

JUR2015-2016-002

The Inmate Welfare Fund

SUMMARY

The Grand Jury (GJ) serves as a branch of the judicial system and as a watchdog to the action and performance of public officials, including elected officials, and the departments of the county government. The GJ is a reporting institution, charged with examination of county government, special districts, redevelopment agencies, LAFCO, joint powers agencies and certain non-profit agencies established by or for the benefit of a public entity. It is the duty and responsibility of the GJ to assure honest, efficient government in the best interests of the people. (Penal Code §925 et seq.).

Trinity County Sheriff's Office policy provides that: *The office is authorized to maintain a fund derived from proceeds from the commissary, telephones and other inmate-related commerce activities, to be used primarily to provide welfare and educational programs for the benefit of the inmate population.*¹ The Policy goes on to establish guidelines for maintaining and administering the **Inmate Welfare Fund (IWF)**.²

This GJ report provides findings based on an investigation of the Inmate Welfare Fund. The investigation was initiated after an apparent violation of state law requiring annual reporting of the status of the Inmate Welfare Fund to the Trinity County Board of Supervisors. The GJ also recommends areas of potential improvement in the efficient management of the Fund.

GLOSSARY

IWF – Inmate Welfare Fund

IMWT – Inmate Welfare Trust: account used for inmate commissary and phone card revenues and to purchase larger items

IMW – Trinity County Inmate welfare account: used to fund inmate support and care supplies and staff services

B.O.S. –Board of Supervisors

FY – Fiscal Year

GJ – Grand Jury

Policy – Trinity County Sheriff's Office policy and custody manuals

Department – Trinity County Sheriff's Office

BACKGROUND

Each year when a new grand jury is impaneled, the preceding jurors will provide suggestions of possible departments or functions within the county that they felt strongly about but could not take on within their term. As each grand jury decides its own topics, these are only suggestions for consideration.

One such suggestion was the Inmate Welfare Fund (IWF). Initial research showed that this has been a topic in a final report for almost every county in the state.

¹ Trinity County Custody Manual C 1002.1

County policy provides that: *The [Sheriff's] office is authorized to maintain a fund derived from proceeds from the commissary, telephones and other inmate-related commerce activities, to be used primarily to provide welfare and educational programs for the benefit of the inmate population.*² The Policy goes on to establish guidelines for maintaining and administering the *Inmate Welfare Fund*.

As interpreted by this Grand Jury, the intent of this policy is to provide inmates with welfare services that are typically beyond the rudiments of confinement in a county jail mandated by law. Required county expense required by law include *meals, clothing, housing, or medical services or expenses* – all expenses which IWF cannot be used to purchase (but may augment).³ The IWF can be used to provide services benefiting aspects of human health and wellbeing contributing to inmate mental health, education, religion, drug treatment, recreation and the like.⁴ Essentially paid for by the inmates themselves through the purchase of phone cards and small food or hygiene items, these IWF funds are designed to aid not just one inmate, but the population as a whole over time. For example, an inmate held for a few weeks will not likely see the benefit of their own contribution to the Fund, but will contribute to the welfare of those inmates to follow.

The following is a portion of the California Penal Code for the Inmate Welfare Fund. The complete code, along with relevant Department policy, can be found in the appendix of this report.

Cal. Penal Code §4025⁵

- 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 confectionery, 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.*
- b) *The sale prices of the articles offered for sale at the store shall be fixed by the sheriff. Any profit shall be deposited in an inmate welfare fund to be kept in the treasury of the county.*

- 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, rebate, or commission is attributable to the use of pay telephones which are primarily used by inmates while incarcerated.*
- e) *The money and property deposited in the inmate welfare fund shall be expended by the sheriff primarily for the benefit, education, and welfare of the inmates confined within the jail. Any funds that are not needed for the welfare of the inmates may be expended for the maintenance of county jail facilities. Maintenance of county jail facilities may include, but is not limited to, the salary and benefits of personnel used in the programs to benefit the inmates, including, but not limited to, education, drug and alcohol treatment, welfare, library, accounting, and other programs deemed appropriate by the sheriff. Inmate welfare funds shall not be used to pay required county expenses of confining*

² Trinity County Custody Manual C 1002.1

³ Trinity County Custody Manual C 1002.4.1 and Cal. Penal Code §4025(e)

⁴ Trinity County Custody Manual C 1002.4

⁵ For the full code, visit <http://codes.findlaw.com/ca/penal-code/pen-sect-4025.html>

*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. **An itemized report of these expenditures shall be submitted annually to the board of supervisors** [emphasis added].*

The 2015/16 Grand Jury first became aware of the IWF when it was recognized that the Sheriff's Office reported five years' worth of annual budgets to the Board of Supervisors (B.O.S.) at one time at the April 7th, 2015 meeting, agenda item 2.22 – a violation of state law.

METHODOLOGY

The Judicial Committee reviewed accounting records, bank statements, five years of expenditures as reported to the BOS, Account summaries for five consecutive fiscal years ending in 2013/14, commissary order forms, commissary cost to facility price lists, and the Final Grand Jury Reports from other counties within the state.

Interviews were conducted with the Sheriff, the Undersheriff, the Business Services Administrator and the Business Manager.

DISCUSSION

Custody Manual policy 1002.2 Inmate Welfare Fund states: *The fiscal officer will establish and maintain an Inmate Welfare Fund where proceeds derived from inmate telephones, commissary profits, vending machines and other income intended for the support of inmate programs, is deposited (C 1002.2).* The Sheriff's Office operates the jail commissary, the proceeds of which are deposited into the IMWT. Inmates are entitled to purchase items from the commissary with funds that have been deposited into their personal accounts, primarily from the inmate's family and/or friends. Commissary services are provided by Swanson Service Corporation, which mails orders to the jail facility. It is not known if a contract with Swanson Service Corporation currently exists or when the last review of other potential vendors was conducted.

While not specified in county policy, the committee was shown that the current departmental profit markup for all commissaries is 40%. The markup rate is to be set by the Sheriff (Cal. Penal Code §4025 (b)). For example, a 2 ounce Mennen deodorant Speed Stick is ordered by an inmate from the vendor for \$4.55 by use of the Trinity County Jail Inmate Commissary Order form. After applying state tax (7.5%) and the Departmental profit markup (40% for example), that product is sold to the inmate for \$6.71. This provides a profit to the county of \$1.82 for the purchase. However, that particular item is currently sold to the inmates for \$6.00. Each product sold by the commissary is similarly marked up, although state tax is not applied to food items. A markup of 40% appears to be consistent with jail facilities in other counties.

A review of the current commissary price list and the inmate commissary order forms shows some minor irregularities. Ten commissary items currently available to inmates, representing both food and nonfood items, were randomly selected. While item prices are rounded up or down, it was found that the jail facility markup varied from 34% to 48% and averages 42.43%. It

is possible that certain items are marked up differently depending on popularity within the inmate population. Seven out of ten items are marked up more than the 40% rate. It is not clear to this committee if the Sheriff has set the markup rate (Cal. Penal Code §4025 (b)), how often it is reviewed, and with what rationale it is set.

Custody Manual policy 1002.2 *Inmate Welfare Fund* also states: ***The inmate Welfare Fund is allocated to support a variety of programs, services and activities benefiting the general inmate population and enhancing inmate activities and programs. This includes capital construction and improvement projects in support of such programs, services and activities (Penal Code § 4025 & C 1002.2).*** While allowed for by law and county policy, the Fund is rarely used for activities, programs or improvement projects designed to benefit the inmate population. Rather, in the last five years, the Fund has been used almost exclusively for staff time for a Correctional Officer(s) and for the Department Business Manager. Exceptions include GED testing (\$430), mattresses (\$2,010), clothes (\$2,293.30) and a heated food cart (\$6,199). These costs represent 9% of the total Fund expenditures in the last five years. Overall, 91% of the IWFT funds are used to maintain the program itself with approximately 59.8% of total funds paying for staff time.

The IMWT revenues are comprised almost exclusively of the profits derived from commissary sales and phone card sales. These average \$10,006.82 and \$20,374.44 per year over the last five years, respectively. A small percentage of revenues come from stock profits and restitution. There are no hobbycraft sales or other sources of income as provided by law or county policy (C 1002.3). Over the last five years (2010 to 2014), the IMWT has carried an average balance of \$13,397.24

Trinity County IMW Account

An average of \$20,084 a year is transferred from the IMWT to the IMW account. The IMW account is used for staff time to process commissary orders and inmate support and care supplies. Additional expenditures include sales tax. Even with the \$20,000 annual deposit in the IMW, each year over the past five years the department has carried a cost overrun totaling \$2832.46 and averaging \$566.49 per year. Any cost over the annual deposit of \$20,000 (or \$22,420 in FY 12/13) is absorbed by the Department budgets.

Each year, the Business Manager receives an average salary of \$5086.12 while Correctional Officer(s) receive \$8,211.56 – totaling \$13,297.71 - from profits from the inmates' commissary. These salaries are for the administration of the commissary. The remaining funds transferred from the IMWT, averaging \$7,268.77 a year, are for inmate support and care supplies. While this sort of expenditure for staff time falls within the discretionary spending of the Sheriff and is consistent with the law, the direct funding of staff time is expressed in the penal code as primarily intended for education, drug and alcohol treatment, welfare, library, accounting – the five expenses directly called out in the wording of the penal code. If the county pursued alternative vendors for commissary products and means of distribution, it is possible that for the same funds that are currently expended on staff time the County could provide the same services while freeing up staff time. Items can be purchased in bulk at wholesale prices and stored at the facility to reduce shipping costs and the overall expense of running the commissary.

Additionally, for the five years of records that this Grand Jury reviewed, the consistency of the expenditures of IMW funds for staff time appears to represent the filling of a budget gap that would otherwise be provided for by the departmental budget as allocated by the Department head and approved by the B.O.S. Rather than relying on inmate funds for such expenses, it seems appropriate to adjust the departmental budget to pay for those services, thereby freeing up funds for alternative expenses that directly benefit inmate welfare. Such inmate welfare expenses could include educational programs, drug and alcohol treatment, medical welfare, library and meeting facilities.

Management

The management of the commissary, inmate funds and IWF is a task that is made more complicated and cumbersome due to antiquated accounting procedures and limitations of the current jail facility. Departmental staff has made attempts to streamline financial accounting procedures but to date have only managed to modify the system to the extent it can be successfully implemented. The system is far from efficient and requires too much staff time to manage. In the future, staff resources are required to research improvements to the management of the commissary, IWF and inmate funds. Improvements could include contracting with service providers that specialize in commissary management.

Additionally, this committee wants to highlight that B.O.S. tours of the jail facility are rare at best. While this report focuses on a small portion of the management of the facility, the management of the IWF, this Grand Jury feels it is incumbent on elected officials charged with the effective and proper use of public funds to be fully informed of current County Departmental conditions. This requires a physical presence in facilities such as the Trinity County jail.

This investigation brought up several questions that, due to a lack of time, remain unanswered. They include the following:

- Did the Sheriff approve the purchase of the mattresses, clothing and the food cart? Additionally, when and how is the commissary profit rate set by the Sheriff?
- What are the specific expenditures of the IMW account – such as inmate support and care supplies?
- What plans exist for balancing the annual average account balance versus inmate support activities?
- How is Correctional Officer staff time for the commissary accounted for?

FINDINGS

Sheriff

F1. At the April 7th, 2015 Board of Supervisors meeting the Sheriff reported on the past five years of expenditures from the IMWT, not annually as required by penal code. This potentially qualifies as misfeasance on the part of the Sheriff.

- F2. The Sherriff is in charge of a number of departmental budgets but was unaware that the IWF budget is required by law to be annually reported to the BOS. The Sheriff failed to direct department staff accordingly.

Commissary

- F3. The current IWF financial services system, such as the processing of commissary orders, is outdated and inefficient requiring significant staff time to maintain.
- F4. The commissary markup is inconsistent between various commissary items.

Policy/procedures

- F5. County Policy does not reflect state law requiring the Department to report an annual budget to the B.O.S.
- F6. Department employees do not have time to update, refine or overhaul current policies and procedures in order to maximize department procedure efficiency. However, some Department employees have taken the initiative to develop, refine and implement a few specific procedures that improve the efficiency and effectiveness of departmental processes.
- F7. While early in the plans development process for the new jail facility, there are currently no specific plans for modifying the IMWT and commissary procedures in the new facility.

Contract

- F8. While utilizing the service for all commissary orders, it is unclear whether a contract currently exists with Swanson Services Corporation.
- F9. There are currently plans to explore the use of a new vendor to simplify the IMWT and commissary procedures. However, staff time is limited to research and develop this potential vendor option.

Expenditures/account/management

- F10. Two separate accounts are used for Inmate Welfare Fund revenues and expenditures; the IMWT account and the Trinity County IMW account.
- F11. In 2014, IMWT monies totaling \$6,199 were used to purchase a custom made heated food cart for the commissary. In FY 12/13 mattresses (\$2,010.19) and inmate clothing (\$1,868.62) were purchased with IMWT funds.
- F12. A total of \$102,420 has been transferred from the IMWT account to the Trinity County IMW account. 64% of the IMW account procured from the IMWT (commissary funds) was used for staff time while 35% has been spent on inmate support and care supplies.
- F13. B.O.S. visits to jail facilities are rare.

Training

- F14. While financial services staff is competent and professional, training for department financial services staff is infrequent.
- F15. Department staff is not fully aware of County policies, at times without a hard copy on hand or specific knowledge of how to look up policies online.

RECOMMENDATIONS

Sheriff

- R1. Beginning with FY2015-16, per State law, the Sheriff must submit annual budget reports detailing expenditures of the inmate welfare fund.
- R2. The Sheriff should include a justification to the Board of Supervisors for the expenditures of IMWT funds that are left to his discretion – such as mattresses, food carts and clothing. While these items can be considered legitimate expenditures of IMWT monies, their approval should be documented along with the annual budget as discretionary expenses.

Commissary

- R3. The Business Manager should develop and implement a new efficient commissary and inmate fund accounting system.

Policy/procedures

- R4. An annual financial audit and time study of the Inmate Welfare Fund should be completed.
- R5. The Business Manager should consider combining the existing accounts related to the Inmate Welfare Fund, the IMWT and Trinity County IMW accounts, to streamline IWF accounting.
- R6. The Sheriff should consider developing committees, comprised of department staff, to investigate, research, develop and report out on methods to improve department policies and procedures.
- R7. The Sheriff, or undersheriff, as head and chief deputy of the department respectively, should take a lead role in developing, overseeing and assigning staff to committees to pursue cost saving and efficiency improving policies and procedures.
- R8. Because improvements in departmental policies and procedures directly relates to the cost efficiency and effectiveness of the Department, the Sheriff should allocate funds for the purpose of developing committees to improve Department policies and procedures.
- R9. In conjunction with the ongoing development of plans for the new jail facility, the Sheriff and his staff should develop plans to improve the efficiency of the commissary and the expenditure of the IMWT for the benefit of inmates. This could include space for GED test

taking, a library, meeting rooms for club activities and television viewing which IMWT could subsequently help support financially.

Contract

- R10. The Business Manager should review and/or update the current contract with Swanson Services Corporation to verify compliance. Other vendors should be researched and contracts pursued if deemed an improvement over the existing contract.

Expenditures/account/management

- R11. The IMW funds should be used to eliminate any cost overruns in the IMWT to avoid impacting Departmental budgets - currently averaging \$566.49 per year.
- R12. The Board of Supervisors should conduct yearly visits of the jail facility and inspect corrections procedures and policies – including commissary practices and inmate welfare.

Training

- R13. Efforts to provide staff training should continue.
- R14. The Sheriff should assure that all employees are familiar with departmental policies, updates to policies and that employees have a means to locate policies – either in hard copy or digital form.

COMMENDATIONS

The personnel of the Trinity County Sheriff's Office should be commended for their continuing dedication and service to the people of this county. With a difficult job, limited budget, and a challenging geography, these individuals exemplify service and commitment to their communities. To their credit, some individuals recognized the need to address deficiencies prior to the Grand Jury inspection. Individuals highlighted past innovations and improvements to procedures and alluded to plans for future training.

REQUEST FOR RESPONSES

Pursuant to Penal Code section 933.05, the Grand Jury requests responses as follows:

From the following individuals:

- Sheriff Bruce Haney
 - Findings 1 through 15
 - Recommendations 1 through 14

- Trinity County Board of Supervisors
 - Findings 1 and 13
 - Recommendations 1, 2 and 12

Reports issued by the Grand Jury do not identify individuals interviewed. Penal Code section 929 requires that reports of the Grand Jury not contain the name of any person or facts leading to the identity of any person who provides information to the Grand Jury.

C 1002

Inmate Welfare Fund

C 1002.1 PURPOSE AND SCOPE

The Office is authorized to maintain a fund derived from proceeds from the commissary, telephones and other inmate-related commerce activities, to be used primarily to provide welfare and education programs for the benefit of the inmate population. This policy establishes guidelines for maintaining and administering the Inmate Welfare Fund.

C 1002.2 INMATE WELFARE FUND

The Fiscal Officer will establish and maintain an Inmate Welfare Fund where proceeds derived from inmate telephones, commissary profits, vending machines and other income intended for the support of inmate programs, is deposited.

The Inmate Welfare Fund is allocated to support a variety of programs, services and activities benefiting the general inmate population and enhancing inmate activities and programs. This includes capital construction and improvement projects in support of such programs, services and activities (Penal Code § 4025).

C 1002.3 INMATE WELFARE FUNDING SOURCES

Revenues and funding from the following sources shall be deposited into the Inmate Welfare Fund account:

- (a) All proceeds from commissary and canteen operations
- (b) Proceeds from the operation of inmate telephones
- (c) Donations
- (d) Interest income earned by the Inmate Welfare Fund

C 1002.4 EXPENDITURE OF INMATE WELFARE FUNDS

The Inmate Welfare Fund shall be used solely for the welfare and benefit of the inmate population or as otherwise permitted by law.

Expenditures permitted from the Inmate Welfare Fund include, but are not limited to, the following:

- (a) Education programs
- (b) Recreational goods and services, such as:
 - 1. Recreational equipment, games and sporting goods
 - 2. Televisions and cable/satellite subscriptions, video players and content media
 - 3. Library books
- (c) Salary and benefit costs for personnel while they are employed in positions or are performing activities solely for the benefit of inmates or to facilitate inmate programs
- (d) Welfare packages for indigent inmates
- (e) Alcohol and drug treatment programs
- (f) Office facility canteens, including vending machines available for inmate use
- (g) Inmate trust accounting system

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- (h) Envelopes, postage and personal hygiene items for indigent inmates
- (i) Approved non-prescription, over-the-counter health aids for inmate use
- (j) Libraries designated for inmate use
- (k) Visiting room equipment, supplies and services
- (l) Inmate activity programs, including:
 - 1. Equipment for television viewing
 - 2. Visiting music/entertainment groups
 - 3. Music equipment and supplies
 - 4. Activities equipment, supplies and services
 - 5. Repair of equipment purchased from the Inmate Welfare Fund
 - 6. Food or supplies for special occasions
 - 7. Inmate awards for the purpose of providing umpires or referees, and maintaining activity equipment and apparel
 - 8. Inmate tournaments and holiday events
 - 9. Inmate club activities
 - 10. Entertainment equipment, cable or satellite subscription services and other related supplies
 - 11. Materials for faith-based programs
 - 12. Clothing, bedding, liens, hygiene

C 1002.4.1 PROHIBITED EXPENDITURES OF INMATE WELFARE FUND

Except as permitted by law, the Inmate Welfare Fund shall not be used to fund activities associated with any of the following:

- (a) Security-related functions, including staff, safety equipment, radios, weapons or control devices that are specifically designated for use by the custody staff in maintaining the security, safety and order in the facility
- (b) Food service, staff costs, and food supplies
- (c) Medical/dental services, staff costs, and medical/dental supplies
- (d) Maintenance and upkeep of office facilities not otherwise permitted by law
- (e) Janitorial services and supplies
- (f) Transportation to court, medical appointments or other reasons not related to inmate programs
- (g) Any other normal operating expenses incurred by the day-to-day operation of the Office

C 1002.5 FINANCIAL ACCOUNTING OF INMATE WELFARE FUNDS

The Fiscal Officer shall maintain an accounting system to be used for purchasing goods, supplies and services that support inmate programs.

An audit of the Inmate Welfare Fund shall be completed annually.