

POLICY DIRECTIVE NO. 3 (Reissued June 1993)

POLICY RELATING TO OVERAGES/SHORTAGES IN MONIES COLLECTED

This policy is issued in accordance with NMSA 1978, Section 35-7-1 to provide guidelines and directions regarding any overages/shortages that may occur during the collection of monies by the magistrate courts.

Overages

Whenever overages occur and monies attributable to the overages cannot be identified, the overages amount collected must be deposited with regular daily receipts. Any excess money received, which cannot be identified, is to be receipted and deposited in the state general fund in the regular course of business. An explanatory letter from the magistrate ~~judge~~ must accompany the next regular report to the AOC.

Shortages

A letter from the magistrate describing the circumstances surrounding any shortage must be filed with the AOC. Shortages over \$10.00 must be reported with the standardized monthly revenue report. A shortage over ten dollars (\$10.00) must be reported to the AOC immediately upon discovery.

If the aggregate total of all shortages for any magistrate court exceeds fifty dollars (\$50.00) during any one fiscal year, or if the number of recorded shortages during a fiscal year exceeds five (5) shortages even though the fifty dollar (\$50.00) limit is not breached, the director of the AOC may request that the AOC internal auditors perform an audit of the financial records of the court. A formal response to all audit findings by the magistrate will be required.

If the ceiling of fifty dollars (\$50.00) per fiscal year is exceeded by any magistrate court, or if the aggregate number of shortages during a fiscal year exceeds five (5), depending on the circumstances, the internal auditors may conduct a formal audit or a review of court documents. The internal auditor will hold an exit audit conference with the magistrate and appraise him/her of the findings. A response by the magistrate to the audit findings must be filed with the AOC within ten (10) working days. The audit findings and the recommendations for corrective action will be presented to the AOC director.

The magistrate may be required to reimburse the State for the amount in controversy if, after an investigation and formal audit, negligence or impropriety is shown on the part of the

judge. If the director determines adequate measures are being taken to prevent future shortages, the director may waive the required payment. If the director waives the required payment, the matter is concluded. If the director finds negligence or impropriety and does not waive the required payment, the Supreme Court shall determine whether the magistrate should reimburse the State. (See Administrative Procedures Manual for processing instructions.)

This policy applies to all magistrate courts; however, no newly-elected or appointed magistrate shall be responsible for a shortage existing at the time he or she takes office.