

Opinion No. 60-193

October 14, 1960

BY: OPINION of HILTON A. DICKSON, JR., Attorney General

TO: Mr. Robert D. Castner State Auditor Santa Fe, New Mexico

QUESTION

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1. What is the maximum length of time that a county treasurer has to deposit public moneys received?
2. What is the maximum length of time that anyone has to deposit public moneys received?

CONCLUSIONS

1. See Analysis.
2. See Analysis.

OPINION

{*596} ANALYSIS

The answer to your first question is twofold. First, all moneys received by county treasurers which by statute must be forwarded to the State Treasurer, must be so forwarded within ten days after receipt by the county treasurer. Section 11-2-3, N.M.S.A., 1953 Compilation, so requires. Second, we have found no statute which sets a time limit on deposit of funds by a county treasurer in its various designated depositories. We can only presume that the Legislature intended to leave this decision to the judgment of the county treasurer. We point out, however, that for the proper administration of the affairs of any county, these funds should be deposited as soon as practicable -- that is, within a reasonable time. Exactly what is a reasonable time depends upon each individual case and cannot be answered in the abstract.

We presume that by the use of "anyone" in your [Illegible Word] question, you refer to public officials or employees of the State, its agencies and its political subdivisions. Proceeding on this assumption, we are of the opinion that any official or employee having the responsibility of receiving funds for the State and its agencies must deposit these moneys so received with the State Treasurer by the close of the next succeeding business day after the receipt of the money. Section 11-2-3, supra, specifically so provides.

As regards deposit of moneys received by the officials or employees of the various political subdivisions, we once again fail to find any section of the statute which establishes a time limit in which these moneys must be deposited or turned over to the various treasurers, as the case may be.

Once again, we are of the opinion that this is something left to the judgment of the person involved. Here again, we feel that these deposits should, to insure the orderly administration of affairs of {*597} the subdivision, be deposited within a reasonable time.

You cite in your letter an instance of a school keeping several thousand dollars from sports gate receipts laying around in a file. You point out that this is just asking for a theft of public funds. With this, we agree and feel that under the facts set out in this specific example the public money was left undeposited an unreasonable length of time in view of the fact that the school has had public money stolen in the recent past.

By: Boston E. Witt

Assistant Attorney General