

Prosecutor: Overlap between city and mayor's church 'smacks of cronyism,' but no evidence found to support criminal charges

By NED OLIVER and K. BURNELL EVANS Richmond Times-Dispatch | Posted: Wednesday, November 30, 2016 10:30 pm

Richmond Commonwealth's Attorney Michael N. Herring said Wednesday he will not seek criminal charges after a 10-month investigation into potential overlap between city business and the church where Mayor Dwight C. Jones serves as senior pastor.

But in an at-times-harsh report on the investigation, Herring raises questions about Jones' credibility; the appearance of cronyism in his administration; and overall poor judgment on the part of Jones and his aides.

"Although the investigation raises suspicion and concern about opaque governance, and calls into question the credibility of many of the involved parties, these facts do not constitute probable cause for prosecution under the Commonwealth's public corruption laws," Herring said in his report.

"As a colleague reminded me, 'the governing norm is that the criminal courtroom is not the public square — what may rightly provoke the public ire is not sufficient for criminal prosecution.'"

At a news conference Wednesday, Herring recommended that the city adopt policies to prevent future potential appearances of conflict.

"You can't read this report and not believe that something about the way things are done at City Hall needs to change," he said. "Whether cronyism — using that term loosely — is illegal or not, it certainly doesn't inspire much confidence in our government."

He also had strong words for Jones and his handling of the issue: "Nothing about the way that this matter was handled, I think, reflects well on the administration. I think you folks are owed some answers from the mayor's administration."

In a statement, Jones said he cooperated "extensively with the investigation to ensure any concerns were carefully examined."

"After thoroughly reviewing my email, examining City and church records, and interviewing scores of witnesses, the investigation determined that no laws were violated," Jones said.



Jones

A 10-month investigation found no criminal wrongdoing between Mayor Dwight C. Jones' church and city officials.

“I was confident my administration strictly adhered to the law, and I am pleased, but not surprised, the Virginia State Police and Richmond Commonwealth’s Attorney agree. Although the investigation took longer than expected, it was thorough and conclusive, and I am glad it is behind us.”

In response to questions about Herring’s criticisms of how Jones conducted himself and his call for new city policies, Jones’ lawyer, McGuireWoods Chairman Richard Cullen, said he thought the mayor would welcome the chance to take steps to prevent future concerns.

Cullen would not elaborate Wednesday, saying he had not yet had a chance to speak with Jones, who was out of town.

The probe into Jones’ administration stemmed from an investigation by City Auditor Umesh Dalal in January.

It found the city’s director of public works, Emmanuel O. Adediran, helped oversee construction of First Baptist Church of South Richmond’s new building in Chesterfield County on city time.

City officials said the work was limited to his participation in conference calls, and he gave up a corresponding amount of time in vacation leave — a remedy Herring’s report found adequately addressed the issue.

However, further scrutiny of Adediran’s official city email account showed he sent hundreds of messages about the project. Jones received a copy of many of the messages, suggesting he must have been aware of his deputy’s work on city time.

Additionally, in at least two cases, contractors who did business with the city sent Adediran quotes for work at the church that listed the city as the billing recipient.

Jones asked Virginia State Police in January to review questions raised by the auditor’s office, though Herring said Wednesday his office likely would have investigated anyway.

From there, Herring’s office, the state police and the city auditor launched their joint investigation in February.

Under their own initiative, agents with the Federal Bureau of Investigation also participated in the investigation, Herring said. Federal authorities also indicated they’ve concluded their investigation.

“The U.S. Attorney’s Office has no pending criminal investigation involving the mayor,” said Joshua Stueve, director of communications for the office.

Herring said his office investigated three potential theories: whether city funds were used to construct the church; whether there was evidence of city employees leveraging their official positions to get better prices from contractors; and whether there was any evidence of a quid pro quo arrangement in which city vendors may have been offered city contracts in exchange for better prices on work at the church.

Only one theory led investigators to persuasive evidence: that Adediran had attempted to use his position with the city to obtain favorable pricing from vendors working with the church.

Likewise, investigators found that Jones almost certainly knew of Adediran's efforts, despite his denial.

Investigators found an email from a member of the church team to Jones and his son outlining concerns about the budget of the construction project and Adediran's promises to find savings using his city contacts.

"As you know, Emmanuel said he could save us roughly \$500,000 based on relationships he has with vendors he worked with in the City," the email said.

Jones told investigators he had not read the email and instead relied on his son to keep him updated on the project — an assertion investigators determined was "implausible," according to the report.

Cullen contested the characterization, saying Jones first learned of the message in an interview with state police and federal investigators.

"He was surprised by it and had not seen it," Cullen said. "(Jones said) that certainly, something like that would be inappropriate."

Herring's report states that the woman who sent the email meant to convey a facetious tone.

Investigators said email evidence notwithstanding, such actions would not be illegal unless Adediran promised something in return from the city; they found no indication of such an arrangement.

Furthermore, the report notes Adediran was unsuccessful in his efforts: The prices he was offered by contractors who also work for the city were higher than those obtained by the general contractor. (The report notes several witnesses involved in planning the construction project were skeptical Adediran would be able to deliver the cost savings he promised, describing him as a "big talker.")

"Ultimately, while Mr. Adediran's attempt to obtain favorable pricing is unseemly and significantly undermines public confidence — it was not public embezzlement," the report says. "It was not illegal."

Adediran's lawyer, Jim Thorsen of the Richmond firm Thorsen, Hart and Allen, welcomed the conclusion of the review and said the outcome was what he had expected.

"We were concerned it took so long — it was very disruptive," Thorsen said. "I never thought there was anything there to concern my client based on my own investigation."

Investigators also probed allegations of cronyism stemming from revelations that Jones filled six out of 58 executive-level positions in his administration with members of his church.

"Although not part of the original focus of the investigation, interviews included vague allegations that Mayor Jones had placed (First Baptist Church) members in high paying (city) positions in order to directly increase tithing for his church," Herring wrote in his report.

"This raised an additional concern about a potential in-kind benefit of such hiring practices, whereby (church) members placed in high paying (city) positions may have been expected to volunteer in demanding

executive positions for the Mayor's church — effectively staffing (the church's) executive teams on city salaries.”

Investigators said that they found no actual evidence of a tithing scheme and that representatives of Jones said none of the employees in question donates money to the church.

But they said several witnesses alleged that members of the church “benefited from the mayor's influence on hiring decisions and received other accommodations to preserve pay status or ensure higher salaries.”

Investigators said that while the situation “smacks of cronyism, this practice is not, in fact, criminal.”

“This determination, however, does not foreclose the need for serious public discussion (perhaps among newly elected officials) regarding how these practices undermine confidence in our City government,” the report says.

The report did not extend to the Richmond Ambulance Authority, where church clerk Pam Branch worked as chief of legal affairs and human resources until the agency parted ways with her in February after revelations she had been handling First Baptist matters during the workday.

Cullen said Jones made clear to those at First Baptist and at the city upon taking office in 2009 that he wanted to draw a line between his private and public responsibilities.

“He communicated very clearly that there should be a line between the church and the mayor's office,” Cullen said. “This one instance (of overlap) obviously concerned him enough to invite a state police investigation.”

Herring offered two proposed policy changes Wednesday that he said he thought could prevent the appearance of similar conflicts in the future.

First, he said elected officials and agency heads should be required to publicly disclose any personal relationship with a potential executive-level employee prior to a hiring decision being made.

Second, he said that if city vendors do business privately with a city employee who has decision-making authority, that also should be disclosed publicly.

“I can't imagine any feasible explanation against that or any feasible argument against disclosure,” Herring said. “Either of those things might have put some of the issues and concerns that arose in this to rest.”