

SAN DIEGO COUNTY SHERIFF'S DEPARTMENT INMATE WELFARE FUND

SUMMARY

The San Diego County Sheriff's Department (Sheriff) operates the Inmate Welfare Fund (IWF) as authorized by California Penal Code §4025. The IWF, generated primarily from jail commissary profits and telephone services, is mandated to be used solely for the benefit, education, and welfare of county jail inmates. It receives no taxpayer support. The 2015/2016 San Diego County Grand Jury found that, although the Sheriff's Department oversight of the IWF is basically in compliance with state regulations, it lacks strategic budget planning, independent auditing, and adequate internal budget controls. The Grand Jury commissioned an audit by the San Diego County Office of Audits and Advisory Services, which found examples of unallowable expenses, unapproved expenditures, and an absence of written policies and procedures. The Grand Jury recommends the Sheriff:

- Create a three-year Strategic Plan for the use of the IWF
- Strengthen internal controls
- Reimburse audit-identified inappropriate expenses to the IWF
- Create a plan for use of the IWF reserve
- Expand the IWF Committee by increasing the participation of citizens
- Rewrite the IWF Committee Operations manual
- Post the IWF Committee's roster and minutes on the Sheriff's Department website

INTRODUCTION

The Grand Jury has statutory authority to inspect jails in San Diego County. In the course of these inspections, the jury investigated the operations, policies, and procedures of the Inmate Welfare Fund.

PROCEDURE

The Grand Jury interviewed Sheriff's Department staff and IWF Committee (Committee) members. The Grand Jury visited San Diego County Sheriff's adult detention facilities, a state and a federal detention center. The Grand Jury consulted the California Penal Code, the Sheriff's Department Operating Manual, other counties' Grand Jury reports, and, above all, the County Office of Audits & Advisory Services IWF Report.

DISCUSSION

In fiscal year 2014/2015, IWF expenditures totaled \$6,885,053. The 2015/2016 budget is \$6,796,130. Over half of the IWF each year goes to inmate education in a contract with the Grossmont Union High School District Adult School for HiSet (high school completion) test preparation, and computer literacy. The remaining expenditures fall into

the categories of Ops and Support, Salaries (County Administrative Staff), Free Indigent Goods, Supplies, Entertainment and Recreation, Equipment, Maintenance and Miscellaneous. As of June 30, 2015, the IWF Reserve balance was \$10,505,247. The Sheriff's Department Detention Services Bureau Manual Section B.9 states: "The Inmate Welfare Fund will be administered by an Inmate Welfare Committee solely for the benefit, education and welfare of the inmates in compliance with Penal Code Section 4025." Its members include Sheriff's Department staff¹ and one civilian. The committee meets regularly (though interviewed members gave different answers to the question of frequency) to approve expenditures and receive reports.

STRATEGIC PLANNING

The Inmate Welfare Fund Operating Procedures manual begins, "It is the policy of the Sheriff of San Diego County to promote economy, efficiency, and effectiveness in the procurement of property and services for the inmates." Yet the Committee operates without a Strategic Plan for the IWF, and has never produced one. At a minimum, a Strategic Plan would include a mission-vision statement, a description of allowable categories for expenditures, and an outline of priorities. It would guide the Committee as they deal with the many competing claims on the IWF, so that inmates receive the greatest benefit possible, consistent with broader department goals.

The need for a Strategic Plan has become more acute since passage of AB109, or Realignment, which has placed longer-term inmates in county jails beginning in 2011. In response, the department has made reducing recidivism a major goal; to help meet that goal, it has strengthened its reentry services. The Reentry Manager sits on the IWF Committee, signaling that the Sheriff's Department believes the IWF has a significant role in funding efforts to reduce recidivism. Without a plan, that role remains undefined, leaving the IWF vulnerable to reactive rather than proactive spending and making its use opaque to the public.

FACTS AND FINDINGS

Fact: The IWF Committee operates without a strategic plan.

Finding 01: The absence of a strategic plan reduces economy, efficiency, and effectiveness.

INTERNAL CONTROL WEAKNESSES

This is the phrase the auditor uses to characterize some budgetary problems in the administration of the IWF. Interviews with Sheriff's staff and Committee members made it clear that they are committed to appropriate use of the IWF, but written policies (other than the very general language of Section 4025) do not exist. Instead, the Committee relies on its collective wisdom and experience to decide which expenses legitimately

¹ The Assistant Sheriff, three Detention Service Bureau Commanders, the six Facility Managers and the Reentry Manager.

belong to the IWF and which should be charged to the Sheriff's Department general funds. The pitfalls of this informal system are obvious: lack of transparency, accountability, and objective standards.

A concrete example of those risks appears in the audit. Of thirty expenditures sampled (out of thousands) the auditor found one unallowable expense--\$89,999 of a \$449,997 total--for ISO Rec Yard Day Room Toilets at George Bailey Detention Facility. Department Staff informed the auditor that "the project would have been delayed if a request was made to pay for the expenditure out of the General Fund." The IWF has functioned as a discretionary fund for the Sheriff's Department, contrary to its purpose. The monies should be replaced if the Committee has not already done so.

The Grand Jury identified two other budgetary issues. One, there is no firm, written policy on the minimum expenditure requiring a Committee vote. Interviewees gave conflicting answers, and the IWF Operations manual is silent. Two, despite a Grand Jury request, the Committee was unable to produce a pre-approved annual operating budget detailing proposed expenditures. There appears to be no such document.

In one case described by the auditor, the Committee failed to follow its own policies and procedures to purchase a \$15,173 electric vehicle. The audit states, "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."

The Committee's "internal control weaknesses" need to be corrected. One useful step would be to institute periodic audits, beginning with a thorough audit of all expenditures for the past three fiscal years.

FACTS AND FINDINGS

Fact: There are no defined policies and procedures for deciding what expenditures can be charged appropriately to the IWF.

Fact: There is no documented minimum expenditure requiring a IWF Committee vote.

Fact: The IWF Committee acts without a pre-approved annual operating budget.

Fact: There is no periodic audit of the IWF.

Fact: The Office of Audits & Administrative Services audit sampled just thirty expenditures, finding two of them questionable.

Finding 02: The IWF Committee has weak internal controls.

Fact: The IWF Committee has approved inappropriate expenditures for construction and a vehicle.

Finding 03: The Sheriff's Department spent IWF funds that should have come from the Department's General Fund, subverting the IWF's purpose.

IWF RESERVE

Penal Code §4025 does not specify the amount or percentage of an IWF reserve. The unwritten policy of the IWF Committee is to retain a 50% reserve (according to the auditor, over \$10 million on June 30, 2015). According to Sheriff's staff, there are two reasons for this policy: one, past experience with unanticipated losses (undocumented in any materials provided by the Sheriff's Department to the jury) two, an estimated loss of \$3,100,000 in telephone services revenue if a pending Federal Communications Commission decision (lowering intrastate jail collect call rates) is approved by the courts. The Grand Jury finds neither of these a compelling justification for a 50% reserve policy, which appears excessive.

Regarding this situation, the auditor states: "...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." If telephone revenue drops severely, the IWF Committee needs to be prepared. If it does not, some of the reserve could be put to use for inmates' benefit. In either case, the Committee should make a careful study of the 50% reserve policy and document its findings.

FACTS AND FINDINGS

Fact: The Sheriff's Department undocumented policy is to maintain a 50% IWF reserve.

Fact: The IWF faces a potential loss of telephone services income.

Fact: The IWF Committee has no plan for the use of reserve funds.

Finding 04: The IWF Committee is putting future programs at risk by not setting priorities for the IWF reserve in the face of potential revenue loss. If revenue remains near current levels, the lack of priorities stifles creative application of more of the reserve to inmate welfare.

IWF COMMITTEE MEMBERSHIP

The Committee has one non-Sheriff's Department staff member, appointed by the Sheriff, who serves an unspecified term. The result, as the audit states, is "the Sheriff's Department has complete discretion in regards to programs and expenses funded by IWF monies." In addition, it is simply unrealistic to ask one person to represent all of San Diego County's diverse citizens, much less the inmates the IWF serves. The Committee provides only informal training for its civilian member. Given the importance and complexity of the IWF's purpose, this puts the civilian member at a serious disadvantage.

In the auditor's words, "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." Other Southern California counties' IWF committees have more civilian members; in two cases (San Bernardino and Los Angeles), all IWF Committee members are non-staff citizens. The Committee's responsibility for inmate welfare would benefit from larger public representation, with staggered terms to give continuity and term limits to ensure fresh perspectives.

Fact: The IWF Committee has one non-staff, citizen member.

Fact: There is no organized, formal training for citizen members.

Fact: The IWF Committee citizen member has no set term and no term limit.

Finding 05: The IWF Committee suffers from a lack of public input, expertise, advocacy and transparency.

THE IWF OPERATIONS MANUAL

The ten-page IWF Operations manual is outdated, for it does not reflect the current organization of the Sheriff's Department. It is incomplete, as documented throughout this report, for it lacks policies and procedures essential for the Committee to function effectively and appropriately. In its current form, the manual allows the Committee to conduct its business without sufficient planning, guidance, or internal controls. The manual's deficiencies make it more difficult for new civilian members to learn their duties. And it undermines the purpose of the IWF and the public trust. The manual requires a thorough revision. To increase the Committee's transparency, it should be easily available to the public, as should the Committee's roster and minutes (presumably on the Sheriff's Department website).

FACTS AND FINDINGS

Fact: The IWF Operations manual is outdated and incomplete.

Finding 06: The IWF Operations manual is not adequate to its purpose.

Fact: The IWF Committee's roster and minutes are not easily available to the public.

Finding 07: The IWF Committee's work lacks transparency.

RECOMMENDATIONS

The 2015/2016 San Diego County Grand Jury recommends the San Diego County Sheriff's Department:

16-05: Create a three year Strategic Plan.

- 16-06:** **Strengthen internal controls:**
- **Establish and document the minimum expenditure requiring a Committee vote**
 - **Define and document policies and procedures for allowable expenditures**
 - **Produce annual operating budgets**
 - **Audit the IWF regularly**
- 16-07:** **Reimburse the IWF for audit-identified inappropriate expenditures.**
- 16-08:** **Create a plan for use of the IWF reserve.**
- 16-09:** **Expand the number of public members of the IWF Committee, providing them the training and orientation they need to serve effectively, with staggered terms and term limits.**
- 16-10:** **Rewrite the Operations manual to document policies and procedures necessary to support the IWF Committee’s fundamental responsibility to county jail inmates.**
- 16-11:** **Post the IWF Committee’s roster and minutes on the Sheriff’s Department website.**

REQUIREMENTS AND INSTRUCTIONS

The California Penal Code §933(c) requires any public agency which the Grand Jury has reviewed, and about which it has issued a final report, to comment to the Presiding Judge of the Superior Court on the findings and recommendations pertaining to matters under the control of the agency. Such comment shall be made *no later than 90 days* after the Grand Jury publishes its report (filed with the Clerk of the Court); except that in the case of a report containing findings and recommendations pertaining to a department or agency headed by an elected County official (e.g. District Attorney, Sheriff, etc.), such comment shall be made *within 60 days* to the Presiding Judge with an information copy sent to the Board of Supervisors.

Furthermore, California Penal Code §933.05(a), (b), (c), details, as follows, the manner in which such comment(s) are to be made:

- (a) As to each grand jury finding, the responding person or entity shall indicate one of the following:
- (1) The respondent agrees with the finding
 - (2) The respondent disagrees wholly or partially with the finding, in which case the response shall specify the portion of the

finding that is disputed and shall include an explanation of the reasons therefor.

- (b) As to each grand jury recommendation, the responding person or entity shall report one of the following actions:
- (1) The recommendation has been implemented, with a summary regarding the implemented action.
 - (2) The recommendation has not yet been implemented, but will be implemented in the future, with a time frame for implementation.
 - (3) The recommendation requires further analysis, with an explanation and the scope and parameters of an analysis or study, and a time frame for the matter to be prepared for discussion by the officer or head of the agency or department being investigated or reviewed, including the governing body of the public agency when applicable. This time frame shall not exceed six months from the date of publication of the grand jury report.
 - (4) The recommendation will not be implemented because it is not warranted or is not reasonable, with an explanation therefor.
- (c) If a finding or recommendation of the grand jury addresses budgetary or personnel matters of a county agency or department headed by an elected officer, both the agency or department head and the Board of Supervisors shall respond if requested by the grand jury, but the response of the Board of Supervisors shall address only those budgetary or personnel matters over which it has some decision making authority. The response of the elected agency or department head shall address all aspects of the findings or recommendations affecting his or her agency or department.

Comments to the Presiding Judge of the Superior Court in compliance with the Penal Code §933.05 are required from the:

<u>Responding Agency</u>	<u>Recommendations</u>	<u>Date</u>
San Diego County Sheriff's Department	16-05 through 16-11	7/25/16