

TOLLESON JUSTICE COURT
Special Investigation
July 1997 through April 1998



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ACTING AUDITOR GENERAL

STATE OF ARIZONA
OFFICE OF THE
AUDITOR GENERAL

September 8, 1999

The Honorable Joe "Pep" Guzman
Tolleson Justice Court

We have conducted a limited investigation of the alleged theft of public money during the period July 1997 through April 1998 at the Tolleson Justice Court. The purpose of our investigation was to determine the amount of money misappropriated during that period, if any, and whether the Court's internal controls over cash receipts were adequate to prevent their misappropriation.

Subsequent to the completion of this investigation, former Fines Manager, Elfida Esquivel, entered into a plea agreement with the Office of the Attorney General in which she pled guilty to one count of theft (A.R.S. §13-1802).

Our limited investigation consisted primarily of inquiries and examination of selected records and other documentation. Therefore, our investigation was substantially less in scope than an audit conducted in accordance with generally accepted auditing standards. Accordingly, we do not express an opinion on the adequacy of the financial records or the internal controls of the Tolleson Justice Court. We also do not ensure that all matters involving the Court's internal controls that might be material weaknesses under standards established by the American Institute of Certified Public Accountants or other conditions that may require correction or improvement have been disclosed.

Our finding and recommendations as a result of our limited investigation are set forth below.

Background

Justice of the Peace Courts' geographical boundaries, or precincts, are set by that County's board of supervisors. Justice of the Peace Courts hear traffic cases and certain civil and criminal cases. They receive monies for bonds, forfeitures, fines and penalties. The Justice of the Peace is responsible for establishing and maintaining appropriate internal controls for properly administering the court. In that effort, justice courts should use the *Uniform Accounting Manual for Arizona Justice of the Peace Courts* in conjunction with the *Minimum Accounting Standards, Compliance Checklist and Guide for External Reviews by Auditors for Arizona Courts*.

Unlawful Use of Public Money

During the period July 1997 through April 1998, Elfida Esquivel, former Tolleson Justice Court Fines Manager, misappropriated at least \$1,328 of the court's money.

Elfida Esquivel misappropriated cash payments made by defendants on the Fines Management Program and converted the cash for her personal use. Although Fines Managers are not authorized to receive payments, Esquivel took at least \$1,328 from eight defendants on the Fines Management Program and did not credit them for their payments. Accordingly, those defendants were inaccurately recorded in default status. For those Fines Management defendants recorded as in default, Esquivel was supposed to initiate the process for collection or license suspension/warrant issuance; however, no one ever verified her action or inaction for any defendants. Accordingly, Esquivel controlled the Fines Management accounts with little or no oversight and was able to keep defendant payments for herself without notice by either court personnel or defendants.

Esquivel resigned from her position effective May 29, 1998. The defendants who were in default because Esquivel had been stealing their payments would, at that time, normally start receiving notices of non-payment from the new Fines Manager. One way to prohibit those defendants from receiving such notices, and thus notify the court about the aberration, was for the court to receive payments for those defendants' accounts.

Between July 1998 and February 1999, money order payments on these eight defendants' accounts were found on the floor of the court's lobby, apparently pushed under the locked court doors during off-hours. The court continued to receive payments this way for these defendants until the total reached \$1,166. The money orders were in court envelopes with court remittance slips. Some of these slips, used for updating the court records, had fraudulent information recorded on them. Further, the payments made were \$162 less than the original theft.

Recommendation

To help ensure proper control over public monies, the Justice of the Peace should implement policies and procedures outlined in the *Uniform Accounting Manual for Arizona Justice of the Peace Courts* in conjunction with the *Minimum Accounting Standards, Compliance Checklist and Guide for External Reviews by Auditors for Arizona Courts*. These policies and procedures would include, but are not limited to, the following:

The Justice of the Peace should ensure that cash is accounted for from the moment it is received.

- For cash received over-the-counter, issue prenumbered and numerically controlled receipt forms or ring it through a cash register.
- For cash received through the mail, record amounts on a mail log.
- Allow only cashiers to receive payments.
- Summarize cash receipt forms, cash register tapes, and amounts recorded on mail logs daily and reconcile to the amount of cash and checks on hand.
- Review and approve such reconciliations at a supervisory level.
- Deposit cash intact and on a daily basis.
- Compare validated deposit receipts to approved cash receipt summaries and amounts recorded in the court's records and approve at a supervisory level.

The Justice of the Peace should also ensure that all cash is safeguarded.

- Restrict cash-handling duties to a limited number of employees and do not permit those employees to perform the various reconciliations or make the deposits. Ensure that one employee does not control a complete phase of any accounting activity.
- Restrict safe combinations and keys to cash boxes to a limited number of employees.
- Lock safes and cash boxes when they are not in use.

Finally, the Justice of the Peace should ensure that the Department's written cash policies and procedures are updated periodically. Departure from these procedures should be thoroughly investigated and resolved on a timely basis.

This letter is intended for the information of the Tolleson Justice Court. However, this letter is a matter of public record and its distribution is not limited.

Should you have any questions concerning the contents of this letter, please let us know.

Sincerely,

A handwritten signature in black ink that reads "Debbie Davenport". The signature is written in a cursive style with a large, sweeping flourish at the end.

Debbie Davenport
Acting Auditor General

cc: Michael C. Cudahy
Criminal Division Chief, Attorney General's Office