

OFFICE OF AUDITS & ADVISORY SERVICES



GRAND JURY AUDIT OF THE SHERIFF'S DEPARTMENT INMATE WELFARE FUND

FINAL REPORT

Chief of Audits: Juan R. Perez
Audit Manager: Laura R. Flores, CIA, CFE, CGAP
Auditor II: Christopher Efird, CPA
Auditor I: Kotomi Johnson, CPA

Intentionally Left Blank



County of San Diego

TRACY M. SANDOVAL
DEPUTY CHIEF ADMINISTRATIVE OFFICER/
AUDITOR AND CONTROLLER

AUDITOR AND CONTROLLER
OFFICE OF AUDITS & ADVISORY SERVICES
5530 OVERLAND AVENUE, SUITE 330, SAN DIEGO, CA 92123-1261
Phone: (858) 495-5991

JUAN R. PEREZ
CHIEF OF AUDITS

April 6, 2016

Melinda Richards, Foreperson
County of San Diego Grand Jury
330 W. Broadway, Suite 477
San Diego, CA 92101-3830

Dear Ms. Richards:

FINAL REPORT: GRAND JURY AUDIT OF THE SHERIFF'S DEPARTMENT INMATE WELFARE FUND

Enclosed is our report on the Grand Jury Audit of the Sheriff's Department Inmate Welfare Fund. The report addresses the audit objective specified in the Grand Jury request letter dated January 7, 2016.

Our audit was conducted in accordance with auditing standards prescribed by the Institute of Internal Auditors, Inc., as required by California Government Code, Section 1236.

Thank you for the opportunity to be of service to your office. If you have any immediate concerns about the report, please contact me at (858) 495-5661.

Sincerely,

JUAN R. PEREZ
Chief of Audits

AUD:CE:aps

Enclosure

c: Tracy M. Sandoval, Deputy Chief Administrative Officer/Auditor and Controller

INTRODUCTION

Audit Objective

At the request of the San Diego County Grand Jury (Grand Jury), the Office of Audits & Advisory Services (OAAS) completed an audit of the County of San Diego Sheriff's Inmate Welfare Fund (IWF). The objectives of the audit were to identify and evaluate existing policies for the administration of the IWF, determine whether the IWF has been used in accordance with applicable requirements, evaluate the adequacy of emergency funding levels, and identify additional funding sources for IWF programs.

Background

The IWF for the County of San Diego (COSD) was established for the benefit of inmates at COSD facilities. The IWF is governed by Penal Code, Section 4025 which states that monies deposited in the IWF shall be expended primarily for the benefit, education, and welfare of the inmates confined within facilities.¹

The San Diego County Sheriff's Department (Sheriff's Department) has appointed the IWF Committee (Committee) to administer the IWF. The Committee is comprised of the Detention Services Bureau Assistant Sheriff and Commanders, Detention Facility Commanders, the Inmate Services Division Manager, Reentry Services Manager and one civilian volunteer appointed by the Sheriff's Department.

This fund is primarily financed through the revenue generated from commissions earned from inmate telephone calls and profits from inmate purchases from the jail commissary.

Telephone Commissions – In 2012, the Sheriff's Department entered into an agreement with Securus Technologies, Inc. (Securus) to provide telephone services within the County's correctional facilities. In exchange for that exclusive license, Securus pays a percentage from all local, long distance, and prepaid calls into the IWF.

The Federal Communications Commission (FCC) has voted to cap the cost of interstate (between two states) and intrastate (within the same state) inmate telephone calls nationwide. The issue of family contact and recidivism played a contributing role in the FCC's decision. These rates are feasible only if implemented in conjunction with corresponding reductions in commission payments to jails and sheriff departments.

The US Court of Appeals granted prison phone companies a judicial stay on March 7, 2016 that halts the implementation of new, lower rate

¹ Penal Code, Section 4025 (a) The sheriff of each county may establish, maintain, and operate a store in connection with the county jail and for this purpose may purchase confectionary, tobacco, and tobacco users' supplies, postage, and writing materials, and toilet articles and supplies, and sell these goods, articles, and supplies for cash to inmates in the jail. (d) There shall be deposited in the inmate welfare fund any money, refund, rebate, or commission received from a telephone company or pay telephone provider when the money, refund, or commission is attributable to the use of the pay telephone which are primarily used by inmates while incarcerated. (e) The money and the property deposited in the inmate welfare fund shall be expended by the sheriff primarily for the benefit, education, and welfare of the inmate confined within the jail.

caps on inmate calls. However, due to the uncertainty regarding future phone commissions, there is a potential risk that this revenue source will significantly decrease in the near future.

Commissary Operations – The Sheriff’s Department commissary was established to enable inmates to purchase stationery, personal hygiene items, snacks, and entertainment which would otherwise not be available. Profits from commissary operations are transferred to the IWF.

The IWF has been used to implement key programs to aid in the transition from custody to the community. The Sheriff’s Department has been recognized by the Urban Institute as having made substantial progress improving jail transition processes by having implemented procedures such as screening by risk level, length of stay, sentence type, and classification. Additionally, the Sheriff’s Department initiated an incentive based housing program to encourage participation in available programming to assist in the re-entry process. In May 2015, the Sheriff’s Department launched Offender 360, a multimodal data platform that allows them to track program participation and monitor local trends to adjust resources and planning as needed.²

Audit Scope & Limitations

The scope of the audit focused on evaluating policies and procedures related to the IWF and a review of expenditures from fiscal years 2012-13 through 2013-14.

This audit was conducted in conformance with the International Standards for the Professional Practice of Internal Auditing prescribed by the Institute of Internal Auditors as required by California Government Code, Section 1236.

Methodology

OAAS performed the audit using the following methods:

- Interviewed key personnel regarding policies, processes, and requirements relevant to the IWF.
- Examined rules, regulations, and policies and procedures related to the IWF.
- Identified and evaluated existing controls and policies for the administration of the IWF.
- On a sample basis, determined whether the fund was being used in accordance with applicable requirements
- On a sample basis, determined whether the phone commissions and commissary profits were properly allocated to the IWF.
- Evaluated the adequacy of emergency funding levels and determined if adequate plans or strategies exist for the use of the emergency funds.

² The Urban Institute is a Washington DC-based organization that carries out economic and social policy research.

- Determined whether an adequate contingency plan exists to address the proposed FCC ruling.

AUDIT RESULTS

Summary

OAAS conducted a review of the Sheriff's Department IWF and determined that the IWF is generally in compliance with regulations and the fund has been used for the benefit, welfare, and educational needs of the inmates. OAAS also determined that IWF expenditures have been properly recorded and accounted for. Further, OAAS found no evidence of inappropriate activities by the Sheriff's Department.

However, in making this determination, we noted certain internal control weaknesses meriting management's attention. These areas of concern are provided in the findings.

Finding I:

Unallowable Expense Funded by the IWF

OAAS detail testing found that of 30 expenditures sampled, 1 purchase was determined to be questionable under the provision of Penal Code Section 4025. The unallowable expense identified was the George Bailey Detention Facility – Day Room Toilets – ISO Rec Yard (sampled expense is \$89,999, total project expense is \$449,997)

This sampled expense was a payment in relation to a larger project to create 10 recreation areas at the George Bailey Detention Facility to provide recreation yard space for administrative segregation inmates. Each area was created to include a toilet, sink, and water fountain.

This expense is arguably a required expenditure pursuant to the requirements of Title 15, which outlines rules and regulations for adult institutions, programs and parole, and Title 24 which stipulates recreation yard guidelines. Therefore, this expense is not allowable, on its face, for funding from the IWF.

According to the Sheriff's Department staff, the project would have been delayed if a request was made to pay for the expenditure out of the General Fund.

Title 15, provides guidelines for the minimum standards for local detention facilities require inmates to allow three hours of exercise distributed over a period of seven days. Recreational areas are required to provide the minimum exercise time.³

³ California Code of Regulations -Title 15 - §1065. Exercise and Recreation: The facility administrator of a Type II or III facility shall develop written policies and procedures for an exercise and recreation program, in an area designed for recreation, which will allow a minimum of three hours of exercise distributed over a period of seven days. Such regulations as are reasonable and necessary to protect the facility's security and the inmates' welfare shall be included in such a program.

Penal Code Section 4025 permits the use of the IWF to augment, but not replace, required county expenses of confining the inmates.⁴

Funding this expense with IWF monies results in non-compliance with Penal Code Section 4025 and leads to unnecessary use of the Inmate Welfare Fund.

Recommendation: To ensure that IWF monies are spent for the benefit, education, and welfare of the inmates confined within the jail, the Sheriff's Department should ensure that expenditures funded by the IWF are thoroughly reviewed for compliance with all applicable laws and regulations.

Finding II: **Expense Funded by the IWF was not Properly Approved**
OAAS identified a non-budgeted purchase of an electric vehicle for Las Colinas Detention and Reentry Facility for \$15,173 that was not properly approved through the established process.

According to the IWF policies and procedures, to purchase a non-budgeted item or service, it must be brought to the Committee for consideration and approval. The purchasing request shall be accompanied by a "Letter of Justification" to the County Board of Supervisors (BOS). Upon approval by the Committee, the requesting unit will forward the purchasing request with the "Letter of Justification" to the Inmate Service Division for preparation of a Board letter. Once approved by the BOS, the procurement request, "Letter of Justification" and the BOS approval document, is forwarded to the Accounting Unit for further processing.

According to the Sheriff's Department, the purchase was not brought to the Committee for approval since this purchase was a replacement of an existing vehicle. The procurement request was sent to the Department of General Services' Fleet Division, directly instead of going through the required process for the purchase of a non-budgeted item.

Proper approval of non-budgeted items will ensure that the expenditures are made for the benefit, education, and welfare of the inmates confined within the jail. Insufficient approval could result in potential waste and abuse of the IWF.

Recommendation: The Sheriff's Department should properly follow and document approval of IWF expenditures according to established procedures.

Finding III: **Lack of Written Policies and Procedures for Jail Commissary Profit Reconciliation**

The Sheriff's Department does not have written policies and procedures regarding the need and timing of profit transfer reconciliations to allocate Jail Commissary profit from the Jail Commissary to the IWF.

⁴ Penal Code, Section 4025 (e) Inmate welfare funds shall not be used to pay required county expenses of confining inmates in a local detention system, such as meals, clothing, housing, or medical services or expenses, except that inmate welfare funds may be used to augment those required county expenses as determined by the sheriff to be in the best interests of inmates.

A strong system of internal controls includes the performance of periodic reconciliations of accounts. The process of reconciliation ensures the accuracy and validity of financial information.

Lack of written policies and procedures that outline required reconciliations can result in inconsistent administration of the Jail Commissary Fund concerning profit transfers as noted in prior audits.

Recommendation: The Sheriff's Department should establish written policies procedures that clearly describe the jail commissary profit transfer process. The procedures should define responsibility and guidelines over profit transfers; identify how profit transfer amounts are determined and the process when the jail commissary fund sustains a loss instead of a profit.

Finding IV: Agreement Regarding Phone Revenue Allocation to the Probation Department is not Documented

During audit testing of phone contract revenues, OAAS found that 5% of the Annual Revenue Guaranteed (ARG) amount was being allocated to the Probation Department.

While the agreement states that phone revenue will be provided to the Sheriff's Department and Probation Department, the specific allocation of revenue is not documented.

Adequate documentation of agreements between parties provides evidence pertaining to transactions that have occurred including the parties who are authorized to perform such transactions. Proper documentation provides evidence of what has transpired as well as information for researching any discrepancies that may arise.

A lack of written agreement of the revenue distribution may result in inconsistent administration of phone company revenues that are received.

Recommendation: The Sheriff's Department should re-evaluate the distribution of phone contract revenues based on current phone usage at each facility. Also, document the verbal agreement with the Probation Department regarding the administration of the phone revenues received.

Finding V: Insufficient Internal Controls over IWF Minor Equipment and Fixed Assets

Based on historical cost, there is approximately \$146,248 of minor equipment and \$ 17,693 of fixed assets pertaining to the IWF that were not sighted during the inventory count conducted in January 2016.

The breakdown of unsighted assets is as follows:

Table 1: Fixed Assets

| Asset Type | Book Value of Amount Not Sighted |
|-------------------|---|
| Weight Machine | \$ 6,459.40 |
| Scanner | \$11,233.75 |
| Total | \$17,693.15 |

Table 2: Minor Equipment

| Asset Type | Book Value of Amount Not Sighted |
|------------------------|---|
| Books | \$10,082.94 |
| Furniture | \$23,833.13 |
| Information Technology | \$14,653.29 |
| Other Minor Equipment | \$97,678.83 |
| Total | \$146,248.19 |

According to the Sheriff's Department, many of these items are older assets and due to the size of the facilities as well as high turnover of corrections staff, the location of these assets might not have been available when the inventory count was counted. Additionally, difficulty locating the items may have come from not properly affixing a numbered tag upon initial receipt of the items.

The County Administrative Manual 0050-02-01 - Control of Capital Assets and Minor Equipment, requires the County Officers and Department heads are responsible for all County property (assets) in their charge, including (fixed) capital assets and minor equipment. These responsibilities include the identification and control of these assets, the filing of inventories and submission of reports as specified by the Board of Supervisors.

Insufficient controls over the IWF assets increases the risk of assets being misplaced, lost or misappropriated.

Recommendation: The Sheriff's Department should:

1. Monitor year-to-date write-offs of missing assets at least quarterly and determine if additional control measures are warranted,
2. Implement procedures to ensure that an asset tag is physically placed on the asset at the time it is received, and
3. Develop and provide training to staff conducting physical inventory counts (e.g., Learning Management System web based training) to ensure obsolete assets are properly disposed and written off.

Finding VI: Increasing the Participation of Private Citizens in the Committee Would Ensure Impartial Decision Making

The Committee is composed almost entirely of Sheriff's Department staff and only includes one private citizen appointed by the Sheriff's Department. As such, the Sheriff's Department has complete discretion in regards to programs and expenses funded by IWF monies.

According to the Inmate Welfare Special Revenue Fund and Operating Procedures, the Committee shall be comprised of the Detention Services Bureau Assistant Sheriff, Bureau Commanders, Facility Commanders, Inmate Services Division Manager, Reentry Services Manager, and one civilian volunteer public member appointed by the Sheriff.

Due to the structure of the Committee, potential biases for certain programs or expenditures could influence judgment, diminish objectivity, and cause decisions to be made in the best interest of the Sheriff's Department instead of the inmates.

Segregation of duties is critical to an effective internal control system; it reduces the risk of both erroneous and inappropriate actions.

Based on OAAS research, it was noted that the San Bernardino and Los Angeles Counties' IWF Committees are comprised solely of private citizens with diverse backgrounds whose views on how the funds are used are more representative of inmate needs.

Recommendation: The Sheriff's Department should consider including a diverse group of private citizens as part of the Committee to ensure that operations of the IWF are conducted in the best interest of the inmates and to ensure impartial decisions regarding the use of the IWF.

Observation: Adequacy of IWF Reserve Funding Levels

OAAS found that, as of June 30, 2015, the balance of the IWF reserve fund totaled \$10,505,247. According to the Sheriff's Department, the IWF is managed with great fiscal responsibility which has allowed them to accumulate such balance in the reserve fund. In preparation of unforeseen events, the Sheriff's Department strived to maintain such balance to ensure that the services provided to the inmates would not be impacted.

Penal Code Section 4025 does not require a specific amount to be maintained in the IWF reserve funds. This is a decision at the discretion of the Sheriff's Department. As such, the Sheriff Department established a policy that requires a minimum fund balance equal to 50% of its operating budget to be maintained in the IWF reserve fund.

Due to the potential downfall in revenue related to the phone usage, the Sheriff Department may have to utilize the reserve fund to sustain program expenses in the near future. Further, the Sheriff Department is currently looking for other revenue sources to possibly fund the salary expense related to the IWF of \$3.1 million which correlates to the amount of revenue that would be lost due to the pending FCC ruling.

However, OAAS noted that while the reserve fund has increased over the year, a formal contingency plan to account for the use of reserve funds has not been developed.

The Sheriff's Department should consider developing a formal contingency plan that documents the planned use of reserve funds to offset potential downfall in revenues.

Office of Audits & Advisory Services

C ompliance R eliability E ffectiveness A ccountability T ransparency E fficiency

VALUE