

SHERIFF'S DEPARTMENT INCARCERATED PERSONS' WELFARE FUND

SUMMARY

The 2022/2023 San Diego County Grand Jury (Grand Jury) investigated the San Diego County Sheriff Department's Incarcerated Persons Welfare Fund (IPWF) based on a citizen's complaint. The complaint alleged that the size of the fund, how the monies were used, or who managed the fund could not easily be determined from publicly available information, thereby exhibiting a troubling lack of transparency.

Now known as the Incarcerated Persons' Welfare Fund (IPWF), this fund has been familiar to Grand Juries historically:

- California Penal Code § 919(b) mandates the Grand Jury shall inquire into conditions in public prisons within the County.
- The one civilian volunteer position on the Incarcerated Persons Welfare Committee (IPWC) that is responsible for administration and management of the Fund has been filled by former Grand Jurors for the last three decades.
- The 2015/2016 Grand Jury published a report, *County of San Diego Sheriff's Department Inmate Welfare Fund*.
- Audit Reports

While the current Grand Jury found improvements since its last report in 2016, other issues need attention. As a result of our investigation, the Grand Jury recommends the IPWC:

- Update its By-Laws and Operating Procedures to better define appropriate spending.
- Create and maintain ongoing detailed multiyear spending plans to anticipate shortfalls or other funding fluctuations that may jeopardize correctional education programs.
- Expand membership in the IPWC to include additional civilians.
- Mandate persons in all positions funded in whole or in part by the IPWF should complete periodic time studies to avoid overcharges to the fund.
- Consider phasing out use of the IPWF to pay for correctional education and welfare programs if other funding sources can be identified.

The Grand Jury recommends the San Diego County Board of Supervisors (BoS):

- Order a comprehensive study evaluating the effectiveness of programs undertaken for the benefit, education and welfare of incarcerated persons and funded by the IPWF.
- Order the County Office of Audits and Advisory Services (OAAS) to perform an audit of the IPWF at least every three years, per the IPWC By-Laws.
- Add a legislative priority to lobby the state legislature to introduce, pass and sign into law legislation like SB555 (2020) or AB1782 (2022) to amend California Penal Code §4025, concerning the management and administration of Incarcerated Persons' Welfare and Jail Commissary Funds.

- Appoint an Advisory Board of academic experts to advise the BoS and San Diego Sheriff's Reentry Services Division and provide evidence-based research validating the need and expected outcomes of reentry programs to be funded with IPWF monies.

INTRODUCTION

In recent years, many articles in the media have described how some county sheriffs' detention bureaus have accumulated large inmate welfare funds only to use these funds to supplement the normal costs of jail operations.^{1,2} According to the California Penal Code, such funds were to be used "primarily for the benefit, education and welfare" of incarcerated persons.³ The normal operating costs of running a county jail—expenses for meals, clothing, housing, and medical services for incarcerated individuals--were to be paid using tax-supported general funds of the Sheriff's Departments.⁴

Sheriff's detention services bureaus are often cast in an unfavorable light because of unclear and contradictory provisions of California Penal Code §4025, the law authorizing jail stores commissary funds and inmate welfare funds to be established within county jails. While inmate welfare funds were originally intended to pay for correctional programs that benefit or educate incarcerated individuals, these funds have more recently been used as reserves to pay for unexpected costs associated with the normal costs of county jail operations. Despite Title 15 requirements to use tax-supported funds for such normal costs of operations, California Penal Code §4025 arguably permits such discretionary use of inmate welfare funds by county sheriffs but does not clarify the types of spending allowed.⁵

Inmate Welfare Funds (IWF) in California have historically used profits from commissary sales and phone calls by incarcerated individuals and their families or friends to pay for correctional programs that benefit incarcerated individuals. Recently, San Diego County eliminated phone charges and allowed free phone calls, video visits and other communication services to incarcerated individuals, leaving profits from commissary sales as the only source of Incarcerated Persons' (IP) generated funding for IPWF correctional programs. Combined with the pandemic's effect on county jail populations beginning in early 2020, the Grand Jury investigators encountered a program transitioning from a pandemic-suppressed, wholly inmate funded model to a joint inmate-county funded model offering no-cost phone calls and communications to incarcerated persons and their families.

With the transition to free phone calls, a greater dependence has emerged on profits from the Jail Stores Commissary Fund and monies authorized by the County Board of Supervisors to replace

¹ Clarke, Matthew, "Sacramento Sheriff Used Prisoner Welfare Fund for Trips, Salaries and Equipment," Prison Legal News, October 2021. <https://www.prisonlegalnews.org/news/2021/oct/1/sacramento-sheriff-used-prisoner-welfare-fund-trips-salaries-and-equipment/>

² McDonald, Jeff, "WATCHDOG: Money meant for inmate welfare spent on education, staff and sheriff's department expenses", San Diego Union Tribune, April 22, <https://www.sandiegouniontribune.com/news/watchdog/story/2019-04-21/money-meant-for-inmate-welfare-spent-on-staff-sheriffs-expenses>

³ California Penal Code §4025 (e), https://california.public.law/codes/ca_penal_code_section_4025

⁴ California Code of Regulations Title 15 - Crime Prevention and Corrections

⁵ California Penal Code §4025 (e), https://california.public.law/codes/ca_penal_code_section_4025

the \$2.6 million in lost phone charge commissions paid to the Sheriff's Department by the contracted telecom provider. While contracts for telecom services covering IP phone calls have been renegotiated at reduced rates, dependence on supplemental county funding may put reentry programs at risk of being curtailed or eliminated during lean budget times.

Given the critical role inmate welfare funded programs play in improving the lives and prospects of incarcerated individuals, the potential benefits to society of reduced recidivism and lower crime rates could substantially outweigh the cost of these programs. Research on the potential benefits of correctional psychosocial, educational and vocational training programs for incarcerated individuals and society in general may provide better guidance to counties or sheriff's departments for prioritizing and funding reentry programs beyond use of inmate welfare funds.

METHODOLOGY

The Grand Jury interviewed:

- Sheriff's Department Staff
- San Diego County Staff

Members of the Grand Jury reviewed:

- Statements of financial results and budgets for the Incarcerated Persons' Welfare Fund and the Jail Enterprise Commissary Fund.
- The California Penal Code §4025 and §5006.
- The Incarcerated Persons' Welfare Committee (IPWC) Bylaws and Operating Procedures.
- Meeting minutes of the IPWC.
- Prior S.D. County Grand Jury IPWF 2016 Report.
- Grand Jury reports of other California counties' incarcerated persons' welfare funds.
- San Diego County Board of Supervisors proceedings, motions, and reports.
- Los Angeles County Board of Supervisors proceedings and meeting transcripts.
- Reports of the Los Angeles County Auditor and Office of Inspector General.

The Grand Jury toured San Diego County adult detention facilities and observed many IPWF-funded correctional programs, among them:

- Job search training and resume writing
- Commercial laundry
- Construction trades
- Industrial sewing
- Hospital cleaning certification
- Bicycle repair
- Landscaping and gardening
- Culinary arts
- G.E.D. High School Equivalency and college level classes
- Psychosocial programs such as family counseling, anger management, cognitive behavioral training and drug rehabilitation

DISCUSSION

LEGISLATIVE HISTORY

Inmate welfare funds were first established in 1949 in California, when then-Governor Earl Warren authorized sheriffs to sell tobacco, candy and other personal items to inmates in small jail stores, mandating profits be used for the welfare of prisoners. By state law, these funds were to be used “solely” for the “benefit, education and welfare” of the incarcerated individuals. However, the law was changed in 1993, allowing for the funds to be used “primarily” for the “benefit, education and welfare” of incarcerated individuals and allowing much greater discretion in how Inmate Welfare Funds could be used, as follows:

“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.”⁶

Previously, California regulations required normal expenses of confining inmates in local detention facilities such as meals, clothing, housing or medical services be funded by sheriff’s general-purpose funds.⁷ The 1993 revision now allowed 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.”⁸ Given no specific standards of what constituted the “best interests of inmates”, the 1993 revisions to CPC §4025 arguably permitted use of Inmate Welfare Funds as a source of discretionary funding by County Sheriffs across the state.

The potential large market for captive telecommunications services among prison populations emerged during this period as well, motivating one private-prison operator to “enter into exclusive phone-service contracts” that imposed “rates far in excess of those charged to free-world customers.” Attracted by similar profitable pricing models, other telecommunications companies followed suit through exclusive contracts with sheriff’s departments, and a profitable niche in the telecommunications services industry emerged.⁹

As the size of these inmate welfare funds grew, the temptation to view them as sources of discretionary funding for jail programs has also grown, giving way to what some have called “predatory” pricing structures for phone calls made by incarcerated persons and jail commissary items sold at “convenience store” prices.¹⁰ The sponsor of the 1993 revision to the original

⁶ California Penal Code §4025 (e)

⁷ California Code of Regulations Title 15 - Crime Prevention and Corrections

⁸ California Penal Code §4025 (e)

⁹ Littman, Aaron, Free-World Law Behind Bars (UCLA School of Law – Public Law & Legal Theory Research Paper No. 22-18), Yale Law Journal, vol 131, page 1417. March 2022. <https://www.yalelawjournal.org/article/free-world-law-behind-bars>

¹⁰ Lau, Michelle and Stuhldreher, Anne, “Justice is Calling: How San Francisco Made Jail Phone Calls Free, Ended Commissary Markups, and Stopped Generating Revenue from Incarcerated People and Their Families”, San Francisco Financial Justice Project, February 18, 2021, sfgov.org/financialjustice/reports/justice-calling.

inmate welfare fund legislation was later quoted by a reporter as saying his sponsorship of the revision was motivated by his view that “inmates should pay for more of their upkeep.”¹¹ Unfortunately, he failed to recognize the likelihood that prisoners’ loved ones and friends were paying for their commissary purchases and phone calls on family budgets shrunk by the absence of the incarcerated family member. While Inmate Welfare Funds continue to fund educational programs designed to reduce recidivism and re-incarceration and fosters reintegration of those previously incarcerated individuals into the community, accumulation of these funds can be generated at prohibitively high cost. This cost can “impose an unjust burden on young children and other family members of incarcerated people – individuals who are often victims themselves - contributing to a cycle of family instability and incarceration.”¹²

While many counties in California are considering the elimination of phone charges or commissary profits as funding sources for IWF programs, the discretionary use of these funds for services related to meals, clothing, housing or medical services (as defined under Title 15) is still possible. Furthermore, the potentially “predatory” effect on the families of incarcerated persons still exists, either through higher prices for commissary items sold to incarcerated persons and their families, or through charges for telecommunications services to incarcerated persons.

LEGISLATIVE ALTERNATIVES

While county-run detention facilities in California underwent a transition in the early 1990s giving sheriffs more discretion in the use of Inmate Welfare Funds, state-run detention facilities have maintained more restrictive standards for use of these funds. California Penal Code §5006 specified “The money in the fund shall be used solely for the benefit and welfare of inmates” housed in facilities run by the California Department of Corrections. Specific uses of IWF monies are explicitly identified as well:

- (A) The establishment, maintenance, employment of personnel for, and purchase of items for sale to inmates at canteens maintained at the state institutions.
- (B) The establishment, maintenance, employment of personnel, and necessary expenses in connection with the operation of the hobby shops at institutions under the jurisdiction of the department.
- (C) Educational programs, hobby and recreational programs, which may include physical education activities and hobby craft classes, inmate family visiting services, leisure-time activities, and assistance with obtaining photo identification from the Department of Motor Vehicles.
- (D) Funding for innovative programming by not-for-profit organizations offering programs that have demonstrated success and focus on offender responsibility and restorative justice principles. All funding used for this purpose shall go directly to the not-for-profit organizations and shall not be used for department staff or administration of the programming.

¹¹ Clarke, Page 40.

¹² Terra Lawson-Remer, Request to San Diego County Board of Supervisors to Provide San Diego County Incarcerated Person Access to Free Telephone Calls...San Diego County Board of Supervisors Meeting, March 2, 2021, Agenda Item 03, page 1.

The law conclusively states that “It is the intent of the Legislature that the inmate welfare funds only be expended on services other than those that the department is required to provide to inmates.”¹³

Recently, California state legislators have attempted to restrict the use by county Sheriff’s departments of Inmate Welfare Funds as discretionary funds. In 2020, legislation was introduced capping the mark-up on phone charges and commissary purchases by incarcerated persons and mandating the use of these funds be “solely” for the “benefit, education and welfare” of incarcerated persons. The bill, Senate Bill 555 eliminated wording added in the 1993 revision that allowed Sheriffs the ability to utilize these monies as discretionary funds, or to supplement spending for meals, clothing, housing or medical services required by Title 15. SB 555 was passed in 2020, sent to Governor Newsom for signature but vetoed over concerns that the Bill would have “unintended consequences of reducing important rehabilitative and educational programming for individuals in custody.” The Governor went on to say, “I am committed to working with the Legislature and stakeholders to address this issue in the next legislative session in a manner that mitigates impacts on programming.”¹⁴ A similar bill, AB1782 was passed in 2022, but was also vetoed by the Governor.¹⁵

UNILATERAL ACTIONS: COUNTY POLICIES AND ORDINANCES

Some county governments in California did not wait for these potential state legislative changes to occur, but instead eliminated phone charges on a unilateral basis. In San Francisco, the elimination of phone charges for phone calls by incarcerated persons was announced by Mayor London Breed in 2019 and codified the following year through passage of a San Francisco County Ordinance that eliminated both phone charges and profits generated from commissary sales to incarcerated persons.¹⁶

On July 1, 2021, the San Diego County Board of Supervisors implemented Board Policy B73 prohibiting incarcerated adults or youth from being charged for phone calls or other communications. The County provided \$7.7 million in county general funds to pay for the cost of new equipment, communication services contracts and replace the lost \$2.6 million annual phone commission revenue needed to pay for IPWF correctional programs.¹⁷ Representing an annual revenue guarantee, the County pledged to cover the cost of “rates and fees associated with telephone contracts in future fiscal years.”¹⁸

¹³ California Penal Code §5006 (a) (1) & (2), see APPENDIX II, p 16.

¹⁴ California State Senate Rules Committee, Office of Senate Floor Analyses, Newsom, Gavin, VETO of SB555, Governor’s Veto Message, September 30, 2020. [California Senate Bill 555 - Fines and Fees Justice Center](#)

¹⁵ See APPENDIX I: Proposed Amendment to CPC §4025, AB1782, 2021-2022, p 14. [Today's Law As Amended - AB-1782 Jails: commissary. \(ca.gov\)](#)

¹⁶ Lau And Stuhldreher, loc. Cite.

¹⁷ San Diego County Board of Supervisors, Board Policy B-73, “NO COST COMMUNICATION SERVICES FOR INCARCERATED PERSONS”, effective July 1, 2021.

¹⁸ Terra Lawson-Remer, Request to San Diego County Board of Supervisors to Provide San Diego County Incarcerated Person Access to Free Telephone Calls...San Diego County Board of Supervisors Meeting, March 2, 2021, Agenda Item 03, page 3

MULTI-YEAR SPENDING PLANS

The likelihood that without profits from phone call revenue and/or commissary sales, the re-entry programs they fund will continue to be supported at pre-pandemic or even current levels remains to be seen. Initial funds authorized by the San Diego County's Board of Supervisors and a large current fund balance may continue to support IPWF programs for some time, but existing reserves in the fund may fall unless this supplemental county funding continues. Given the potential need to reduce expenses during lean budget years, the San Diego County Sheriff's Department should create detailed multi-year expenditure plans that anticipate the demand and cost of correctional education programs funded by the IPWF. Such plans can be useful in avoiding funding shortfalls for programs that may appear costly in the short-term, but provide greater long-term savings through reductions in recidivism and reincarceration.

CORRECTIONAL EDUCATION LESS COSTLY ALTERNATIVE?

Disruptions in funding for these important programs may be avoided. Balancing the cost of correctional education programs against the social and financial benefits of reduced recidivism or reincarceration could demonstrate that discontinuing such programs could ultimately be more costly than continuing them. The positive effects of correctional education programs on recidivism and reincarceration were strongly suggested by a 2013 Rand Corporation study which estimated the three-year savings from reduced reincarceration rates to be as much as \$907,000 per 100 inmates, versus education costs of \$174,000 per 100 inmates over a similar period. The study concluded "receiving correctional education while incarcerated reduces an individual's risk of recidivating after release from prison," and when weighed against reincarceration, "our cost analysis suggests that correctional education programs can be cost-effective."¹⁹ To this end, empaneling expert advisory groups skilled in compiling and evaluating objective evidence to support such programs could be a way to augment and assist county governments and sheriff's departments in determining the most effective use of IWF monies.

IWF PROGRAM EVALUATIONS

The Los Angeles Board of Supervisors began a review in April 2021 of all programs funded by mark-ups on jail commissary profits and phone call charges to incarcerated persons as a possible next step toward no-cost phone calls and ending mark-ups on commissary items. Advocates of the existing phone charges and mark-ups argued their elimination would put at risk, "those revenues...sorely needed for educational and other programs that benefit inmates." Opponents of these commissary profits and phone charges to inmates disagreed, saying that "Programs to meet our county members' health needs or to facilitate diversion and reentry can and should be supported by alternative funding sources. Otherwise, the county is just undermining its own efforts by (charging fees to inmates) that destabilize families and saddle them with debt that makes returning to the community harder."²⁰

¹⁹ Davis, Lois M.; Bozick, Robert; Steele, Jennifer L.; Saunders, Jessica; Miles, Jeremy N.V.; "Evaluating the Effectiveness of Correctional Education: A Meta-Analysis of Programs That Provide Education to Incarcerated Adults" RAND Corporation & the Bureau of Justice Assistance, 2013, xviii.
https://www.rand.org/pubs/research_reports/RR266.html

²⁰ Statement of Adrienna Wong, ACLU SoCal in support of Motion for Fiscal Responsibility: Comprehensive Review and Audit of the Inmate Welfare Fund and Understanding the Needs of People Who Are Incarcerated in the Los Angeles County Jails, L.A. County Board of Supervisors meeting; 11/02/21 page 10-11, lines 16-22 1115094 110221.pdf (lacounty.gov)

The review provided an example of the kind of assessment that may become more common in the future if or when outside or taxpayer funding for these programs becomes a more accepted practice. As part of this review, the Los Angeles County Board of Supervisors ordered a programmatic audit to assess effectiveness of IWF programs. The review indicated “the Sheriff’s Department does not maintain documentation of the research conducted and/or needs assessment completed for the current IWF programs. This includes missing information/documentation on the purpose and goals for each program, and whether research or a needs assessment, if any, was conducted before establishing/implementing the programs.” Significantly, no performance data was collected or tracked by the Los Angeles Sheriff’s Department to assess effectiveness, and no process existed for reviewing individual programs to determine if the programs should be continued.²¹

Based on the Grand Jury’s investigation, the processes used by the San Diego Sheriff’s IPWC to identify, propose and approve new IPWF psychosocial, educational, vocational or other programs are unclear. The goals and outcomes of these programs do not appear to be well defined or consistently measured, nor does the effectiveness of existing programs appear to be evaluated on an ongoing basis. As a result, the Grand Jury proposes a study be authorized by the San Diego County Board of Supervisors like that undertaken by Los Angeles County to evaluate the programs offered under the IPWF as follows:

- Processes for identifying, proposing and approving new reentry programs funded by the Inmate Welfare Funds
- The program’s stated purpose and short-term or long-term performance goals
- Needs assessments for new proposed reentry programs
- Credible evidence-based research demonstrating potential benefits of each program.
- How data is collected and utilized in evaluating reentry programs
- Any process or criteria for determining to continue or discontinue an existing program.

IPWC MEMBERSHIP

According to the By-Laws of the San Diego County Sheriff’s Incarcerated Persons’ Welfare Committee (IPWC), the funds, property, and affairs of the IPWF “are under the control and management of the Incarcerated Persons Welfare Committee, which assumes its authority from the Office of the Sheriff.” The By-Laws provide that membership “shall be comprised of the Detention Services Bureau Assistant Sheriff, Commanders and Captains, Detention Facility Commanders, the Food Services Division Manager, the Reentry Services Division Manager, and one civilian volunteer appointed by the Sheriff from the public at large.”²² While the positions of staff members are identified, the number of IPWC members is not specified. However, meeting minutes indicate that between twelve and fifteen voting members were present at the meetings held in calendar 2022, with meetings of the IPWC to be held every even month.²³

²¹ County of Los Angeles Department of Auditor-Controller, “Sheriff’s Department – Inmate Welfare Fund Program Review,” May 25, 2022, Page 2. https://file.lacounty.gov/SDSInter/auditor/audit_reports/1124673_2022-05-25Sheriff_sDepartment-InmateWelfareFundProgramReview_November2_2021_BoardAgendaItem16_.pdf

²² San Diego County Sheriff’s Department Incarcerated Persons Welfare Special Revenue Fund Committee By-Laws, San Diego County Sheriff’s Reentry Services Division, p.1, Revised 08/22.

²³ Incarcerated Persons Welfare Special Revenue Fund Operating Procedures, San Diego County Sheriff’s Reentry Services Division, p.2, Revised 08/22.

The 2016 Grand Jury reported that “the IPWC committee is composed almost entirely of Sheriff’s Department staff and only includes one private citizen...” As a result “the Sheriff’s Department has complete discretion in regard to programs and expenses funded by IWF monies.” This committee structure led to the conclusion that “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.” The report concluded the discussion by contrasting membership in the committees of other counties, saying “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.”²⁴

San Diego’s County’s lone civilian IPWC volunteer is to be from the public at large and serves an unspecified term. An earlier Grand Jury report concluded “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 IPWC provides only informal training for its civilian member. Given the importance and complexity of the IPWC’s purpose, this puts the civilian member at a serious disadvantage.”²⁵

Civilian members can be recruited from among those with demonstrated expertise or other interest in the academic study of criminology, reducing recidivism or other relevant experience. Training can be provided for new civilian members. The added committee members’ terms could be staggered. Term limits would allow for continuity and varied community-based perspectives. The term “relevant experience” could include those previously or currently incarcerated, as was alluded to in CPC §5006 (a) (2), the state legislation that guides administration and management of inmate welfare funds run by the California Department of Corrections, as follows:

The warden of each institution, in collaboration with at least two representatives from local or state advocacy groups for inmates and two members of either the men's or women's advisory council or similar group within each institution, shall meet at least biannually to determine how the money in the fund shall be used to benefit the inmates of the respective institution.²⁶

IPWC TRANSPARENCY

According to its By-Laws and Operating Procedures, “minutes of all meetings will be taken to document meeting activities and all actions of the Committee,” and “will remain on file in the office of the Assistant Sheriff, Detention Services Bureau and posted on the San Diego County Sheriff’s Department public website.”²⁷ Upon initiating its investigation in August 2022, the 2022/23 Grand Jury determined that no minutes had been posted on the Sheriff’s public website during an eighteen month period starting with minutes for the June 23, 2020 IPWC meeting. As of the date of publication of this report, minutes of meetings expected in late 2022 and early

²⁴ San Diego County Sheriff’s Department Inmate Welfare Fund, San Diego County Grand Jury, p.4, May 23, 2016.

²⁵ *ibid*

²⁶ California Penal Code §5006 (a) (2), see APPENDIX II, p 16.

²⁷ San Diego County Sheriff’s Department Incarcerated Persons Welfare Special Revenue Fund Committee By-Laws, San Diego County Sheriff’s Reentry Services Division, p.2, Revised 08/22.

2023 have not been posted. Meeting minutes after publication of the 2016 Grand Jury report had been posted as promised, but the later eighteen-month lapse in posted minutes brings into question a commitment to transparency and accountability by those managing the IPWF.

The By-Laws of the Incarcerated Persons' Welfare Committee state "an audit will be conducted every three years internally by the Sheriff's Department, or by the San Diego County Office of Audits and Advisory Services (OAAS). Under Section 801.1 of the County Charter, the responsibility of the periodic audit of the Incarcerated Persons Special Revenue Fund and Jail Stores Enterprise Fund rests exclusively with the Auditor and Controller. The Grand Juries investigation revealed that the last audit was performed in 2016.

Time Studies Needed

The By-Laws and Operating Procedures of the IPWC state, "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."²⁸ However, despite this policy, the Grand Jury determined several positions in the San Diego Sheriff's Reentry Services Division are funded 100% by the Incarcerated Persons' Welfare Fund that have responsibility for both IPWF and non-IPWF activities, (such as services related to meals, clothing, housing or medical services as defined under Title 15). Incorrect identification of salary and benefit expenses in this manner may result in overcharges to the IPWF for staff activities relating to such non-IPWF services as meals, clothing, housing or medical services as defined under Title 15, thereby prematurely draining IPWF reserves and resources. Finally, time studies would more closely align expenses with IPWF programs funded by California or Federal grant programs.

FACTS AND FINDINGS

IPWF By-laws and Operating Procedures

Fact: By-Laws and Operating Procedures of the San Diego Sheriff's Incarcerated Persons' Welfare Committee (IPWC) state that use of "Fund resources will be in accordance with the provisions of §4025 of the California Penal Code."

Fact: Under CPC §4025, funds are to be used "primarily for the benefit, education and welfare" of incarcerated persons.

Fact: In the "Definitions" section of the IPWC Operating Procedures, funds are to be used "solely for the benefit, education and welfare" of incarcerated persons. In this context, use of the term "solely" is more restrictive than the term "primarily."

Fact: CPC §5006 identifies specific criteria and rules governing the use of Inmate Welfare Funds restricting use of these resources "solely for the benefit and welfare of inmates of the prisons and institutions under the jurisdiction of the (State) Department of Corrections and Rehabilitation."

²⁸ San Diego County Sheriff's Department Incarcerated Persons Welfare Special Revenue Fund Committee By-Laws, San Diego County Sheriff's Reentry Services Division, p.1, Revised 08/22

Fact: CPC §5006 further stipulates, “It is the intent of the Legislature that the funds only be expended on services other than those that the department is required to provide to inmates.”

Finding 01: No specific guidelines are given in the IPWC By-Laws and Operating Procedures that specifically define what constitutes an allowable expense appropriate for the IPWF.

Need for Time Studies

Fact: The IPWC By Laws and Operating Procedures` state, “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.”

Fact: Several positions in the San Diego Sheriff’s Reentry Services Division are funded 100% by the Incarcerated Persons’ Welfare Fund. However, these positions have responsibility for both IPWF and non-IPWF activities, (such as services related to meals, clothing, housing or medical services as defined under Title 15).

Finding 02: Mandating periodic time studies would identify the use of IPWF funding for non-IPWF activities, especially important for those personnel having dual responsibilities for Title 15 activities and IPWF supported programs.

Expanding IPWC Membership

Fact: The membership of the IPWF Committee of the San Diego County Sheriff Reentry Services Division includes one civilian volunteer position.

Finding 03: Limiting the membership on the committee to only one long standing civilian member does not allow San Diego County’s diverse citizenship to be adequately represented or differing viewpoints to be heard.

Effective Use of Funding

Fact: The San Diego County Board of Supervisors eliminated charges to incarcerated persons for phone calls, texts and video visits to families.

Finding 04: The substitute funding authorized to replace phone charge revenue provided an annual revenue guarantee in future fiscal years by the County of San Diego Board of Supervisors to maintain funding sources for these important and impactful correctional education programs for the benefit, education and welfare of incarcerated persons.

Finding 05: Initial funds authorized by the San Diego County’s Board of Supervisors and a large current fund balance may continue to support IPWF programs for some time, but existing reserves in the fund may fall unless this supplemental county funding continues.

Fact: The IPWF funds a wide variety of correctional education, vocation and psychosocial programs intended to reduce recidivism and reincarceration rates and promote successful reentry of incarcerated individuals into society.

Finding 06: Performing economic analyses that compare the cost of correctional education programs to the social and financial benefits of reduced recidivism or reincarceration could demonstrate that discontinuing such programs could ultimately be more costly than continuing them.

Finding 07: The County Sheriff has no evidence or published evaluation of the effectiveness of the reentry programs funded by the IWPF.

Audit Requirement

Fact: The By-Laws of the Incarcerated Persons’ Welfare Committee require an audit of the Incarcerated Person’s Welfare fund and the Jail Stores Commissary Fund at least every three years.

Fact: The most recent audit of the Incarcerated Persons Special Revenue Fund and Jail Stores Enterprise Fund was in 2016.

Finding 08: The County is not meeting the requirement to perform an audit of the Incarcerated Persons Welfare Fund and Jail Stores Enterprise Fund every three years.

San Diego County Legislative Priorities

Fact: Two bills have been passed by the California Legislature, SB555 and AB1782 (in 2020 and 2022, respectively), mandating that Incarcerated Persons Welfare Funds be used “solely for the benefit and welfare of incarcerated persons”, and seeking to curtail the broad discretion Sheriffs now possess in determining how to spend Incarcerated Persons’ Welfare Funds. Both pieces of legislation were vetoed by the Governor.

Fact: While IPWF monies have been used as discretionary funds to supplement the cost of meals, clothing, housing and medical services for incarcerated individuals, such discretionary spending is permitted by provisions of this law.

RECOMMENDATIONS

The 2022/2023 San Diego County Grand Jury recommends that the Sheriff’s Department of the County of San Diego:

- 23-72: Update the By-Laws and Operating Procedures of the Incarcerated Persons’ Welfare Committee to establish specific rules and criteria that define permissible and non-permissible uses of IPWF funds to those directly supporting the benefit, education and welfare of incarcerated persons.**
- 23-73: Create and maintain ongoing detailed multi-year spending plans to better identify potential funding shortfalls and future expected costs of correctional education programs.**
- 23-74: To prevent over-allocation of salary and benefit expense to the IPWF, mandate that persons in all positions funded in whole or in part by the Incarcerated Persons Welfare Fund complete time studies quarterly to**

determine the appropriate proportion of salary and benefit expense to be funded by the IPWF.

- 23-75: Expand membership of the Incarcerated Persons' Welfare Committee (IPWC) to at least 3 qualified civilian members, especially those with academic or specific interests involving the re-entry of incarcerated individuals into society. Include formerly incarcerated individuals or those with incarcerated family members for consideration.**
- 23-76: For new civilian IPWC members, specify terms and term limits, and establish qualification, experience guidelines and training for these members.**
- 23-77: Develop alternative source of funding to augment and leverage IPWF resources for correctional education classes.**
- 23-78: If further analysis demonstrates correctional programs reduce recidivism, reincarceration and minimize costs overall, consider phasing out or minimizing use of IPWF funding in lieu of budgeted general funds of the County of San Diego or San Diego County Sheriff's Department.**

The 2022/2023 San Diego County Grand Jury recommends the San Diego County Board of Supervisors:

- 23-79: Establish advisory panels of experts qualified to review and advise the County of San Diego staff and Sheriff's Department Reentry Division staff in the development and evaluation of evidence-based correctional education and training programs.**
- 23-80: Authorize a comprehensive and independent study to evaluate the effectiveness of psychosocial, behavioral cognitive training, educational, vocational, or other correctional education programs undertaken for the benefit of incarcerated persons.**
- 23-81: Direct the Office of Audit and Advisory Services (OAAS) to undertake an audit of the Incarcerated Persons Welfare Fund and Jail Stores Enterprise Fund at least every three years.**
- 23-82: Direct the Office of Strategy and Intergovernmental Affairs to add a legislative priority to lobby the state legislature to introduce legislation similar to AB1782 (2022) (See Appendix I) amending California Penal Code §4025.**

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:

Responding Agency	Recommendations	Date
County of San Diego, Sheriff's Department	23-72 to 23-78	7/31/2023
County of San Diego, Board of Supervisors	23-79 to 23-82	8/29/2023

APPENDIX I: Proposed Amendment to CPC §4025

[Today's Law As Amended - AB-1782 Jails: commissary. \(ca.gov\)](#)

AB-1782 Jails: commissary. (2021-2022)

Text_Votes_History_Bill Analysis_Today's Law As Amended_

As Amends the Law Today

SECTION 1.

Section 4025 of the Penal Code is amended to read:

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 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 incarcerated people *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 incarcerated peoples' welfare fund to be kept in the treasury of the county.

(c) There shall also be deposited in the incarcerated peoples' fund 10 percent of all gross sales of incarcerated peoples' hobbycraft.

(d) There shall be deposited in the incarcerated peoples' 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 incarcerated people while incarcerated.

(e) The money and property deposited in the incarcerated peoples' welfare fund shall be expended by the sheriff solely for the benefit, education, and welfare of the incarcerated people confined within the jail. Incarcerated peoples' welfare funds shall not be used to pay required county expenses of confining incarcerated people in a local detention system, such as meals, clothing, housing, or medical services expenses. An itemized report of these expenditures shall be submitted annually to the board of supervisors.

(f) The operation of a store within any other county adult detention facility which is not under the jurisdiction of the sheriff shall be governed by this section, except that the board of supervisors shall designate the proper county official to exercise the duties otherwise allocated in this section to the sheriff.

(g) The operation of a store within any city adult detention facility shall be governed by this section, except that city officials shall assume the respective duties otherwise outlined in this section for county officials.

(h) The treasurer may, pursuant to Article 1 (commencing with Section 53600), or Article 2 (commencing with Section 53630) of Chapter 4 of Part 1 of Division 2 of Title 5 of the Government Code, deposit, invest, or reinvest any part of the incarcerated peoples' welfare fund, in excess of that which the treasurer deems necessary for immediate use. The interest or increment accruing on these funds shall be deposited in the incarcerated peoples' welfare fund.

(i) The sheriff may expend money from the incarcerated peoples' welfare fund to provide indigent incarcerated people, prior to release from the county jail or any other adult detention facility under the jurisdiction of the sheriff, with essential clothing and transportation expenses

within the county or, at the discretion of the sheriff, transportation to the incarcerated persons' county of residence, if the county is within the state or within 500 miles from the county of incarceration. This subdivision does not authorize expenditure of money from the incarcerated peoples' welfare fund for the transfer of any incarcerated person to the custody of any other law enforcement official or jurisdiction.

APPENDIX II:

Cal. Pen. Code § 5006

Current through the 2022 Legislative Session.

Section 5006 - Inmate Welfare Fund

- (a) (1) All moneys now held for the benefit of inmates currently housed in Department of Corrections and Rehabilitation facilities including those known as the Inmate Canteen Fund of the California Institution for Men; the Inmate Welfare Fund of the California Institution for Women; the Trust Contingent Fund of the California State Prison at Folsom; the S.P.L. Commissary, Canteen Account, Hobby Association, Camp Account, Library Fund, News Agency of the California State Prison at San Quentin, the Prisoners' Fund; and the Prisoners' Employment Fund, shall be deposited in the Inmate Welfare Fund of the Department of Corrections and Rehabilitation, in the State Treasury, which is hereby created. The money in the fund shall be used solely for the benefit and welfare of inmates of prisons and institutions under the jurisdiction of the Department of Corrections and Rehabilitation, including the following:
- (A) The establishment, maintenance, employment of personnel for, and purchase of items for sale to inmates at canteens maintained at the state institutions.
 - (B) The establishment, maintenance, employment of personnel, and necessary expenses in connection with the operation of the hobby shops at institutions under the jurisdiction of the department.
 - (C) Educational programs, hobby and recreational programs, which may include physical education activities and hobby craft classes, inmate family visiting services, leisure-time activities, and assistance with obtaining photo identification from the Department of Motor Vehicles.
 - (D) Funding for innovative programming by not-for-profit organizations offering programs that have demonstrated success and focus on offender responsibility and restorative justice principles. All funding used for this purpose shall go directly to the not-for-profit organizations and shall not be used for department staff or administration of the programming.
- (a) (2) The warden of each institution, in collaboration with at least two representatives from local or state advocacy groups for inmates and two members of either the men's or women's advisory council or similar group within each institution, shall meet at least biannually to determine how the money in the fund shall be used to benefit the inmates of the respective institution. It is the intent of the Legislature that the funds only be expended on services other than those that the department is required to provide to inmates.
- (b) There shall be deposited in the Inmate Welfare Fund all net proceeds from the operation of canteens and hobby shops and any moneys that may be assigned to the state prison by prisoners for deposit in the fund. The moneys in the fund shall constitute a trust held by the Secretary of the Department of Corrections and Rehabilitation for the benefit and welfare, as herein defined, of all of the inmates of institutions and prisons under the jurisdiction of the department.
- (c) The Department of Finance shall conduct a biennial audit of the Inmate Welfare Fund to include an audit report which shall summarize expenditures from the fund by major categories. At the end of each intervening fiscal year, a statement of operations shall be prepared that shall contain the same information as would be provided in the biennial audit. At least one copy of

any statement of operations or audit report shall be placed in each library maintained by the Department of Corrections and Rehabilitation and shall be available there to any inmate.

Ca. Pen. Code § 5006

Amended by Stats 2014 ch 26 (AB 1468),s 29, eff. 6/20/2014.Amended by Stats 2012 ch 831 (SB 542),s 2, eff. 1/1/2013.

Section 5006.1 - Prohibited expenditure of money in Inmate Welfare Fund

(a) Notwithstanding any provision in Section 5006, money in the Inmate Welfare Fund shall not be expended to pay charges for any or all of the following purposes:

(1) Overtime for staff coverage of special events.

(2) Television repair.

(3) Original complement of television sets and replacement of television equipment.

(b) The department shall pay these charges out of any money appropriated for these purposes.

Ca. Pen. Code § 5006.1

Amended by Stats 2012 ch 831 (SB 542),s 3, eff. 1/1/2013.

Section 5007 - Investment of money in Inmate Welfare Fund

The Secretary of the Department of Corrections and Rehabilitation may invest money in the Inmate Welfare Fund that in his or her opinion is not necessary for immediate use, with the approval of the Department of Finance, and interest earned and other increment derived from investments made pursuant to this section shall be paid into the Inmate Welfare Fund of the Department of Corrections and Rehabilitation.

Ca. Pen. Code § 5007

Amended by Stats 2012 ch 831 (SB 542),s 4, eff. 1/1/2013.