

**INVESTIGATIVE AUDIT OF SELECTED RECORDS  
OF THE TOWN OF SOMERVILLE  
FOR THE PERIOD APRIL 1, 2002, THROUGH JULY 31, 2002**

**LEGAL ISSUE**

1. **ISSUE:**      **Apparent misappropriation**

Our audit revealed that on July 18, 2002, receipted collections totaling \$422 were not deposited into a town bank account. In addition, our audit revealed that \$2,964 in traffic fines apparently collected between April 1, 2002, and June 30, 2002, were not deposited into a town bank account. Finally, we were unable to determine the disposition of 41 traffic citations, issued between April 1, 2002, and June 30, 2002, which could represent up to \$3,772 in additional missing funds.

In November 2003, the Fayette County Grand Jury indicted Ms. Ernestine (Tina) Voyles, the former court clerk, on one count of theft of property over \$1,000.

**FINDINGS AND RECOMMENDATIONS**

**The apparent misappropriation above was allowed to occur without detection due to weaknesses in the town's internal controls. These weaknesses and accompanying recommendations are presented below.**

1. **FINDING:**      **Collections not promptly turned over for deposit**

We noted that certain collections for traffic citations were apparently held by the former traffic court clerk at the police department for two weeks or longer before being turned over for deposit.

Section 6-56-111(a), *Tennessee Code Annotated*, states:

Every municipal official handling public funds shall be required to, as soon as practical, but no later than three (3) working days after the receipt by such municipal official of any public funds, deposit the funds to the credit of such municipality's official bank account, or bank accounts.

The *Internal Control and Compliance Manual for Tennessee Municipalities*, Title 3, Chapter 1, Section 5, states:

Collections should be deposited promptly and intact and only in designated depositories. The bank's night depository should be used, if necessary, to avoid large accumulations of currency overnight. . . . The municipality should make daily deposits when large amounts of money are involved.

**RECOMMENDATION:**

To help prevent the misuse or loss of collections, officials should ensure that all collections are deposited intact within three working days into an official municipal bank account. Cash on hand should be safeguarded.

**MANAGEMENT'S RESPONSE:**

**Mayor and Members of the Board of Aldermen:**

We concur. All collections for the police department have been moved to the accounting department. City court is held on the first and third Tuesday of each month. Collections for traffic citations are deposited in a designated depository on each day that court is held, intact, reconciled to money recorded as being received on the court date.

**Town Administrator:**

Response is the same as that of the mayor and board of aldermen.

2. **FINDING:**    **Failure to report and remit unclaimed property to state officials**

A police officer took \$600 in cash from a suspect pursuant and incidental to arrest on drug charges. However, the police department failed to turn over the \$600 for deposit until almost one year after it was originally seized. In addition, we were unable to find documentation that the police department formally made a claim on this money under the state's administrative, civil, or judicial procedures. Therefore, the money should either be returned to the suspect or, if the suspect makes no claim on the funds, to the custody of the state as unclaimed property.

Title 66, Chapter 29, part 1, *Tennessee Code Annotated*, addresses unclaimed property. Section 66-29-103, *Tennessee Code Annotated*, states, "Unless otherwise provided in this part or by other statute of this state, intangible property is subject to the custody of this state as unclaimed property if the conditions raising a presumption of abandonment under this section . . . are satisfied . . ." Section 66-29-110, *Tennessee Code Annotated*, states:

All property held for the owner by any court, including a federal court, public corporation, public authority or agency, or public officer, or a political subdivision . . . that has remained unclaimed by the owner for more than one (1) year is presumed abandoned, except property in the custody or control of any state or federal court in any pending action.

Section 66-29-113, *Tennessee Code Annotated*, details the requirements for the annual reporting and remitting of unclaimed property to the state treasurer's office. In addition, "Regulations Governing the Uniform Disposition of Unclaimed Property Act," Section 1700-2-1-.19, which is contained in the Uniform Disposition of Unclaimed Property Action Reporting Package requires that prior to filing the annual report of property to the state treasurer, the holder of the unclaimed property must exercise due diligence to find and notify the owner of the property being held.

**RECOMMENDATION:**

The police chief and town administrator should ensure that police department employees annually identify unclaimed property and attempt to notify the owner. All remaining unclaimed property should be reported and remitted to the state treasurer's office. Additionally, the police chief and town administrator should properly distribute any unclaimed property mishandled in the past.

**MANAGEMENT'S RESPONSE:**

**Mayor and Members of the Board of Aldermen:**

We concur. The police chief has instructed his officers that all money confiscated shall be logged in, in accordance with the law, and turned over to the accounting department for immediate deposit. The money mentioned in Finding 2 was returned to its rightful owner. The accounting department files an unclaimed property report annually with the State of Tennessee.

**Police Chief:**

Response is the same as that of the mayor and board of aldermen.

**Town Administrator:**

Response is the same as that of the mayor and board of aldermen.

3. **FINDING: Prenumbered receipts not accounted for**

The former traffic court clerk did not properly maintain and account for prenumbered receipts. Section 9-2-103, *Tennessee Code Annotated*, requires that each municipal official who receives sums in such official's capacity shall issue to the payer a receipt and retain a duplicate. Section 9-2-104, *Tennessee Code Annotated*, requires that the receipts be prenumbered, in a well-bound book or other form approved by the comptroller of the treasury, retained by the person receiving money, and available to state auditors on demand. Section 9-2-106, *Tennessee Code Annotated*, states that violations of the code sections noted above are a Class C misdemeanor.

**RECOMMENDATION:**

To properly account for all collections, municipal officials should ensure that receipts are issued for all collections, and all receipts are accounted for and properly maintained in town records.

**MANAGEMENT'S RESPONSE:**

**Mayor and Members of the Board of Aldermen:**

We concur. The receipt books, being used for payment of traffic citations, are kept in the bookkeeper's office. The receipt books are issued by the bookkeeper. A log is being kept stating the date of the issuance of the receipt book, the beginning and ending receipt number within the receipt book, who it was issued to, and the date the book was returned to the bookkeeper after the last receipt was written. Two accounting clerks receipt money for traffic citations on each court day on prenumbered receipts from each clerk's receipt book. City court is held at 8:00 a.m. After the money is receipted, usually by 9:30 a.m., receipts written for the court date are totaled in each receipt book and compared to the receipts in hand. The money is added to verify all money receipted is accounted for. When a receipt book is returned to the bookkeeper, the bookkeeper verifies that all receipt copies are in the book. Used receipt books are kept on file numerically by the bookkeeper.

**Town Administrator:**

Response is the same as that of the mayor and board of aldermen.

4. **FINDING: Inadequate accounting for traffic citations and fines**

Our audit revealed several deficiencies related to the accounting for traffic citations and the related collection of fines by the former traffic court clerk, as follows:

- Many receipts did not indicate whether the method of payment was in cash or in the form of a check.
- There was no documentation that traffic tickets issued to officers were accounted for and that the responsible police officers had been contacted about missing citations.
- Many citations were not recorded in the traffic court docket and the disposition of those citations that were logged in the “docket” was not recorded.
- The traffic court judge did not sign the disposition of several citations either in the traffic court docket or on the citation itself.
- The town’s copies of traffic citations were not filed numerically by citation number.
- Collections for many traffic citations were not posted as paid in the town’s accounting records.

The *Internal Control and Compliance Manual for Tennessee Municipalities*, Title 3, Chapter 1, Section 2, states that receipts should be marked to identify whether the form of remittance is cash or check.

The *Internal Control and Compliance Manual for Tennessee Municipalities*, Title 3, Chapter 5, describes the proper procedures for traffic citations and court collections. Those procedures include physically controlling unissued citations, accounting for all issued and voided citations, filing citations numerically, issuing prenumbered receipts for fines, maintaining a court docket, recording dispositions of all citations, and establishing efforts to collect all outstanding fines.

**RECOMMENDATION:**

To decrease the risk of loss of revenue, municipal officials should establish and require strict adherence with good internal control policies, in accordance with the *Internal Control and Compliance Manual for Tennessee Municipalities*, Title 3, Chapter 5. Officials should ensure that all citations are accounted for, a court docket is maintained, and the court clerk’s copies of citations are marked with the disposition and signed by the judge.

**MANAGEMENT’S RESPONSE:**

**Mayor and Members of the Board of Aldermen:**

We concur. The accounting clerks are marking receipts to show whether payment was made by check or cash. The accounting clerks add all receipts marked cash and verifies that cash money tallies to the cash total and that all checks add to receipts marked checks. The bookkeeper verifies that every receipt has been properly marked cash or check when the used receipt book is returned to her.

The chief of police has implemented a system for issuing and accounting for citation books. A log is kept of the citation numbers within the citation book, the supervisor issuing the book, the issued date, the officer that the book is issued by social security number and badge number, and the date the book is completed and returned. The issuing supervisor checks the book to be sure all tickets have been issued.

The town has purchased a new traffic court computer program from Dataquest, Inc. Citations, their dispositions, and their payment are recorded to the court docket. The traffic court judge signs the disposition on the back of all citations in a timely manner. A numerical file of copies of all citations is kept and is also marked paid at the time payment is received.

**Town Administrator:**

Response is the same as that of the mayor and board of aldermen.

5. **FINDING: Vending receipts not recorded in accounting records**

Collections from vending machines were not recorded in the town's accounting records.

Attorney General's Opinion Number U89-134 states:

It is the opinion of this Office that . . . revenues derived from such operations [vending] are public funds and revenues of the local governmental entity which owns and operates the building in which such operations are conducted. Such revenues should be handled in the same manner as other revenues of the local governmental entity.

**RECOMMENDATION:**

To ensure that all public funds are handled properly, all revenues derived from the operation of vending machines on town property should be recorded in municipal accounting records and deposited in an official municipal bank account.

**MANAGEMENT'S RESPONSE:**

**Mayor and Members of the Board of Aldermen:**

We concur on the police department's vending machine. The city owns two vending machines, one at the Fair Theater and the other in the police department. The public works' supervisor, Tommy Harris, removes the money from the machine and has always turned it over to the accounting department for deposit. Cokes are purchased by the accounting department. An accounting clerk removes the money from the police

department's vending machine and the money is deposited on the day the money is removed. Cokes are purchased by the accounting department.

**Town Administrator:**

Response is the same as that of the mayor and board of aldermen.

6. **FINDING:**    **Unaccounted for weapons seized in arrests**

The disposition of at least four weapons seized by a police officer pursuant and incidental to arrests could not be accounted for. Section 39-17-1317(b), *Tennessee Code Annotated*, states, "Any weapon declared contraband shall be sold in a public sale, destroyed, or used for legitimate law enforcement purposes, at the discretion of the court, by written order." Section 39-17-1317, *Tennessee Code Annotated*, further states:

A weapon that may be evidence in an official proceeding shall be retained or otherwise preserved in accordance with the rules or practices regulating the preservation of evidence. Any such weapon shall be sold, destroyed or retained for legitimate law enforcement purposes not less than sixty (60) days nor more than one hundred eighty (180) days after the last legal proceeding involving the weapon. . . . No weapon seized by law enforcement officials shall be used for any personal or law enforcement purposes, sold or destroyed except in accordance with this section.

**RECOMMENDATION:**

The police chief should ensure that confiscated weapons are handled in accordance with state law. These weapons should be disposed of or used by the department only after the required court order has been obtained and within the time specified by state law. Documentation of compliance with state law should be maintained.

**MANAGEMENT'S RESPONSE:**

**Mayor and Members of the Board of Aldermen:**

We concur. The chief of police has ordered a property receipt issued to any subject that property is seized or received from. The property is deposited into a secured receptacle with the attached property receipt. The evidence custodian removes the property from the receptacle and records it as received on the evidence log and places it into the main evidence vault. The police department will obtain, as required by law, a court order to the destruction or lawful use of property seized or received.

**Police Chief:**

Response is the same as that of the mayor and board of aldermen.

7. **FINDING: Drug evidence improperly stored, complete inventory of confiscated property not maintained**

We found numerous instances of seized illegal drugs stored in file cabinets in the office of a police officer. That drug evidence had not been logged as evidence in the police department's inventory list. In addition, the evidence log was incomplete and evidence was not promptly logged after confiscation. Section 53-11-451(j), *Tennessee Code Annotated*, states:

Any property of the type set forth in subdivisions (a)(1) and (7) which is in the custody and possession of a clerk of any court of this state by virtue of the property having been held as evidence or exhibits in any criminal prosecution where all appeals or potential appeals of a judgment have ended, or when the case has been dismissed or otherwise brought to a conclusion, shall be disposed of as follows:

(1) The clerk of the court having custody of the property to be disposed of shall, no less than once annually, inventory the same and prepare a list of the property proposed to be destroyed with references to the cases involved and the name of the case, the case number and date when such property was used;

(2) The clerk shall submit the inventory list with a filed petition to the court and shall serve a copy of the petition upon the district attorney general. After determining that the listed property is not needed as evidence in any pending or potential judicial proceeding, the court shall order the property to be destroyed; and

(3) The clerk, or such deputy as the clerk may designate, shall completely destroy each item by cutting, crushing, burning or melting and shall file, together with the petition and order relating to the destroyed property, an affidavit concerning such destruction, showing a description of each item, the method of destruction, the date and place of destruction, and the name and addresses of all witnesses to the destruction.

**RECOMMENDATION:**

To ensure that controlled substances and other evidence are accounted for, the police chief should require that all such property is recorded in an evidence/property log. In addition, no less than once annually, the police chief should ensure the annual inventory and destruction of applicable seized drugs and drug paraphernalia. Procedures set forth in Section 53-11-451, *Tennessee Code Annotated*, should be followed for the disposal of such property.

**MANAGEMENT’S RESPONSE:**

**Mayor and Members of the Board of Aldermen:**

We concur. Response is the same as Finding 6.

**Police Chief:**

Response is the same as that of the mayor and board of aldermen.

8. **FINDING: Inadequate support for credit card disbursements**

The town administrator paid credit card bills without adequate supporting documents. Our review of credit card records for the six months ended June 30, 2003, revealed charges totaling \$1,530.82 that had no supporting documentation. Although town officials obtained documentation for the majority of these charges after auditors brought this to their attention, there was no review prior to payment.

Title 2, Chapter 2, Section 1 of the *Internal Control and Compliance Manual for Tennessee Municipalities* requires municipal officials should ensure “that the request for payment (statement) from the vendor is compared to the individual invoices on file. Payment should never be based on a statement only. The testing of prices, extension of amounts, and addition of the total invoice should be required.”

**RECOMMENDATION:**

To ensure that use of the town’s credit card is restricted to valid, municipal purposes, the town administrator should require that each employee who makes a charge promptly submit a detailed invoice or receipt. The town administrator should retain each invoice and receipt. Before issuing payment, the town administrator should examine all invoices and receipts, reconcile those documents with the statement, and determine if all represent valid municipal purposes.

**MANAGEMENT’S RESPONSE:**

**Mayor and Members of the Board of Aldermen:**

We concur. All officials and employees have been instructed, verbally and in writing, that anyone using the town’s credit cards must give the accounting department copies of bills for all charges made to a credit card within 24 hours of the user of the card returning to the town. The town administrator’s accounting staff has been instructed to examine the bills to determine that all credit card use is for valid municipal purposes and all credit card charges reconcile to the credit card statement.

**Town Administrator:**

Response is the same as that of the mayor and board of aldermen.

9. **FINDING: Exceptions to travel policy**

The town administrator did not require that officials and employees file travel and expense claims in a timely manner. Some travel that had occurred between February and April 2003 had not been filed as of July 2003. Since employees charged most of the travel costs to a town credit card, in many instances the town administrator paid travel costs prior to a determination as to whether the expenses were proper and allowable under the travel and expense policy. In addition, our audit revealed that in several instances, room rates exceeded the allowed rates. Our review also noted that employees and officials charged in-room entertainment, including movies, to town credit cards. In at least two instances, this entertainment was not reimbursed by the traveler until questioned by auditors.

The Somerville travel policy states, “Within 10 days of return from travel, or by the end of the month, the traveler is expected to complete and file the expense reimbursement form. It must be certified by the traveler that the amount due is true and accurate. Original lodging, travel, taxi, parking, and other receipts must be attached.” The travel policy further specifies, “Authorized travelers should be reimbursed according to the State of TN travel regulation rates.” According to the travel policy:

To qualify for reimbursement, travel expenses must be:

- directly related to the conduct of town business for which travel was authorized, and
- actual, reasonable, and necessary under the circumstances. The CAO may make exceptions for unusual circumstances.

Expenses considered excessive won’t be allowed.

**RECOMMENDATION:**

The town administrator should require that all employees and officials who claim reimbursement for travel expenses or who use the town's credit cards for that purpose are familiar with and abide by the travel policy. To help ensure that all travel expenses are legal and conform to the policy, and to help the traveler avoid possible personal consequences due to inadequate documentation, the town administrator should require a timely, accurate travel report for all travel expenses paid by the town. The town administrator should ensure that the town credit card is not used to charge personal expenses of any town employees or officials. The traveler should immediately repay the town for any inadvertent charges to the credit card that are not covered by the travel policy.

In general, travelers should request the state rate for all lodging and limit their actual per night expenses to that amount. However, the travel policy does specify, "Travelers are allowed to stay at the officially designated hotel of the meeting." Travelers with lodging that exceeds the maximum, but that are allowable under this provision, should document that this is the case. The town administrator should approve and document the reasons for any other exceptions before charges are incurred.

**MANAGEMENT'S RESPONSE:**

**Mayor and Members of the Board of Aldermen:**

We concur. A copy of the travel policy has been given to every town employee. The accounting staff has been instructed that all employees will adhere to the policy. Proof of lodging where meetings are being held is required before hotel/motel bills will be paid. The accounting staff will examine all travel expenses to make sure that they are appropriate and timely. Any exceptions will be noted on the travel voucher and signed by the accounting staff.

**Town Administrator:**

Response is the same as that of the mayor and board of aldermen.

10. **FINDING: Unconstitutional lending of town's credit**

Our investigative audit revealed that in December 2002, the town granted a \$650 salary advance to a clerical employee out of the Gas Revenue bank account. The employee repaid the loan through payroll deductions over a seven-month period. Our audit further revealed that town employees made personal purchases using the town's revolving charge account at Sam's Club. In one instance, an employee did not remit the \$102.99 owed until 116 days after the original transaction date.

The salary advance and the employee's use of town charge cards created an improper lending of the town's credit.

Article II, Section 29, of the *Constitution of the State of Tennessee*, provides:

But the credit of no County, City or Town shall be given or loaned to or in aid of any person, company, association or corporation, except upon an election to be first held by the qualified voters of such county, city or town, and the assent of three-fourths of the votes cast at said election.

Without the above election, the *Constitution of the State of Tennessee* does not provide for lending or giving the town's credit to individuals.

**RECOMMENDATION:**

To avoid an unconstitutional giving or lending of the town's credit, the mayor and members of the board of aldermen should immediately cease allowing transactions that are, in substance, loans to employees. The town should review its records to identify any remaining amounts owed by employees and ensure settlement.

**MANAGEMENT'S RESPONSE:**

**Mayor and Members of the Board of Aldermen:**

We concur. The employees of the Town of Somerville have been told that no personal purchases can be made using the credit of the town.

**Town Administrator:**

Response is the same as that of the mayor and board of aldermen.

11. **FINDING: Required procedures for confidential funds transactions not followed by police department**

The police department failed to maintain a separate bank account for confidential funds. Also, we found no supporting documentation for \$359 in undercover transactions in December 2001. In addition, we found inadequate support for \$551 in undercover transactions in December 2001. "Procedures for Handling Cash Transactions Related to Undercover Investigative Operations of County and Municipal Drug Enforcement Programs," developed pursuant to Section 39-17-420(f), *Tennessee Code Annotated*, requires that a separate bank account be maintained for confidential funds. The manual also includes prescribed forms for the proper documentation of confidential funds transactions.

**RECOMMENDATION:**

To properly account for confidential funds, such funds should be handled in accordance with the “Procedures for Handling Cash Transactions Related to Undercover Investigative Operations of County and Municipal Drug Enforcement Programs.”

**MANAGEMENT’S RESPONSE:**

**Mayor and Members of the Board of Aldermen:**

We concur. On December 2, 2003, a bank account was opened for confidential funds transactions. The accounting staff will require the chief of police to produce Form R-1 when obtaining funds for the drug fund operating account or returning excess funds to the operating account. A quarterly reconciliation will be made of the confidential funds account by the town administrator.

**Police Chief:**

Response is the same as that of the mayor and board of aldermen.

**Town Administrator:**

Response is the same as that of the mayor and board of aldermen.

**ADDITIONAL COMMENT**

The town administrator noted that significant efforts were made to correct those deficiencies in internal controls as auditors performed their fieldwork and prior to completion of the audit.