

**DEPARTMENT OF SAFETY  
MISAPPROPRIATION OF FUNDS AND  
THEFT OF CASH REGISTER TAPES  
FROM THE WEST NASHVILLE  
DRIVER'S LICENSE STATION**

**JANUARY 1997**

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January 22, 1997

The Honorable Don Sundquist, Governor  
and

Members of the General Assembly  
State Capitol  
Nashville, Tennessee 37243

and

The Honorable Mike Greene, Commissioner  
Department of Safety  
1150 Foster Avenue  
Nashville, Tennessee 37249

Ladies and Gentlemen:

Transmitted herewith is a special report on our review of a former state employee's misappropriation of funds and theft of property from the Department of Safety. Our review disclosed that the department incurred a total loss of \$1,169.92, which consisted of \$617.50 in misappropriated funds and \$552.42 in accumulated annual leave inappropriately paid to the former employee.

On January 31, 1996, \$114.00 of the \$617.50 misappropriation was discovered by department staff while new reconciliation procedures were being implemented at the West Nashville Driver's License Station. Although the Department of Safety's Internal Affairs staff determined that Mr. Malcolm B. Ott was responsible for the \$114.00 misappropriated on January 30, 1996, we determined that they did not conduct a thorough investigation into the misappropriation of funds because the staff did not specifically question Mr. Ott about other cash register shortages, totaling \$503.50, that occurred on January 2 and 3, 1996, or about the missing cash register tapes for those days, even though they were aware of these facts at the time of their interview of Mr. Ott.

Mr. Ott admitted to our staff that he took a total of \$617.50, which consisted of the \$114.00 that he misappropriated on January 30, 1996, and the \$503.50 that he took on January 2 and 3, 1996. Mr. Ott admitted that he had misappropriated the cash receipts by processing false

The Honorable W. R. Snodgrass  
January 22, 1997  
Page Two

information through the cash register. The processing of this information caused the register tape to indicate that the cash had been returned to the driver's license applicant as a refund. These fabricated refunds allowed his misappropriation to go undetected.

Furthermore, our review determined that the Department of Safety allowed Mr. Ott to resign on April 11, 1996, rather than terminate him for gross misconduct. Gross misconduct is defined in the Department of Personnel Rules and Regulations as "any job related conduct which may subject an employee to criminal prosecution." This action enabled Mr. Ott to receive payment for his accumulated annual leave which would have been forfeited had he been terminated for gross misconduct. Mr. Ott was paid \$552.42 for his accumulated annual leave.

The information developed during this review was provided to the Office of the State Attorney General and the Office of the District Attorney General, 20th Judicial District (Davidson County), on June 5, 1996. Mr. Ott was indicted by the Davidson County grand jury and on October 17, 1996, he plead guilty to one count of theft of property which is a Class E felony. On this date he made full restitution of \$617.50 to the state and was placed on probation for one year under the provisions of *Tennessee Code Annotated*, Section 40-35-313.

Very truly yours,

W. R. Snodgrass  
Comptroller of the Treasury

WRS/evs

State of Tennessee

# Review Highlights

Comptroller of the Treasury

Division of State Audit

Special Report

**Department of Safety**

Misappropriation of Funds and  
Theft of Cash Register Tapes

From the West Nashville Driver's License Station  
January 1997

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## **REVIEW OBJECTIVES**

The objectives of the review were to determine the amount of funds Mr. Malcolm B. Ott, a former Department of Safety driver's license examiner at the West Nashville Driver's License Station, misappropriated from the driver's license fees through the issuance of falsified driver's license application refunds and whether Mr. Ott took cash register tapes to conceal the misappropriation; to determine whether the department's reconciliation procedures of receipts to application and drivers' license fees were adequate; to determine whether Internal Affairs pursued other activities relative to Mr. Ott; to determine the circumstances surrounding the department's decision to permit Mr. Ott to resign and to be paid for his accumulated annual leave after he admitted engaging in what would appear to be gross misconduct; to refer our findings to the Department of Safety; and to provide information developed during this review to the Office of the State Attorney General and the Office of the District Attorney General.

## **RESULTS OF THE REVIEW**

Our review confirmed that Mr. Malcolm B. Ott misappropriated \$114.00 from cash receipts at the West Nashville station for his personal benefit. Our review established that Mr. Ott misappropriated an additional \$503.50 in cash receipts from a cash register at the station. Mr. Ott admitted that he had misappropriated the cash receipts by processing false information through the cash register. This false information caused the register tape to indicate that the cash was returned to the license applicant as a refund. These fabricated refunds allowed his misappropriation to go undetected. Our review also established that Mr. Ott destroyed cash register tapes in order to conceal his theft. As a result of Mr. Ott's actions, the department incurred a total loss of \$617.50.

We also determined that the Department of Safety's Internal Affairs staff did not conduct a thorough investigation into the misappropriation of funds by Mr. Ott because the staff questioned him about a \$114.00 loss on January 30, 1996, but did not ask Mr. Ott specifically about other losses, totaling \$503.50, that occurred on January 2 and 3, 1996, or about the missing cash register tapes for those days, even though they were aware of the losses and the missing tapes at the time of the interview.

Furthermore, our review determined that the Department of Safety allowed Mr. Ott to resign on April 11, 1996, rather than terminate him for gross misconduct. Gross misconduct is defined in the Department of Personnel Rules and Regulations as "any job related conduct which may subject an employee to criminal prosecution." This action enabled Mr. Ott to receive payment for his accumulated annual leave which would have been forfeited had he been terminated for gross misconduct. Mr. Ott was paid \$552.42 for his accumulated annual leave.

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"Audit Highlights" is a summary of the audit report. To obtain the complete audit report which contains all findings, recommendations, and management comments, please contact

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INTRODUCTION

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On February 26, 1996, the Division of State Audit received information from the Department of Safety, Internal Audit, regarding falsified driver's license application refunds issued at the West Nashville Driver's License Station. We asked the Department of Safety to review the matter further and to report their findings to us. The Department of Safety's Internal Affairs staff interviewed Mr. Malcolm B. Ott, a Driver's License Examiner, on April 11, 1996, and determined that Mr. Ott had reported three refunds on January 30, 1996, which were apparently falsified in order to perpetrate a theft totaling \$114.00.

On May 9, 1996, this office received a inquiry from the Department of Safety regarding how it should proceed with collecting restitution from Mr. Ott. Along with the request, the Department of Safety included the Internal Affairs case information. During the review of this information, it was determined that additional work was necessary because losses and missing cash register tapes were noted for two additional days in 1996. On May 13, 1996, the Department of Safety was notified that the Division of State Audit would be reviewing the matter further. We interviewed Mr. Ott on May 17, 1996, and determined that Mr. Ott had in fact taken funds on January 2 and 3, 1996, in the amount of \$503.50, and had destroyed the cash register tapes relating to those two days. Mr. Ott signed an affidavit on May 20, 1996, admitting his actions.

**OBJECTIVES OF THE REVIEW**

The objectives of the review were

1. to confirm whether Mr. Ott misappropriated \$114 at the West Nashville Driver's License Station;
2. to determine whether any additional funds were misappropriated;
3. to determine whether Mr. Ott destroyed governmental records in conjunction with his misappropriations;
4. to determine whether the department's reconciliation procedures of receipts to application and drivers' license fees were adequate;

5. to determine the circumstances under which the Department of Safety's Internal Affairs did not pursue other activities relative to Mr. Ott;
6. to determine the circumstances surrounding the Department of Safety's decision to permit Mr. Ott to resign and be paid for his accumulated annual leave after he admitted engaging in what would appear to be gross misconduct;
7. to refer our findings to the Department of Safety for corrective action; and,
8. to refer the results of our review to the Office of the State Attorney General and the Office of the District Attorney General.

## **SCOPE OF THE REVIEW**

Our review included the examination of the Department of Safety's Internal Affairs case information and included interviews with Mr. Malcolm B. Ott and department staff.

## **BACKGROUND**

### Mr. Ott's Duties as a Driver's License Examiner

During his six-month employment with the Department of Safety's West Nashville Driver's License Station which began on October 16, 1995, Mr. Ott was responsible for a number of duties which included operating a cash register and making bank deposits. On the days in question, January 2, 3, and 30, 1996, Mr. Ott staffed the "original license" desk, which held the cash register used to receipt license and examination fees.

### Driver's License Fee Process

According to the procedures for receipting fees and processing refunds (which are contained in the Department's Driver's License Policy and Procedures Manual), fees for the examination and the issuance of first-time licenses are collected simultaneously, although the license fee is not technically due until the license examination is passed. With these procedures, the only time a refund is necessary, or appropriate, is when an individual does not pass the examination.

If an individual fails the examination, that individual is directed by the examiner to the cash register where the original payment of the license fee had been made, and the person is given a refund. The individual is directed to the same register at which the fees were paid so that the original register's receipts will reconcile correctly with the register tape which records all transactions.

In order to transact a refund, the employee enters the application number and the amount of the refund into the cash register to complete the transaction. Once the information is entered into the register, the employee places the application into the register which automatically stamps it with refund information.

#### Reconciliation Process in Place at the Time of Mr. Ott's Misappropriation

At the time Mr. Ott created falsified refunds, the Department of Safety did not have an effective form of reconciliation of cash receipts to drivers' licenses issued at the driver's license station. The only reconciliation performed was through the use of a "Z-tape," which is a cash register tape summary that lists the summary totals for the day. This summary tape lists the total amounts to be posted to the various funds (such as the General Fund or the Motorcycle Riders' Safety Fund). This summary tape did not list the total number of refunds or the total dollar amount of the refunds performed during the day.

However, the cash register did generate a tape which recorded each transaction that took place during the day. Despite the availability of this information, these tapes were not used for reconciliation purposes but were instead stored in a box. Thus, at the time of Mr. Ott's misappropriation, it appears that adequate procedures were not in place to utilize all available information to account for all daily activity.

#### Current Reconciliation Process

On January 31, 1996, Mr. Bernard Pickney, Department of Safety, Director of Internal Audit, visited the West Nashville station in order to train the station supervisor, Ms. Shelia Granberry, on the newly implemented reconciliation procedures.

The new system, as explained by Mr. Pickney, allows station personnel to reconcile the issued drivers' licenses to the cash receipts on a daily basis. Mr. Pickney stated that a summary of drivers' licenses issued the previous day is printed from INFOPACK, a computerized mainframe database, the following morning, and the cash receipts deposit amount for the previous day is manually compared to the total amount of collections relating to the issued drivers' licenses as recorded on INFOPACK by the station supervisor. Mr. Pickney also explained the variations in processing associated with the different types of licenses.

Mr. Pickney stated that the newly implemented reconciliation system should detect inappropriate activity such as falsified refunds. He stated that on occasions when the cash receipts deposit amount cannot be reconciled to the INFOPACK summary information, the cash register tapes are to be reviewed by the station supervisor to determine the reason for the difference.

Mr. Pickney stated that the reconciliation procedures were to be in place at all stations as of April 1, 1996, and that the station supervisors are supposed to perform the reconciliation every day. He added that the procedures appear to be operating as expected, although reconciliations

are not always being performed in a timely manner at some stations. According to Mr. Pickney, Internal Audit is currently conducting a review on supervisor reconciliations on a sample basis to ensure that the reconciliations are being performed effectively and in a timely manner. Mr. Pickney also stated that these new procedures would be added to the department's written policies and procedures after the implementation and review stages.

#### Discovery of Mr. Ott's Misappropriation

During the site visit on January 31, 1996, Mr. Pickney and Ms. Granberry compared the INFOPACK summary to the cash receipts deposit amount for the station's business activity on January 30, 1996, and detected a shortage of \$114.00. Mr. Pickney and Ms. Granberry then reviewed the January 30, 1996, activity through the cash register tapes. They discovered that three driver's license fees were shown as refunded on the cash register tapes. When the applications were examined, not only were the applications not stamped with any refund information, but they showed that the applicants had passed the exam and had been issued valid drivers' licenses. The station's work schedule showed that Mr. Ott was operating the register at the time the false refunds were issued.

Mr. Pickney proceeded to review all activity at the West Nashville Driver's License Station from October 2, 1995, through January 31, 1996. Mr. Pickney discovered shortages that could not be reconciled on two additional days in January 1996. Mr. Pickney could not determine the cause of the shortages on January 2 and 3, 1996, because the cash register tapes for those two days were missing. Mr. Pickney determined that Mr. Ott was operating the register at the West Nashville station for these two additional days. Mr. Pickney stated that he told Internal Affairs about the suspicious activity on January 2 and 3, 1996, and he said that he told Internal Affairs that he could not determine the specific amount of money taken because the cash register receipts were missing.

It should be noted that the retention of cash register tapes was not required by policy. According to Mr. Pickney, this requirement has since been added to the department's policies and procedures.

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#### DETAILS OF THE REVIEW

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#### Mr. Ott Misappropriated Cash Register Receipts and Concealed His Misappropriation through Fabricated Driver's License Application Refunds and Theft of Cash Register Tapes

Staff of the Division of State Audit interviewed Mr. Ott on May 17, 1996, in their offices in Nashville, Tennessee. On May 20, 1996, Mr. Ott signed an affidavit acknowledging that he had misappropriated funds from the West Nashville station on January 2, 3, and 30, 1996. Mr.

Ott also admitted taking the cash register tapes that detailed the daily activity for January 2 and 3, 1996, in an attempt to conceal his theft. Mr. Ott admitted taking a total of \$617.50 from the West Nashville Driver's License Station.

Mr. Ott stated that he created three false refunds on January 30, 1996, and also admitted that he created similar false refunds on January 2 and 3, 1996. Mr. Ott admitted that he created these false refunds by processing information through the cash register in such a way that the register tape indicated that cash was returned to the driver's license applicant as a refund. These fabricated refunds allowed his misappropriations to go undetected since there was no effective reconciliation of receipts to licenses issued. He told us that he entered a valid application number (for an applicant who had paid the license fee and passed the license examination) on the cash register and a corresponding refund amount. The cash register would then print the refund information on the application inserted for validation. Mr. Ott explained that he had inserted a blank piece of paper into the register rather than the application. Mr. Ott stated that he then took the refunded amount from the register receipts and destroyed the validated piece of paper.

This activity reduced the total amount of cash register receipts and thereby made the register tapes agree with the cash receipts in the register drawer. However, the amount collected for drivers' licenses issued did not agree with the cash receipts. The reconciliation procedures at that time did not detect the misappropriation because drivers' licenses issued were not compared to cash receipts.

When asked how he had conceived the idea to obtain cash through issuing falsified refunds, Mr. Ott explained that he had overheard his supervisor, Ms. Granberry, discussing a former employee who had perpetrated a similar theft of funds. He stated that the discussion included the details on the method the former employee had used to falsify refunds.

Mr. Ott told us that the Internal Affairs staff suggested that he resign so that he would not be terminated. Mr. Ott also stated that they suggested it would look better on his record if he resigned. However, Internal Affairs staff stated that they did not recall suggesting to Mr. Ott that he resign.

#### Internal Affairs Investigation

We determined that the Department of Safety's Internal Affairs staff did not conduct a thorough investigation into the misappropriation of funds by Mr. Ott because the staff questioned Mr. Ott about a \$114.00 loss that occurred on January 30, 1996, but did not ask him about other losses, totaling \$503.50, that occurred on January 2 and 3, 1996, or about the missing cash register tapes for those days, even though they were aware of the losses and the missing tapes.

Furthermore, it does not appear that the Internal Affairs investigation was performed in a timely manner. Although the falsified refunds were noted on January 31, 1996, it was not until April 11, 1996, that Mr. Ott was interviewed. Apparently, on February 20, 1996, after the Internal Audit Division completed their review of the matter, they requested the Department of

Safety's Internal Affairs Division to investigate the falsified refunds at the West Nashville Driver's License Station. The Internal Affairs investigation was apparently delayed by coordinating and staffing difficulties.

During Internal Affairs' interview of Mr. Ott on April 11, 1996, Mr. Ott admitted taking \$114.00 from the West Nashville station by issuing three falsified refunds on January 30, 1996. At the time of the interview, Internal Affairs knew about losses on January 2 and 3, 1996, and knew that the cash register tapes for those days were missing. However, Mr. Ott was not specifically questioned about the suspicious activity or about the missing cash register tapes. When we asked why Internal Affairs staff did not pursue such questioning, staff reported that when they asked Mr. Ott if he had taken any other money, Mr. Ott stated that the \$114.00 was the only money he had taken.

#### The Department of Safety Accepted Mr. Ott's Resignation

Our review determined that the Department of Safety allowed Mr. Ott to resign on April 11, 1996, rather than terminate him for gross misconduct. Gross misconduct is defined in the Department of Personnel Rules and Regulations as "any job related conduct which may subject an employee to criminal prosecution" and provides the department with the authority to terminate an employee for gross misconduct. *Tennessee Code Annotated*, Section 8-50-807, "Termination Compensation," subsection (d), states that "any employee who is dismissed or terminated from state service for gross misconduct, or who resigns [emphasis added] from state service to avoid dismissal for gross misconduct, or who was guilty of gross misconduct prior to leaving state service, shall not be entitled to collect any of the benefits, hereunder." Mr. Ott's actions subjected him to criminal prosecution. Therefore, it appears that the department should have withheld his annual leave balance. Since the department failed to withhold Mr. Ott's annual leave balance, the Department incurred an additional loss of \$552.42 for the 79.6 hours of annual leave paid to Mr. Ott after his resignation.

When we asked Mr. Cole, Director of Internal Affairs, why the department allowed Mr. Ott to resign instead of terminating him for gross misconduct, Mr. Cole explained that it was easier to let someone resign because the Department does not have to hold a due-process hearing. According to Mr. Cole, Mr. Jerry W. Scott, Deputy Commissioner of the Department of Safety, decided not to pursue the forfeiture of Mr. Ott's annual leave and stated that the Department of Safety was willing to accept restitution from Mr. Ott. When we spoke with Mr. Scott directly about the matter, Mr. Scott stated that he was obviously misinformed about the situation and that the department should have terminated Mr. Ott. Mr. Scott further stated that the department was willing to do whatever they needed to do.

#### Referral to the State Attorney General and District Attorney General

The information obtained during this investigation was provided to the Office of the State Attorney General and to the Office of the District Attorney General, 20th Judicial District (David-

son County), on June 5, 1996. Mr. Ott was indicted by the Davidson County grand jury and on October 17, 1996, he plead guilty to one count of theft of property which is a Class E felony. On this date he made full restitution of \$617.50 to the state and was placed on probation for one year under the provision of *Tennessee Code Annotated*, Section 40-35-313.

### Recommendations

1. The Department of Safety should complete its review of the new reconciliation procedures to ensure that they have been implemented, are functioning as intended, and are performed in a timely manner.
2. The Department of Safety needs to ensure that thorough and timely investigations are performed.
3. Management should develop a consistent policy regarding the appropriate action to be taken against employees who have misappropriated funds to ensure compliance with State law. In particular, management should consider the effect of *Tennessee Code Annotated*, Sections 39-14-130, 39-16-504, and 8-50-807, and State Department of Personnel Rules and Regulations, 1120-1-.01(42) and 1120-10-.06(8). The areas mentioned above support terminating an employee for gross misconduct when the employee misappropriates funds and tampers with governmental records. In all cases of termination for gross misconduct, management should ensure that the employee's accumulated annual leave is withheld.