



COMPTROLLER'S INVESTIGATIVE REPORT

26th Judicial District Attorney General's Office

May 1, 2024

Jason E. Mumpower
Comptroller of the Treasury



DIVISION OF INVESTIGATIONS



JASON E. MUMPOWER
Comptroller

May 1, 2024

General Jody Pickens
26th District Attorney's Office
P.O. Box 2825
225 Martin Luther King Jr. Drive, Suite 330
Jackson, TN 38302

and

Madison County Finance Commission
100 East Main Street, Suite 303
Jackson, TN 38301

General Jody Pickens and Madison County Finance Commission:

The Office of the Comptroller of the Treasury conducted an investigation of selected records of the 26th 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 25th and 26th Judicial Districts, 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

26th Judicial District Attorney General's Office

The Office of the Comptroller of the Treasury investigated allegations of malfeasance involving an assistant district attorney general of the 26th Judicial District Attorney General's Office. The Comptroller's Office initiated the investigation after the 26th Judicial District Attorney General notified our office immediately of suspected payroll irregularities. The investigation was limited to selected records for the period August 1, 2022, through January 31, 2023. The results of the investigation were communicated with the 25th Judicial District Attorney General's Office who was appointed as *Pro Tem* in this matter.

BACKGROUND



Pursuant to Article 6, § 5 of the Tennessee Constitution, District Attorneys General (DAG) serve as attorneys for the state within their respective judicial districts. They have the sole authority and responsibility for the prosecution of criminal offenses that occur within their districts. DAGs have discretion in the performance of duties and responsibilities in the allocation of resources and are authorized to delegate these duties and responsibilities to an assistant district attorney general (ADA), pursuant to Tenn. Code Ann. § 8-7-103. The 26th Judicial District (district) is comprised of Chester, Henderson, and Madison counties in west Tennessee. The district employs a team of

ADAs who serve under the authority of the DAG and assist in the prosecution of criminal cases. Individual ADA positions are funded by separate sources, including the counties within the district, grants, and the State of Tennessee (state). Each ADA holds certain prosecutorial responsibilities based on the source of funding for their respective position.

James Zachary DeFoor was hired as an ADA by the district on November 1, 2021. DeFoor's position was funded by the Madison County (county) government, and he was responsible for prosecuting cases in the county's general sessions and juvenile courts. On September 1, 2022, DeFoor transitioned from his county-funded position to a grant-funded position specifically assigned to prosecute Driving Under the Influence (DUI) cases. This DUI position was funded by a Tennessee Highway Safety Office (THSO) grant through the state and was responsible for prosecuting DUI cases in the circuit courts for all three counties within the district. DeFoor was placed on administrative leave on December 13, 2022, and resigned on January 10, 2023.

RESULTS OF INVESTIGATION

1. FORMER ASSISTANT DISTRICT ATTORNEY GENERAL JAMES DEFOOR IMPROPERLY RECEIVED \$21,699.18 IN UNEARNED WAGES AND EMPLOYER-PAID BENEFITS FROM THE MADISON COUNTY GOVERNMENT

Between September 30, 2022, and December 9, 2022, former ADA DeFoor improperly received \$21,699.18 in unearned wages and employer-paid benefits from the Madison County government as follows:

A. DeFoor improperly received unearned wages totaling \$16,844.92

On September 1, 2022, DeFoor assumed an ADA position funded by a state grant and was only responsible for prosecuting DUI cases in circuit court within the three counties in the district. After his assignment to this position, DeFoor no longer had any prosecutorial responsibilities related to the county-funded ADA position he previously held. The district notified the county of these changes prior to DeFoor vacating his county-funded position. On December 12, 2022, the district became aware that DeFoor continued to receive compensation from the county, even though he vacated his county-funded ADA position on August 31, 2022.

Investigators reviewed payroll records and found that between September 30, 2022, and December 9, 2022, DeFoor improperly received unearned wages from the county totaling \$16,844.92. DeFoor also simultaneously received wages from the state-funded THSO grant during this same time period, a scheme known as double dipping. Investigators confirmed that DeFoor did not perform any prosecutorial duties related to the county-funded ADA position after August 31, 2022.

Summary of Unearned Wages DeFoor Received

| Check Date | Gross Check Amount |
|--------------------|---------------------------|
| September 30, 2022 | \$2,806.62 |
| October 14, 2022 | 2,807.66 |
| October 28, 2022 | 2,807.66 |
| November 10, 2022 | 2,807.66 |
| November 23, 2022 | 2,807.66 |
| December 9, 2022 | 2,807.66 |
| Total | \$16,844.92 |

DeFoor admitted to investigators that the last day he performed work for the county-funded ADA position was August 31, 2022, and that he should not have received the six checks from the county after his position change. DeFoor claimed he tried to contact county employees in October 2022 to apprise them of the improper payroll payments. Investigators did not find any evidence to substantiate that DeFoor attempted to communicate with any employee of the district or county about the improper payroll payments.

B. DeFoor received unearned county-paid employee benefits totaling \$4,854.26 for hours not worked

DeFoor received unearned county-paid employee benefits totaling \$4,854.26 for six pay periods he did not work for the county-funded ADA position. This amount represents employee benefits for Social Security, Medicare, medical insurance, dental insurance, life insurance, and retirement costs.

| Summary of DeFoor's Misappropriation | |
|--|--------------------|
| Description | Amount |
| A. Unearned Wages from the County | \$16,844.92 |
| B. Unearned Employee Benefits Paid by the County | <u>4,854.26</u> |
| Total Misappropriation | \$21,699.18 |

On April 29, 2024, the Madison County Grand Jury indicted James Zachary DeFoor on one count of Theft of Property over \$10,000, and one count of Official Misconduct.

The charges and allegations contained in the indictment are merely accusations of criminal conduct, and not evidence. The defendant is presumed innocent unless and until proven guilty beyond a reasonable doubt and convicted through due process of law.

[26th Judicial District Attorney General's Office Investigative Exhibit](#)

INTERNAL CONTROL DEFICIENCIES

Our investigation revealed deficiencies in internal control, some of which contributed to DeFoor's ability to receive unearned compensation without prompt detection. These deficiencies included:

Deficiency 1: County officials failed to provide adequate oversight over payroll operations

County officials did not require all employees to submit timesheets prior to processing payroll. As a result, DeFoor collected paychecks through direct deposit payments into his personal bank account. Timesheets provide supporting documentation for hours worked so that employees' payroll and accumulated leave can be calculated accurately. Timesheets should also be approved by a supervisor to provide reasonable assurance of the accuracy and reliability of the hours reported on the timesheets. Routinely reviewing and confirming employees' reported time reduces the risk that improper payroll payments will be made. Implementing this process is essential for effective internal controls and reduces the risk of fraud, waste, or abuse.

Additionally, county officials failed to oversee payroll-related payments adequately. County officials did not ensure that the employees receiving compensation were employed by the county. Failure to oversee and monitor payroll operations increases the risk that noncompliance with approved policies will occur and not be detected in a timely manner.

Deficiency 2: County officials failed to acknowledge or document timesheets as submitted by district officials prior to processing payroll

District officials electronically submitted timesheets for DeFoor to the county payroll department. However, county officials failed to acknowledge or document that the payroll department received the electronically submitted timesheets and did not provide investigators with documentation that DeFoor's timesheets were used for processing payroll. Failure to maintain adequate documentation of time worked and leave taken by employees weakens internal controls over payroll operations and increases the risks of improper payments.

Officials indicated that they have corrected or intend to correct these deficiencies.
