



COMPTROLLER'S INVESTIGATIVE REPORT

11th Judicial District Attorney General's Office

February 23, 2021

Jason E. Mumpower
Comptroller of the Treasury



DIVISION OF INVESTIGATIONS



JASON E. MUMPOWER
Comptroller

February 23, 2022

District Attorney General Conference
Executive Director Guy Jones
226 Anne Dallas Dudley Blvd, Suite 800
Nashville, TN 37243

and

Hamilton County Mayor
and County Commissioners
625 Georgia Avenue
Chattanooga, TN 37402

Hamilton County Officials:

The Office of the Comptroller of the Treasury conducted an investigation of selected records of the 11th Judicial District Attorney General's Office, and the results are presented herein.

Copies of this report are being forwarded to Governor Bill Lee, the State Attorney General, the District Attorney General of the 11th Judicial District, certain state legislators, and various other interested parties. A copy of the report is available for public inspection in our Office and may be viewed at <http://www.comptroller.tn.gov/ia/>.

Sincerely,

A handwritten signature in blue ink, appearing to read "Jason E. Mumpower", with a long horizontal flourish extending to the right.

Jason E. Mumpower
Comptroller of the Treasury

JEM/MLC

INVESTIGATIVE REPORT

11th Judicial District Attorney General's Office

The Office of the Comptroller of the Treasury investigated allegations of malfeasance related to the 11th Judicial District Attorney General's Office. This investigation was initiated after receiving allegations that the office violated the Tennessee State Employees Uniform Nepotism Policy Act. The investigation was limited to selected records for the period March 1, 2015, through September 31, 2021. Results of the investigation were communicated with the Office of the Tennessee Attorney General & Reporter.

BACKGROUND



As provided in the Tennessee Constitution, District Attorneys General serve as attorneys for the state within the Judicial Department and are elected by the voters within a district to hold office for a term of eight years. The 11th Judicial District Attorney General's Office is a state agency responsible for prosecuting all violations of state criminal statutes that occur within Hamilton County, Tennessee. The 11th Judicial District Attorney General's Office is led by a District Attorney General (DAG) who was first elected to serve in 2014. Pursuant to *Tennessee Code Annotated (TCA)*, Section 16-2-508, all appointed employees serve at the will and pleasure of the DAG.

RESULTS OF INVESTIGATION

- **THE 11TH JUDICIAL DISTRICT ATTORNEY GENERAL'S OFFICE VIOLATED THE TENNESSEE STATE EMPLOYEES UNIFORM NEPOTISM POLICY ACT**

The 11th Judicial District Attorney General's Office violated the Tennessee State Employees Uniform Nepotism Policy Act (Nepotism Act), *TCA*, Section 8-31-101, et seq. Comptroller investigators determined that the Chief of Staff and a DAG Investigator, who are both state employees within the DAG's office (a governmental entity), are related by marriage and are in the direct line of supervision of the elected DAG.

The Nepotism Act provides that: "Within each *governmental entity*, no *state employees who are relatives* shall be placed within the same *direct line of supervision* whereby one (1) relative is responsible for supervising the job performance or work activities of another relative; provided, that to the extent possible, this chapter shall not be construed to prohibit two (2) or more such relatives from working within the same state governmental entity." (emphasis added).

1. According to *TCA*, Section 8-31-103, a governmental entity is any state agency, authority, board, commission, department, or office within the executive or judicial branch of state government. The position of district attorney is established by state law and therefore a district attorney's office is a governmental entity.

2. According to *TCA*, Section 8-31-102, a state employee is any person who is employed by a governmental entity. DAG's offices receive funding from various state, federal and local governmental sources. County funding does not change the status of the DAG's office as a governmental entity nor the status of employees within the office as state employees. Furthermore, changing the funding source for a position from state to county does not remove the DAG's office from the application of the Nepotism Act.
 - a. Since the Chief of Staff was hired in March 2015, and the DAG Investigator was hired in August 2020, it appears that the salaries for both the Chief of Staff and the DAG Investigator positions were paid through state budget appropriations.

 - b. Comptroller investigators obtained a termination letter for the Chief of Staff dated July 22, 2021, and signed by the DAG with the reason for termination noted as "resignation". The Chief of Staff remains an employee of the DAG's office who is paid through budgeted funds of the Hamilton County government effective August 1, 2021. Comptroller investigators obtained a termination letter for the DAG Investigator dated August 31, 2021, and signed by the DAG with the reason for termination noted as "moved to a county funded position" [See Exhibit 1]. The DAG Investigator remains an employee of the DAG's office who is paid through budgeted funds of the Hamilton County government effective September 1, 2021.

EMPLOYEE TERMINATION	
[REDACTED] (NAME)	[REDACTED] EDISON ID OR SOCIAL SECURITY NUMBER
THIS EMPLOYEE IS NO LONGER AN EMPLOYEE IN THIS OFFICE. THE REASON FOR THIS	
TERMINATION IS: RESIGNATION _____, RETIREMENT _____, LEFT FOR	
BETTER PAY _____ OR OTHER <u>Moved to a County funded position</u> .	
THE EMPLOYEE LAST WORKED ON <u>8/31/2021</u>	
(MONTH, DAY, YEAR)	
PLEASE PAY THROUGH <u>08/31/2021</u>	
(MONTH, DAY, YEAR)	

Employee termination letter with noted reason as “moved to a county funded position”.

- c. The DAG’s office transferred the funding source for the Chief of Staff and the DAG Investigator from state to county government after receiving an inquiry from an outside entity, directed to the DAG, regarding the potential violation of the Nepotism Act in June 2021 [See Exhibit 2]. All employees of the DAG’s office are considered state employees regardless of the funding source of their salaries.

Dear [REDACTED]
Recently, I received an inquiry from a legislator regarding TCA §8-31-103. You assured me, when we discussed the matter several weeks ago, that the statute was not being violated. Please provide to me documentation that I can rely upon in responding to the inquiry.

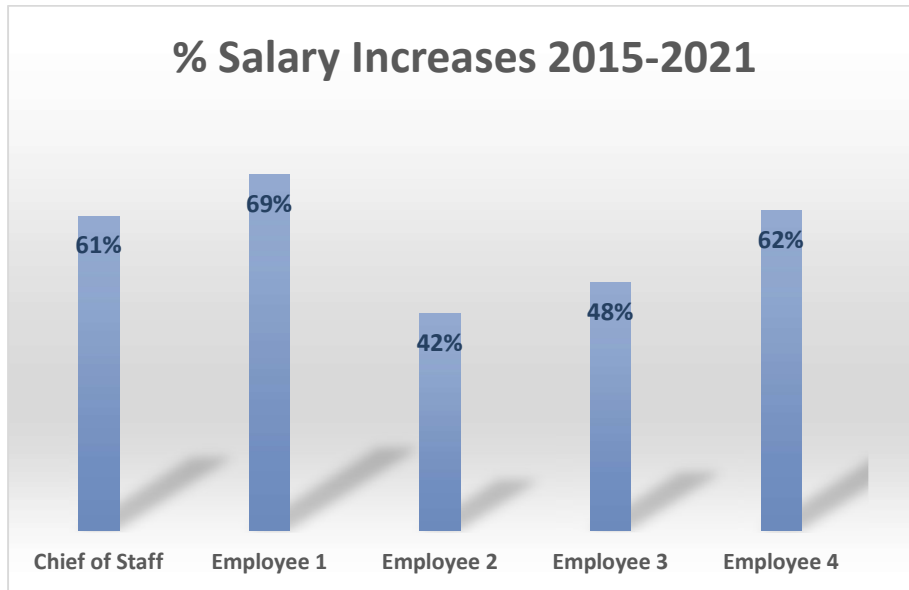
Inquiry directed to the DAG regarding violation of the Nepotism Act.

3. *TCA*, Section 8-31-103 prohibits direct supervision of relatives. Relatives include a spouse and brother-in-law.
 - a. In 2015, the DAG's office employed a Public Information Officer who was subsequently promoted to the Chief of Staff position in April 2019. The Chief of Staff and the DAG were married in November 2019. The marriage certificate, obtained from the Marion County Clerk, indicates that the ceremony was performed by the Chief of Staff's brother, who was subsequently employed at the DAG's office, as noted below.
 - b. In 2020, the DAG's office employed an Investigator who is the brother to the Chief of Staff and therefore, the brother-in-law of the DAG. The DAG Investigator met the minimum qualifications to be a DAG Investigator.
4. According to *TCA*, Section 16-2-508, all appointed employees serve at the will and pleasure of the DAG. Employees are employed by and submit to the direct supervision of the DAG.

The DAG has ultimate responsibility for and is in control of his office and the employees within his office. Comptroller investigators were advised that the Chief of Staff is supervised by the Executive Administrator in the DAG's office, and the DAG Investigator is supervised by an Assistant District Attorney General. However, the DAG cannot evade the prohibitions set forth in the Act by shifting supervisory responsibility to other members of the office because both the Executive Administrator and the Assistant District Attorney General are ultimately supervised by the DAG and therefore remain in his direct line of supervision.

Nepotism statutes and policies are designed to avoid conflicts of interest and to reduce favoritism or the appearance of favoritism. Although the DAG's office is in violation of the Nepotism Act, Comptroller investigators did not find any evidence of favoritism regarding salary increases for the Chief of Staff as compared to other administrative staff within the office for the period reviewed [See Exhibit 3]. Comptroller investigators could not determine if any other types of favoritism were given to the relatives of the DAG.

Exhibit 3



Graph representing percentage increase in salaries of administrative personnel during the same period reviewed for all employees.

The 11th Judicial District Attorney General should resolve the violation of the Nepotism Act within his office by means of transfer of the Chief of Staff and the DAG Investigator to another governmental entity or termination of their employment.