewed at <http://www.comptroller.tn.gov/ia/>.

Sincerely,

A handwritten signature in black ink that reads "Justin P. Wilson".

Justin P. Wilson
Comptroller of the Treasury

JPW/RAD

INVESTIGATIVE REPORT

Tennessee Bureau of Investigation and the Department of Mental Health and Substance Abuse

The Office of the Comptroller of the Treasury, in conjunction with the Department of Safety and Homeland Security, investigated possible malfeasance related to travel and other matters by employees of the Tennessee Bureau of Investigation and the Department of Mental Health and Substance Abuse.

BACKGROUND

On June 15, 2018, Governor Haslam's office received a series of emails suggesting that two state employees from separate agencies coordinated their state-paid overnight travel to further a personal relationship. The emails identified the employees as the former Tennessee Bureau of Investigation Acting Director¹ (TBI acting director) and the former Department of Mental Health and Substance Abuse Deputy Commissioner² (MHSA deputy commissioner). Governor Haslam requested that the Office of the Comptroller of the Treasury, and the Department of Safety and Homeland Security investigate the allegations of potential employee misconduct.

Investigators confirmed that a personal relationship existed between the two employees and that they did coordinate the timing of some state travel. State travel and other records revealed that the two employees traveled to the same location at the same time during eight state-funded trips between September 2016 and May 2017. They traveled to the same locations and stayed at the same hotel on three occasions to attend the same event for which their job duties apparently overlapped. Investigators discovered they also traveled, at state expense, to the same locations on five additional occasions during which they did not attend the same event. The employees stayed at the same hotel during four of these five trips. Based on information provided by supervisors, event participants, event documentation, and other evidence, the employees were conducting valid state business on behalf of their respective agencies during these five state-funded trips.

The results of the investigation were referred to the local district attorney general. The Davidson County Grand Jury reviewed the issues and determined that neither employee had violated any criminal statutes.

¹ The TBI acting director retired effective June 25, 2018.

² The employee resigned her position as deputy commissioner of the Department of Mental Health and Substance Abuse in January 2018. She applied for and was hired in a new position with the department in April 2018. In August 2018, she resigned from that position.

INVESTIGATIVE RESULTS

During the investigation into potential misconduct related to state-funded employee travel, other areas of concern were identified related to policies and practices at the two agencies. These included both failures by TBI and MHSA employees to adhere to established policies and practices as well as potentially broader policy issues that may not have been previously confronted by the agencies.

- **In violation of policy and procedure, the TBI acting director instructed an administrative employee to delete a personal allegation from the TBI Facebook account**

In contravention of TBI procedure, the TBI acting director instructed a TBI public information officer to delete from the agency's social media account a private message alleging that the TBI acting director misused state funds. The TBI public information officer notified the TBI acting director immediately after receiving and reading the private message. The source of that private message appeared to be the Facebook account of the spouse of the TBI acting director. The TBI acting director told investigators that he understood the message contained personal information related to the MHSA deputy commissioner. He further stated that he believed at the time that the message was posted to the public Facebook page. That belief was incorrect, as only a small number of authorized TBI and TBI-related staff had access to that message. After discussing the message content with the TBI acting director, the TBI administrative employee deleted the message within 10 minutes after he received it. Fortunately, another agency employee had created a copy of the message. TBI legal staff indicated the proper disposition of any allegation against a TBI employee would be to forward the allegation to the employee's supervisor and to TBI's Professional Standards Unit. Had a copy of the private message not been made without the knowledge of the TBI acting director, the TBI acting director's instruction to improperly destroy a government record related to agency business could have impeded TBI staff from properly investigating the allegation.

The TBI Social Media Acceptable Use policy states, in part:

Agency social media sites are subject to applicable public records laws. Any content maintained in a social media format related to agency business, including communication posted by the Agency and communication received from citizens, is a public record. The Agency maintaining the site is responsible for responding completely and accurately to any public records request for social media content.

TBI policy allows that certain content, including sensitive personal information, obscene material, and threatening and harassing language, may be removed from the agency's public forums. To ensure that government records related to agency business are retained and allegations related to agency personnel are properly investigated, all social media messages including those determined to have prohibited content and therefore removed from a public forum, should be retained by the agency.

- **The TBI acting director took a guest on an out-of-state trip in his state-provided vehicle**

The TBI acting director used his TBI vehicle on at least one occasion to transport the MHSA deputy commissioner, who accompanied him on a TBI business trip. The acting director traveled to Atlanta in his TBI vehicle for authorized overnight travel on May 8, 2017. He acknowledged he took the MHSA deputy commissioner with him in his TBI vehicle; however, she was not attending or participating in the event and was not attending or participating in an authorized MHSA event.



TBI Written Policy 5-2-003 states, in part:

- A. In order to protect employees, the Bureau and the State from civil liability, no unauthorized person shall operate or be transported in a Bureau vehicle.
 - 1. Unauthorized persons are those whose transportation is not directly related to a special Bureau assignment/matter....
- B. Employees shall not operate, or use in any way, a Bureau vehicle so as to reflect discredit on the Bureau.

Agency officials should ensure that all personnel assigned TBI vehicles are familiar with and adhere to existing policy.

- **The MHSA deputy commissioner failed to properly take leave**

The MHSA deputy commissioner failed to claim annual leave while on a personal trip to Atlanta with the TBI acting director on May 8 and 9, 2017. The MHSA deputy commissioner told investigators that she believed she was on leave status during the trip, and email communication between herself and her department commissioner appear to substantiate that assertion. However, her state time records did not reflect she was on leave status during those

dates. After investigators brought this to their attention, the department subsequently corrected this failure by entering an administrative adjustment to her payroll records.

Agency officials should ensure that all employees regularly review their time records for accuracy and that employee absences are properly reflected on time records.

- **The TBI acting director and MHSA deputy commissioner installed WhatsApp, an encrypted communication application, on their state-issued cell phones**

The TBI acting director and MHSA deputy commissioner both acknowledged that they installed WhatsApp, an encrypted online messaging application, on their state-issued cell phones to facilitate communication between themselves and others. The application allows text, voice, video, and document messaging with end-to-end encryption. The TBI acting director told investigators that his use of the messaging application was widespread.

The use of this or similar encryption applications generate additional challenges related to the creation, capture, and retention of public records. In addition, the installation of such an application could also impact the security of the state's information systems. Officials of both the TBI and MHSA should consult with the Department of Finance and Administration, Strategic Technology Solutions (STS), on the propriety and risks associated with using such applications. If deemed appropriate, the agencies should also consult with STS to develop policies related to employees' use of these applications, including each agency's requirement and ability to identify, maintain, and provide access to government records.

- **The TBI acting director and MHSA deputy commissioner inappropriately used state-issued cell phones**

Call logs of the two employees' state-issued cell phones revealed frequent voice calls between them. Due to their positions with their respective agencies, the two employees would reasonably have some professional interaction. Although it was not possible to determine the content of the individual phone calls, the timing and frequency suggests that at least a portion of the calls were not related to official state business. According to the MHSA deputy commissioner, she used her state phone to conceal the personal relationship from others. During the 10-month period ending October 2017, there were 883 calls made between the two employee's state-issued cell phones, totaling 8,219 minutes. These cell phone-to-cell phone communications do not include other potential interactions between the two employees using the WhatsApp application. In addition, cell phone records indicated calls between the two employees during working hours, after working hours, and on weekends. All the identified phone calls were classified as carrier-to-carrier calls, and therefore resulted in no additional cost to the state.

Employee to Employee Cell Phone Calls		
Month	Minutes	Calls
January-2017	1,110	81
February-2017	1,965	178
March-2017	1,420	194
April-2017	1,161	140
May-2017	1,385	157
June-2017	944	102
July-2017	132	14
August-2017	30	7
September-2017	25	5
October-2017	47	5
Totals	8,219	883

Government officials hold a position of public trust and therefore must strive to hold themselves and their employees to the highest standards. Officials should not engage in any action, whether specifically prohibited by statute, regulation, or policy, which might result in or create the appearance that they used government resources for private interests or that they impeded government efficiency.

Officials from both the Tennessee Bureau of Investigation and the Department of Mental Health and Substance Abuse indicated that they have corrected or will address all issues applicable to their agencies identified above.