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Opinion No. 01-120

Responsibilities of District Attorneys General in Municipal Courts

QUESTIONS

1. If a municipality does not provide sufficient personnel to the district attorney pursuant to Tenn. Code Ann. § 8-7-103(1) to prosecute state criminal actions in that municipality's court, what, if any, obligation does the district attorney have to prosecute those actions on behalf of the State?

2. If the district attorney does not prosecute such actions, does any other individual or entity have authority to do so? Specifically, does the municipality have the authority to do so through city prosecutors who are not serving as assistant district attorneys?

OPINIONS

1. Pursuant to the plain language of Tenn. Code Ann. § 8-7-103(1), a district attorney general only has the responsibility of prosecuting state criminal actions in municipal courts where the municipality has provided sufficient personnel to the district attorney general for that purpose.

2. No. District Attorneys General are solely responsible for the prosecution of state criminal matters in their districts at the trial level. Accordingly, no other individual or entity has the authority to prosecute state criminal actions.

ANALYSIS

1. The general assembly has provided that certain municipal courts have original jurisdiction of criminal actions. Tenn. Code Ann. § 40-1-107. By public act in 1971, the general assembly conferred concurrent jurisdiction with the general sessions courts of Shelby County upon the municipal courts. Chapter 62, Tenn. Public Acts, 1971. The general assembly has also specified the duties of a district attorney general. Tenn. Code Ann. § 8-7-103(1) provides that "Each district attorney general: (1) Shall prosecute in the courts of the district all violations of the state criminal statutes and perform all prosecutorial functions attendant thereto, including prosecuting cases in a municipal court *where the municipality provides sufficient personnel to the district attorney general for that purpose*." (emphasis added).

From the plain language of this statute, the general assembly has indicated that only where additional personnel are provided to a district attorney general does he or she have the statutory obligation to prosecute state criminal actions in municipal courts having concurrent general sessions jurisdiction.

2. The Tennessee Supreme Court has held that "[t]he District Attorney General and only the District Attorney General can make the decision whether to proceed with a prosecution for an offense committed within his or her district." *Ramsey v. Town of Oliver Springs*, 998 S.W.2d 207, 209-10 (Tenn. 1999); *see also* Tenn. Const. Art VI, § 5; Tenn. Code Ann. § 8-7-103(1). Therefore, no other entity or individual may prosecute state criminal actions in a municipal court vested with concurrent general sessions jurisdiction.

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