



# Management Audit of the County of Santa Clara Inmate Welfare Fund

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**December 31, 2014**

**Prepared by the Management Audit Division  
of the Board of Supervisors  
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# County of Santa Clara

## Board of Supervisors

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December 31, 2014

Supervisor Joe Simitian, Chair  
Supervisor Ken Yeager, Vice Chair  
Board of Supervisors' Finance and Government Operations Committee  
70 West Hedding Street  
San Jose, CA 95110

Dear Supervisors Simitian and Yeager:

We have completed a limited-scope *Management Audit of the Inmate Welfare Fund of the County of Santa Clara*, which is administered by the Santa Clara County Inmate Welfare Fund Committee (IWFC). State Penal Code Section 4025 provides for an inmate welfare fund in each county, to be administered by the county sheriff or other county authority designated by the board of supervisors. As discussed in the Introduction to this report, the County of Santa Clara Board of Supervisors has authorized the Office of the Sheriff and the Department of Correction to assume joint responsibility for the operation of the County's jails, and created the Santa Clara County Inmate Welfare Fund Committee to administer the Inmate Welfare Fund (IWF).

This audit was authorized by the Board of Supervisors, pursuant to the Board's power of inquiry specified in Article III, Section 302(c) of the County Charter. This audit was conducted in conformity with the United States Government Accountability Office (GAO) Audit Standards.

The purpose of the audit was to examine the administration and operations of the Inmate Welfare Fund and to identify opportunities to increase IWF efficiency, effectiveness and economy. This report includes three findings and four recommendations related to (1) accounting for IWF direct and indirect costs, (2) inmate access to telephone services, and (3) identification of additional revenue opportunities for the IWF. In the attached response to this report, the Department of Correction has expressed full or partial agreement with three of the four recommendations contained herein and disagreement with one recommendation. Implementation of these recommendations would (1) modify the current allocation of direct and indirect costs to the IWF to more closely match the Inmate Welfare Fund Committee's cost distribution goal, (2) enhance

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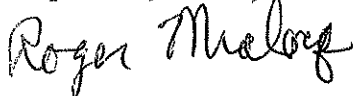
opportunities for inmates to maintain communications with their families thereby potentially reducing recidivism, and (3) lead to the identification of new and/or increased revenues for the IWF.

Two additional issues for consideration by the Office of the Sheriff, the Department of Correction and the Inmate Welfare Fund Committee are described in the Introduction to this report. The Departments and IWFC are seeking a cost-effective alternative to retaining an outside consultant to perform an annual time study of IWF-funded positions, including contracts. We believe the Finance Agency's Internal Audit Division could perform the time study and contract analysis *in-house* at an annual cost-savings of approximately \$16,250 to the IWF. However, the Internal Audit Division reported that it is currently fully engaged with its Board of Supervisors approved work plan. Consequently, it is a policy decision for the Board to determine if it would be more cost effective for Internal Audit to perform the IWF time study and contract analysis, or if the use of an outside auditing/consulting firm to perform these services is the Board's preference.

A second issue for consideration by the Departments and IWFC pertains to the availability of in-custody education programs that are funded by the IWF, and inmate demand for these programs. Currently, there are waitlists for four of the 20 education programs funded in whole or in part by the IWF. However, the extent and specifics of the excess demand is not monitored and reported. By doing so, the Departments and IWFC would be in a better position to plan for future changes to IWF educational programming.

We thank all of the staff and management who administer the Inmate Welfare Fund, the Office of the Sheriff and the Department of Correction for their cooperation and assistance throughout this audit. In addition, we thank the members of the Santa Clara County Inmate Welfare Fund Committee for their participation and contributions to this audit. We also wish to thank the Command Staff of both the County's Main Jail and Elmwood Correctional Complex for responding to our inquiries, facilitating tours of the jail facilities and assisting with the inmate survey. Lastly, we thank the Sheriff and the Chief of Correction for opening their organizations up to us for this review.

Respectfully submitted,



Roger Mialocq  
Board of Supervisors Management Audit Manager

cc:

Supervisor Chavez  
Supervisor Cortese  
Supervisor Wasserman

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# Executive Summary

This limited-scope *Management Audit of the Inmate Welfare Fund* was added to the Management Audit Division's Fiscal Year (FY) 2013-14 work plan by the Board of Supervisors of the County of Santa Clara, pursuant to the Board's power of inquiry specified in Article III, Section 302(c) of the Santa Clara County Charter.

## **1. Distribution of Direct/Indirect IWF Costs in Accordance with State Law and Local Policies**

Policy 1.0 of the Santa Clara County Inmate Welfare Fund Committee and the 2008 Settlement Agreement in *Hopkins et al. v. Flores et al.* require no less than 69.0 percent of all IWF expenditures in any fiscal year must be for "direct services," which involve direct assistance for counseling, training and education of inmates. The remaining 31.0 percent of expenditures must be for "indirect services," which are to support, administer or facilitate direct services. Of the 20.10 FTEs funded by the IWF in FY 2014-15, 13.05 FTEs are charged to the IWF as a direct services expense. Of these 13.05 FTEs, 1.10 FTEs in *Classification* and *Inmates Services* are performing functions that are indirect services activities, and should only be funded as part of the 31.0 percent share of the IWF, which is available to fund indirect services. As such, we recommend reclassifying \$137,500 of the \$160,075 in direct services charges for the 1.10 FTEs to an indirect services expense, and exclude the remaining \$22,575 from IWF funding, since the \$22,575 would exceed the annual indirect service expenditure cap of 31.00 percent of total IWF expenditures.

## **2. Reducing Recidivism by Facilitating Increased Inmate Contact with Their Families Through Lower Inmate Telephone Rates**

Eighty-seven percent of the County's inmates surveyed as part of this audit indicated that current telephone rates are "high" or "very high." Telephone calls are the primary means for inmates to maintain contact with their families, and numerous studies have shown that inmates who maintain family contact have better post-release outcomes and lower recidivism rates. To increase family contact and reduce recidivism, the County should implement a three-month pilot program to reduce telephone rates for *intrastate* (within California) calls. The Federal Communications Commission has already moved to reduce telephone rates for *interstate* (between two states) calls nationwide. We estimate that gross revenue billed by the County's pay telephone provider over the three months would decrease by \$162,351, and the County's commission payments from that provider over same period would decrease by \$99,034. This impact to the IWF may be partially or fully mitigated by increased call volume and revenue due to lower rates.

## **3. Diversifying Revenue Sources of the Inmate Welfare Fund**

The County's IWF is funded primarily by two sources: 1) telephone commission payments from a pay telephone provider resulting from inmate telephone calls, and 2) profit from inmate commissary sales. Together, the sources make up a combined 98.5 percent of the IWF's total revenue. Of the eight counties surveyed for this audit, Santa Clara had the fourth highest percent of its IWF funded by telephone commissions and commissary sales. The average combined revenue from these sources in the comparison counties, excluding Santa Clara, was 91.7 percent. This suggests that other counties have identified and achieved more diversity in their IWF revenue sources. Therefore, the County should seek a greater diversity of funding sources for its IWF, just as other counties have done. Specifically, it should try to increase its revenue from non-commissary and non-telephone sources by at least 6.8 percent, from its current level of 1.5 percent of total IWF revenues, to 8.3 percent, which is the average of the comparison counties. To the extent the County is successful at diversifying its IWF

revenue sources, it would reduce the future potential risk of not having sufficient funds to pay for IWF services.

### **Other Issues to Consider**

In addition to these three findings, the Introduction of this report identifies two issues that were brought to the attention of the Sheriff's Office and Department of Correction, even though specific findings and recommendations were not included in this report. These issues include (1) controlling the cost of annual IWF time studies, and (2) monitoring demand for and utilization of inmate programs.

First, we estimated that performing an annual time study of IWF-funded positions and contracts internally by the Controller-Treasurer's Internal Audit Division would be less costly than using an outside auditing/consulting firm to do so, due to the lower productive hourly cost of Internal Audit staff. However, Internal Audit reported that its staff is fully engaged in Board of Supervisors-approved assignments at this time. Consequently, it is a policy decision for the Board to determine if it would be more cost effective for Internal Audit to perform the IWF time study, or if the use of an outside auditing/consulting firm to perform the IWF time study is the Board's preference.

Second, we identified a gap between the availability of in-custody education programs that are funded by the IWF, and inmate demand for these programs. The Sheriff-Programs Unit maintains program statistics on the utilization of each of its IWF education programs, but the extent to which inmate days were spent on wait lists due to the unavailability of program slots to accommodate all of the qualified inmates is unknown. As a result, while there was insufficient data available to precisely identify the number of days inmates languished on wait lists, we were able to identify at least four programs with currently active wait lists exceeding a total of more than 75 inmates, including (1) Roadmap to Recovery, (2) Breaking Barriers, (3) Get Right, and (4) Program About Change and Encouragement. Consequently, the Sheriff-Programs Unit should begin maintaining records of the number of inmates on wait lists by program and the number of days prior to their admission to a program. This information could be used to determine the extent of the currently unmet program needs, and to better manage future program capacities as IWF resources become available.

# Table of Contents

Executive Summary .....	i
Introduction.....	1
<b>Findings</b>	
1. Distribution of Direct and Indirect Inmate Welfare Costs in Accordance with State Law and Local Policies .....	29
2. Reducing Recidivism by Lowering Inmate Telephone Rates .....	39
3. Diversifying Revenue Sources of the Inmate Welfare Fund.....	48
<b>Department of Correction’s Response to Inmate Welfare Fund Management Audit .....</b>	
	56

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# Introduction

This limited-scope *Management Audit of the Inmate Welfare Fund* was added to the Management Audit Division's Fiscal Year (FY) 2013-14 work plan by the Board of Supervisors of the County of Santa Clara, pursuant to the Board's power of inquiry specified in Article III, Section 302(c) of the Santa Clara County Charter. The Board added this audit after considering the annual County-wide audit risk assessment conducted by the Management Audit Division in accordance with Board policy.

## Purpose, Scope and Objectives

The purpose of the audit was to examine the County of Santa Clara's administration of the Inmate Welfare Fund (IWF) pursuant to Section 4025 of the California Penal Code, and to identify opportunities to increase the efficiency, effectiveness and economy of that administration. Penal Code Section 4025 provides for an IWF in each county, to be administered by the county sheriff or other county authority designated by the board of supervisors. As discussed in greater detail later in this Introduction, the County of Santa Clara Board of Supervisors has authorized the Office of the Sheriff and the Department of Correction (DOC) to assume joint responsibility for the operation of the jails, and created the Inmate Welfare Fund Committee (IWFC), which is chaired by the Chief of Correction, to administer the Fund. Work on this audit began with an entrance conference on July 2, 2014, a draft report was issued to the Sheriff and DOC on October 17, 2014, an exit conference was held on November 12, 2014, and a revised report, incorporating feedback from the exit conference, was issued to the two departments on November 26, 2014.

The audit's main objectives were:

- To determine whether any tasks of IWF-funded positions are duplicative of State mandated tasks of operating a county jail
- To determine the nature and costs of IWF-funded contracts and inmate satisfaction with contract services
- To determine whether the inmate telephone service delivery model provides the optimal benefit to inmates and the IWF
- To determine whether current IWF expenditures comply with Penal Code Section 4025, and are consistent with the 2008 *Hopkins et al. v. Flores et al.* Settlement Agreement and IWFC policies.

## Audit Methodology

As part of this audit, the Management Audit Division conducted interviews with both Sheriff's Office and DOC staff. These included the Director of the Sheriff's Administrative Services, the IWF Manager, the Inmate Programs Manager and various custodial staff performing IWF-funded work. Some interviews included tours of jails, including the County's Main Jail in San Jose and the men's and women's jail facilities at Elmwood Correctional Complex in Milpitas. On these

tours, we observed inmates ordering commissary, making telephone calls and participating in IWF-funded programs. At Elmwood, we visited the Women's Parents and Children Together (PACT) program, where we spoke with multiple program participants, the program director and other staff. We also observed interactions between participants and their children.

We reviewed all relevant IWF financial data, including the current and prior-year IWF Spending Plans (budgets), IWF Financial Status Reports (actual revenue and expenditure reports) and IWF Position Allocations (position detail reports) to identify IWF revenue and expenditure patterns. We reviewed all previous IWF time studies and contract analyses. We obtained all current IWF contracts. For the two largest dollar value contracts for telephone and commissary services, we obtained datasets of inmate telephone charges and commissary sales to determine average charges and sales per inmate, and other statistics.

We surveyed the 10 most populous counties in California to identify and compare key IWF policies and practices in those counties versus the County of Santa Clara. The results of this survey are provided as Attachment I.1.

We also surveyed inmates at Elmwood to gauge their opinions about the County's administration of the IWF. The survey was conducted in multiple languages (*English, Spanish and Vietnamese*), and asked inmates about their awareness of the IWF, their participation in IWF-funded activities, their benefit derived from such activities, their thoughts about the reasonableness of telephone rates and commissary prices, and their ideas on how the money in the IWF is used or could be used. We received and analyzed survey responses from 101 inmates, 87 men and 14 women. We spoke with multiple respondents. The results of this survey are provided as Attachment I.2.

We reviewed audits and other reports regarding the administration of IWFs (or their equivalents) in other jurisdictions nationwide, and relevant research on inmates, inmate programs and recidivism.

### ***Compliance with Federal Audit Standards***

This management audit was conducted under the requirements of the Board of Supervisors Policy Number 3.35 as amended on May 25, 2010. That policy states that management audits are to be conducted under generally accepted government auditing standards issued by the United States Government Accountability Office. We conducted this performance audit in accordance with generally accepted government auditing standards set forth in the 2011 revision of the "Yellow Book" of the U.S. Government Accountability Office. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives. In accordance with these requirements, we performed the following management audit procedures:

Audit Planning - The task plan for this audit was developed after reviewing the current IWF Spending Plan and the 2008 Settlement Agreement, reviewing the results of IWF audits in other jurisdictions, reviewing IWFC meeting minutes, and speaking with the Director of the Sheriff's Administrative Services.

Entrance Conference - An entrance conference was held with both Sheriff's Office and DOC staff, including the Chief of Correction, to introduce the audit team, describe the audit program and scope of review, and to respond to questions. A letter of introduction from the Board, the audit work plan and a request for background information were also provided at the entrance conference.

Pre-Audit Survey - Audit staff reviewed documentation and other materials to obtain an overall understanding of the administration of the IWF and to isolate audit areas that warranted more detailed assessments. Based on this pre-audit survey, the work plan for the audit was refined.

Field Work - Field work activities were conducted after completion of the pre-audit survey, and included: (a) tours of jail facilities, including observations of staff on the job; (b) a further review of documentation and other materials; (c) analyses of data collected from systems maintained by the Sheriff's Office, the DOC or elsewhere in the County; (d) surveys of other jurisdictions to measure performance and to identify alternative administrative practices that might warrant consideration by the County; and, e) surveys of inmates to gauge satisfaction with IWF-funded services.

Draft Report - On October 17, 2014, a draft report was provided to the Sheriff's Office and the DOC to describe the study progress and to share general information on our preliminary findings and conclusions.

Exit Conference - An exit conference was held on November 12, 2014 with both Sheriff's Office and DOC staff, including the Chief of Correction, to obtain their views on the report findings, conclusions and recommendations, and to make corrections and clarifications as appropriate. Following the exit conference, a revised draft was provided to staff for use in preparing their formal written responses.

Final Report - A final report was prepared and issued following the exit conference on November 26, 2014. The Office of the Sheriff and the Department of Correction's written responses are attached to the final report.

## **Description of the Inmate Welfare Fund**

Section 4025 of the California Penal Code provides for an Inmate Welfare Fund (IWF) in each county, to be administered by the county sheriff or other county authority designated by the board of supervisors. In the County of Santa Clara, the Board of Supervisors has authorized the Office of the Sheriff and the Department of Correction to assume joint responsibility for the operation of the jails, and created the Inmate Welfare Fund Committee (IWFC), which is chaired by the Chief of Correction, to administer the IWF. Per Section 4025, funding for the IWF comes from the following sources:

1. Profits from a store in the County jail, which sells goods and supplies to inmates;
2. 10 percent of all gross sales of inmate hobby-craft;
3. Money, refunds, rebates or commissions received from a pay telephone provider attributable to the use of pay telephones that are primarily used by inmates while incarcerated; and,
4. Interest from the investment of these funds by the County Treasurer.

Funding for the IWF may also come from inmate fines for illegal possession of wireless communication devices, tobacco products and handcuff keys.<sup>1</sup> However, the County's IWF does not currently derive any revenue from this source as inmate fines are entirely dependent on the Court imposing them.

Per Section 4025, county sheriffs or other designated county authorities (or in this case, the IWFC) are required to use inmate welfare funds "primarily for the benefit, education, and welfare of the inmates confined within the jail." Further, inmate welfare funds cannot be used to pay required county expenses of confining inmates. Title 15 of the California Code of Regulations (CCR) specifies what expenditures the County is required to provide.<sup>2</sup> Funds may be used to augment, but not replace, these expenditures. The full text of Section 4025 is provided as Attachment I.3.

## ***History of the Fund***

The exact establishment date of the County of Santa Clara's IWF is unclear. However, the County's accounting system indicates that the IWF, or Fund 0306, was established "prior to April 12, 1965," and that the Sheriff's Office was the "department responsible" for administering the Fund.

Until 1988, the Office of the Sheriff supervised jail facilities in the County. In June 1988, County voters amended the County Charter to add Section 509 to save costs by using custodial instead of law enforcement officers to staff the jails. Pursuant to this section the Board of Supervisors created the Department of Correction (DOC) and appointed a Chief Officer (now known as the

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<sup>1</sup> Penal Code Section 4575

<sup>2</sup> Section 6030 of the California Penal Code authorizes the 13-member California Board of State and Community Corrections (BSCC) to establish minimum standards for local correctional facilities. These minimum standards are contained in Title 15 of the California Code of Regulations.

Chief of Correction) to operate the County jails and to carry out other functions as the Board determines. The Chief of Correction runs the DOC and reports directly to the Board of Supervisors.

As part of these circumstances, the Board of Supervisors assumed the statutory duty to use the IWF in accordance with Penal Code Section 4025, rather than the Sheriff. For this reason, it created the Santa Clara County Inmate Welfare Fund Committee (IWFC), which is chaired by the Chief of Correction, to administer the IWF.

The IWFC has eight other members, including an Assistant Sheriff, four Correctional Commanders (i.e., the Main Jail Complex Commander, the Elmwood Complex Commander, the Support Services Commander and the Administrative Commander), the Public Defender and Custody Health Director or their designees, and a non-County employee with expertise in working with inmates or inmate programs. In accordance with its bylaws, the IWFC establishes policy relating to the administration of the IWF; approves the annual IWF Spending Plan; reviews IWF Financial Status Reports and forwards them to the Board of Supervisors annually; recommends uses of the IWF primarily for the benefit, education and welfare of inmates; and, evaluates IWF activities.<sup>3</sup>

To streamline jail functions and eliminate duplicative administrative functions, the County restructured the organizational responsibilities of the Office of the Sheriff and the DOC in 2010, allowing them to assume joint responsibility for the operation of the jails. Under this restructuring, the Chief of Correction appoints employees in specified non-badge operational positions in the following units: food services, administrative booking, inmate laundry and warehouse. Employees in these units report directly to the Chief of Correction. Meanwhile, the Sheriff appoints and oversees employees in all badge positions, Custody Support Assistants, and non-badge administrative positions including those assigned to the following units: fiscal, information technology, professional standards, personnel, training, detention services administration, Public Service Program/Weekend Work Program, detention screening and programs, analytical support, clerical support, and all others not assigned to the units specifically reporting to the Chief of Correction. Subsequent to this restructuring, County voters amended Section 509. This amendment authorized the Board of Supervisors, by ordinance, to convey jurisdiction over any and all jail operations to the Sheriff's Office, DOC, any other County department or any of these entities jointly as the Board determines. However, none of these operational changes affected the administration of the IWF. The IWFC continues to administer the Fund.

### ***Current Year Revenues and Expenditures***

The FY 2014-15 IWF Spending Plan includes total revenues of \$3,500,800 and total expenditures of \$3,550,713, resulting in a net budget deficit of \$49,913. To balance the budget, the IWFC approved the use of unallocated fund balance in the amount of \$49,913, as shown in Table I.1.

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<sup>3</sup> Rules of the IWF Committee, Adopted August 4, 2010, Revised May 8, 2013.

**Table I.1**  
**Inmate Welfare Fund**  
**Budgeted Revenues and Expenditures**  
**FY 2014-15**

<b><u>Beginning Fund Balance</u></b> <sup>1</sup>	<b>\$1,585,550</b>
<b><u>Revenues</u></b>	
Telephone charges	\$1,742,000
Commissary sales	1,705,000
Interest income	8,500
Other <sup>2</sup>	<u>45,300</u>
Total Revenues	3,500,800
Use of Fund Balance	49,913
<b><u>Total Resources</u></b>	<b>3,550,713</b>
<b><u>Expenditures</u></b>	
Salaries and benefits <sup>3</sup>	(2,836,213)
Operating expenses	(46,250)
Inmate expenses <sup>4</sup>	(188,700)
Contracts for inmate services	<u>(479,550)</u>
Total Expenditures	(3,550,713)
<b><u>Ending Fund Balance</u></b> <sup>5</sup>	<b>\$1,535,637</b>

**Notes:**

- 1 Equates to the IWF's June 30, 2014 fund balance as reported in the Independent Auditor's Report and Fund Financial Statements for the year ended June 30, 2014. Of this \$1.58 million balance, \$28,068, or 1.8 percent, was in amounts that could not be spent because they were not in a spendable form (i.e., fixed assets).
- 2 Includes revenues from inmate hobby-craft sales and money repaid by inmates for indigent hygiene kits.
- 3 Provides for 20.1 Full-Time Equivalent positions which is the sum of time spent by all Sheriff's Office and DOC staff, based on prior time studies, performing work asserted to be IWF-related in the following 10 functional areas: *Administration, Assignment, Classification, Commissary, Fiscal, Information Services, Inmate Services, Operations, Programs and Warehouse.*
- 4 Provides for athletic equipment, games, grooming equipment, hot water pots, incentive beverages and meals for inmate workers and for the repair and maintenance of other equipment items.
- 5 Estimated fund balance on June 30, 2015. Includes approximately \$28,068 of fixed assets.

***The 2008 Settlement Agreement***

In 2005, a group of inmates filed a complaint against the County of Santa Clara and several County employees in their official capacities, alleging that the County's administration of the IWF violated Penal Code Section 4025, and deprived them of the benefits of the IWF.<sup>4</sup> The County denied these allegations and contended that it administered the IWF within the parameters permitted by law.

Subsequent to this filing, a judge certified the inmates' complaint as a class action lawsuit to include all individuals incarcerated in the County's jails from July 1, 2003 through June 30, 2005.

On January 24, 2008, the parties reached a Class Action Settlement Agreement. The key term of the Settlement Agreement specifies that no less than 69.0 percent of all IWF expenditures in any fiscal year must be for "Direct Services" or physical items that further the inmates' benefits, education and welfare. Direct Services were defined as those activities that are conducted with or on behalf of inmates. These activities include direct assistance for counseling, training or education of inmates. The remaining 31.0 percent of total IWF expenditures in any fiscal year must be for "Indirect Services," or those activities that support, administer or facilitate Direct Services for inmates.

Under the Settlement Agreement, the County agreed to pay \$1.5 million in restitution to the IWF, and to retain an independent auditor, every two years, to perform both a financial audit of the IWF, and a detailed time study of all positions funded in whole or in part by the IWF, including contracts. Finally, the Settlement Agreement specified positions and functions that may not be funded by the IWF.

As part of the Settlement Agreement, the IWFC adopted Policy 1.0 and Policy 2.0 to respectively define what activities are considered Direct and Indirect Services, and what positions and functions may not be IWF-funded. These two policies are provided as Attachment I.4 and I.5, respectively.

The Settlement Agreement expired on January 24, 2013, which means the County is no longer legally required to abide by its terms. However, the IWFC's Policy 1.0 and Policy 2.0 defining what activities are considered Direct and Indirect Services, and what positions and functions may not be funded by the IWF remain in effect until they are either repealed or revised by the Inmate Welfare Fund Committee.

***Policy Regarding IWF Operational Reserve***

Per its Policy 3.0, the IWFC annually designates a portion of unallocated fund balance in the IWF as "Operational Reserve" to cover the cost of IWF salaries and benefits and contracted program and services in the event the IWF realizes insufficient revenues during the fiscal year to

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<sup>4</sup> *Hopkins et al. v. Flores et al.*, Case No. 1-05-CV035647, Superior Court of California, County of Santa Clara.

pay for those costs. No reserve is required for any of the other IWF operating expenses. The policy requires the Inmate Welfare Fund Committee to maintain a reserve that reflects 10.0 percent of IWFC-approved allocations for IWF salaries and benefits and contracted programs and services. For FY 2014-15, the Inmate Welfare Fund Committee set the reserve at \$331,576, or 10.0 percent of \$3,315,763, which is the portion of all IWFC-approved expenditures for the fiscal year (\$3,550,713) that are related to salaries and benefits and contracted programs and services.

### **Department Accomplishments**

Audits typically focus on opportunities for improvements within an organization, program or function. To provide additional insight into the administration of the IWF, we requested that the Sheriff's Office and DOC provide some of their noteworthy achievements. These are highlighted in Attachment I.6.



## **Survey of Inmate Welfare Funds in Other Jurisdictions**

When appropriate, information from the surveys has been included in various sections of this report. It should be noted that the survey responses contain self-reported information. We did not verify the accuracy of the reported information. Important insights from the survey include that the County of Santa Clara’s budgeted expenditures of \$866 per inmate ranked second lowest among the seven survey respondents, as shown in Table I.2 below.<sup>5</sup> The average budgeted expenditures per inmate, excluding Santa Clara, were \$1,262, or \$396 more than that of Santa Clara. Further excluding the County of Los Angeles, which had aberrantly high budgeted expenditures per inmate, the average of the remaining counties was \$1,078, which is still \$212 greater than that of Santa Clara.

**Table I.2**  
**Budgeted IWF Expenditures Per Inmate**  
**In Responding Counties**  
**FY 2014-15**

<b><u>County</u></b>	
Los Angeles	\$2,730
Alameda	1,469
Sacramento	1,367
Contra Costa	1,065
Fresno	1,052
San Bernardino	999
Santa Clara	866
Orange	515
<b>Average Excluding Santa Clara</b>	<b>\$1,262</b>
<b>Average Excluding Santa Clara &amp; LA</b>	<b>\$1,078</b>

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<sup>5</sup> The data in the Table I.2 represents total IWF expenditures divided by the average number of inmates. It is not intended to indicate the quantity or quality of services provided to inmates.

The County’s budgeted revenues of \$854 per inmate ranked second lowest among the survey respondents, as shown in Table I.3 below. The average budgeted revenues per inmate, excluding Santa Clara, were \$1,311, or \$457 more than that of Santa Clara. Further excluding the County of Sacramento, which had aberrantly high budgeted revenues per inmate, the average of the remaining counties was \$1,137, which is still \$283 greater than that of Santa Clara.

As shown in Table I.3, among the survey respondents, Santa Clara ranked third lowest in amount of telephone revenue budgeted per inmate, and second lowest in amount of commissary revenue budgeted per inmate. It tied with the County of Fresno for the second lowest amount of “other” revenue budgeted per inmate.

All of the comparison counties receive telephone and commissary revenue and therefore, it is possible to make a meaningful comparison of the averages in these categories between the counties. However, due to variances between the counties in their “other” category of revenue, comparison of the averages in this category should only be used to obtain a general indication of their other revenue size.

**Table I.3**  
**Budgeted IWF Revenues Per Inmate**  
**In Responding Counties**  
**FY 2014-15**

<u>County</u>	<u>Telephone</u>	<u>Commissary</u>	<u>Other<sup>1</sup></u>	<u>Total</u>
Sacramento	\$445	\$1,132*	\$175	\$1,752
Los Angeles	789*	947	3	1,739
Alameda	591	542	463*	1,596
San Bernardino	728	443	167	1,338
Fresno	653	653	13	1,319
Contra Costa	392	424	43	859
Santa Clara <sup>2</sup>	425	416	13	854
Orange	368	147	57	572
<b>Average Excluding Santa Clara</b>	<b>\$566</b>	<b>\$613</b>	<b>\$132</b>	<b>\$1,311</b>
<b>Average Excluding Santa Clara &amp; County w/ Highest Level</b>	<b>\$529</b>	<b>\$526</b>	<b>\$76</b>	<b>\$1,137</b>

**Notes:**

- \* Indicates which county anticipates the highest level of revenue per inmate from telephone, commissary and other revenue sources.
- 1 Averages for the “other” category of revenue exclude the use of unreserved IWF fund balance by the counties of Los Angeles, San Bernardino and Santa Clara.
- 2 For each inmate in the County of Santa Clara, the IWFC plans to spend \$866 but expects to receive only \$854, for a net difference of \$12 per inmate. As previously discussed, the IWFC plans to fund this difference with a portion of its unallocated IWF fund balance totaling \$49,913.

## **Topics Requiring Additional Review**

During the course of a management audit, certain issues may be identified and brought to the attention of the department being audited and the Board of Supervisors, even though a specific finding is not included in the report due to insufficient time to complete the analysis, or other factors. Two such matters are described below.

### **Alternative Method for Obtaining IWF Contract Audits and Time Studies**

Pursuant to Paragraph 8 of the 2008 *Hopkins et al. v. Flores et al.* Settlement Agreement, the County agreed to retain an independent auditor, every two years, to perform both a financial audit of IWF revenues and expenditures, and a time study of all IWF-funded positions, including contracts.

During the five-year period of the Settlement Agreement, from January 24, 2008 to January 24, 2013, the County's IWF was financially audited annually, with the last audit completed for the year ended June 30, 2014. In addition, two time studies of IWF-funded positions and contracts were completed over the same five-year period. The last time study was completed on December 13, 2011.

All the costs and expenses associated with retention of the independent auditor and performance of the time study were borne by the IWF as authorized by Paragraph 8 of the Settlement Agreement.

Because the Settlement Agreement has expired, the County is no longer required to perform IWF financial audits or time studies of IWF-funded positions and contracts. However, it is the current policy of the Sheriff's Office and Department of Correction (the "Departments") to arrange for such audits and time studies conducted by an independent third party, to ensure continuing compliance by the Departments with the expenditure criteria specified in the Settlement Agreement. Accordingly, at the entrance conference with the Departments, we were advised that an outside consultant would continue to conduct the IWF financial audits. However, we were also asked to investigate alternatives to use of a consultant to perform the time studies, with the goal of reducing or eliminating their fiscal impact on the IWF.

### ***In-House Time Study and Contract Analysis***

One option to efficiently perform the time study of IWF-funded positions and contracts in accordance with Paragraph 8 of the Settlement Agreement would be for the Board of Supervisors to include this time study in the County's Internal Audit Division (IAD) work plan. As an entity that is not part of either the Sheriff's Office or the DOC, the Internal Audit Division has the independence required by Paragraph 8 to provide objective analysis, is staffed by professional auditors, and has the knowledge of and access to County accounting and financial systems enabling it to perform the assignment in an efficient manner. We also believe that the time study should be performed annually as opposed to every two years, in order to capture and review any

IWF staffing and contract changes that are approved through the County's annual budget process.

The documents necessary to conduct the annual time study of staff hours worked on IWF programs and services include: (1) The current "IWF Position Allocation" plan, which shows all positions funded in whole or in part by the IWF, and (2) the previously-developed "IWF Position Task Summary", which is Attachment A to the IWFC's Policy 1.0 regarding Direct and Indirect Costs. The IWF Position Task Summary includes all tasks performed by IWF-funded positions and organizes them into "direct tasks", "indirect tasks" and "other tasks" categories. Using these documents, the Sheriff's Office and DOC could provide to IAD a time survey sheet that is specific to each IWF-funded position. An example of such a time survey is provided as Attachment I.7.

The sample survey provided is specific to the IWF Manager position. It details all tasks related to the position. These tasks are listed alphabetically by first word in the task. These tasks are a combination of direct and indirect tasks for the position, as outlined in the IWF Position Task Summary.

The sample survey spans a 14-day period. The IAD could set up one or more 14-day surveys in non-consecutive months in a year to obtain a balanced view of hours reported by staff working on IWF activities. By comparison, the last time study completed was based on three five-day surveys over two consecutive months in a year.

During each survey period, the IAD could instruct all employees in IWF-funded positions to complete their time survey sheets, and to return their completed sheets to their immediate supervisors for preliminary review and verification of self-reported time. The approved time survey sheets would then be submitted to the Internal Audit Division for final review and analysis.

As a second check of self-reported hours, during each survey period, IAD staff could randomly select and visit a group of employees in IWF-funded positions to observe and record the tasks being performed and to compare those observations with completed time survey sheets to determine if any material differences exist between time submissions and recorded observations.

One additional advantage of the 14-day time survey is that the survey could be set up to coincide with one of the County's 26 two-week pay periods. This would enable Internal Audit Division staff to compare total hours submitted for the time survey to total hours submitted to County payroll processing to determine if any differences exist between the two submissions.

Using the IWF Position Task Summary as a legend, Internal Audit Division staff could total survey respondents' hours within tasks and categories of direct, indirect and other tasks. With these totals, staff could determine the number of Full-Time Equivalent (FTE) positions performing "Direct Services" and "Indirect Services" hours relative to total FTE. From these totals, staff could then calculate the percentage split between FTE Direct and Indirect Services expenditures.

Finally, using the stipulations of Penal Code Section 4025 and the Settlement Agreement, Internal Audit Division staff could discern if IWF services provided by contractors are mandated or not-mandated, and then determine the amount of such services, if any, that cannot be funded via the IWF. The total estimated staff hours to perform this work amounts to approximately 196 hours as shown in Table I.4.

**Table I.4**  
**Preliminary Task Plan &**  
**Projected Hours for**  
**In-House IWF Time Study & Contract Analysis**

	<b><u>Task</u></b>	<b><u>Frequency of Task</u></b>	<b><u>Projected Hours</u></b>
1	Entrance conference	Once per year	2
2	Create time survey sheets for employees performing IWF-related work in 10 functional areas	Once per year	24
3	Distribute and collect time survey sheets	Two times per year	16
4	Perform site visits to observe employees on the job and compare those observations with completed time survey sheets	Two times per year	16
5	Compare time survey hours to total hours submitted to County payroll processing	Two times per year	16
6	Total survey respondents' hours according to direct, indirect and other tasks and determine the percentage split between FTE direct and indirect services expenditures	Two times per year	16
7	Determine if IWF services provided by contractors are mandated or not-mandated	Once per year	16
8	Prepare summary report	Once per year	80
9	Quality control and supervisory review	Once per year	8
10	Exit conference	Once per year	<u>2</u>
<b>Total Projected Hours</b>			<b><u>196</u></b>

Performing the time study of IWF-funded positions and contracts internally by the County's Internal Audit Division is projected to be less costly than use of an outside consulting firm to perform these services, due to the lower productive hourly cost of Internal Audit staff. Internal Audit services would be charged to the Departments through the County's Annual Cost

Allocation Plan and passed through to the IWF. Due to the lower hourly cost of the County's Internal Audit Division versus that of outside consultants, it is estimated that the IWF could save approximately \$16,250 annually and a portion of the Controller-Treasurer's Internal Audit Division would be funded from IWF monies. Any IWF savings would be available to fund additional IWF program costs for the direct benefit of inmates. The option to use the County's Internal Audit Division to perform this work was reviewed with Internal Audit to obtain their comments regarding this potential assignment. Internal Audit reported that its staff is fully engaged in Board-approved assignments at this time. Consequently, if approved by the Board, Internal Audit could not perform these services until FY 2015-16, unless the Board authorized additional staff for Internal Audit in FY 2014-15.

### **Inmate Requests to Participate in IWF-Funded Programs Exceed Availability**

As described earlier, the Sheriff has joint responsibility with the Department of Correction to operate the jails. Education programs for inmates while in custody are coordinated by the Sheriff-Inmate Programs Unit, while vocational skill classes are coordinated by the Sheriff-Operations Unit.

There are currently 20 education programs. They are designed to be comprehensive offering inmates a multitude of classes, such as re-entry preparation and job readiness, substance abuse education, conflict resolution and anger management, trauma recovery, parenting classes and GED preparation. There are also eight vocational skill classes. Inmates enrolled in these classes are instructed in areas such as welding, cabinet making, carpentry, upholstery, blueprint reading and industrial safety. A complete list of these programs and classes is provided as Attachment I.8.

None of these programs and classes are mandated and therefore, all of them are allowable IWF expenses. Table I.5 on the following page shows that the IWFC used the Inmate Welfare Fund in FY 2014-15 to pay for 7.20 FTE positions in the Sheriff-Inmate Programs Unit and 1.20 FTE positions in the Sheriff-Operations Unit. The table also shows that the IWFC used the Inmate Welfare Fund to pay for certain contracts with third party vendors that provide program-related services to inmates. The FY 2014-15 cost of these FTE and contracts amounts to about \$1.4 million. It is noted that this table excludes all indirect costs and some direct costs that benefit inmates individually. Total FY 2014-15 IWF expenditures amount to \$3,550,713 as shown in Table I.1.

**Table I.5**  
**Budgeted Program Costs Funded by the IWF**  
**FY 2014-15**

<u>Positions</u>	<u>Annual Cost</u>
• 7.20 FTE Sheriff-Programs Unit positions	\$1,172,655
• 1.20 FTE Sheriff-Operations Unit positions	<u>185,970</u>
Subtotal	\$1,358,625
 <u>Contracts for Services</u>	
• Parenting classes & child visitation	27,300
• Adult education ( <i>GED testing</i> )	20,000
• Food safety workshop ( <i>ServSafe certificates</i> )	<u>7,000</u>
Subtotal	54,300
<b>Total</b>	<b>\$1,412,925</b>

Participation in these programs and classes is entirely voluntary. Eligibility to participate depends upon each inmate's security classification level, sentencing status, length of stay, assessed needs and behavior within the jail. Data shows that the average daily population of inmates in the County of Santa Clara's jails during the first six months of FY 2013-14 was 4,111. During the same time period, 900 inmates participated in an education program, and an additional 50 inmates attended a daily vocational skill class. These levels of participation represent 23.1 percent of the then average daily inmate population. Based on available information, we could not determine if these levels of participation represent all inmates who both want to participate and are eligible to participate. Neither Sheriff nor DOC tracks this information.

We attempted unsuccessfully to answer this question ourselves. We asked for, and the Sheriff-Inmate Programs Unit provided, all *Inmate Request Forms* (IRFs) submitted during a one week period in August 2014. The IRF is a standard form used by inmates to make any type of request of jail staff. A review of 150 total IRFs submitted revealed that 138 inmates asked to be: (1) rehoused to an area of the jails where education programs are offered, or (2) reclassified to a lower level of security classification and then rehoused into a programming unit.<sup>6</sup> Within these 138 requests, 40 inmates, or about 27 percent of all IRFs submitted, were determined to be eligible for an education program and rehoused, but were instead placed on a wait list due to lack of programming space. Neither the Sheriff's Office nor Department of Correction had information about the number of inmates that may have already been on a wait list for a program at the time.

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<sup>6</sup> Because education programs are offered only in some housing units, inmates who want to participate must submit an Inmate Request Form for approval to physically move into one of those units. Their IRFs may be denied if Sheriff-Programs Unit staff determines that they are not suitable for a program, or if Sheriff-Classification Unit staff determines, upon reviewing their classification levels and other profile information, that they cannot be safely rehoused.

Program staff advised us that all waitlisted inmates eventually get into a program unit, although they do not track how long inmates wait or how many are released from jail prior to participating in a program.

After the exit conference with County staff, we were advised that there are currently four education programs with a wait list, including:

- Roadmap to Recovery,
- Breaking Barriers,
- Get Right, and
- Program About Change and Encouragement (PACE).

Except for Roadmap to Recovery, which is a men's journaling program for which the number of inmates on the wait list was unknown, there are currently about 25 inmates waiting for space in each of the other three programs, for a total of 75 inmates. We were also advised that the Departments intend to open a new programming unit at the Elmwood Correctional Complex in December 2014, which will provide space for 56 additional inmates, or 19 spaces short of all 75 currently waitlisted inmates (not including those inmates who may be waiting to participate in the Roadmap to Recovery program). Consequently, the Sheriff-Inmate Programs Unit should begin maintaining records of the number of inmates on wait lists by program and the number of days prior to their admission to a program. This information could be used to determine the extent of the currently unmet program needs, and to better manage future program capacities as IWF resources become available.

## **Recommendation Priorities**

The priority rankings shown for each recommendation in the audit report are consistent with the audit recommendation priority structure adopted by the Finance and Government Operations Committee of the Board of Supervisors, as follows:

**Priority 1:** Recommendations that address issues of non-compliance with federal, State and local laws, regulations, ordinances and the County Charter; would result in increases or decreases in expenditures or revenues of \$250,000 or more; or, suggest significant changes in federal, State or local policy through amendments to existing laws, regulations and policies.

**Priority 2:** Recommendations that would result in increases or decreases in expenditures or revenues of less than \$250,000; advocate changes in local policy through amendments to existing County ordinances and policies and procedures; or, would revise existing departmental or program policies and procedures for improved service delivery, increased operational efficiency, or greater program effectiveness.

**Priority 3:** Recommendations that address program-related policies and procedures that would not have a significant impact on revenues and expenditures, but would result in modest improvements in service delivery and operating efficiency.



## **Acknowledgements**

We would like to thank Sheriff's Office and DOC administrative personnel for their cooperation and assistance throughout this audit. They provided much of the data contained in this report, and provided helpful feedback to a draft of this report. In addition, we would like to thank the Command Staff of both the County's Main Jail and Elmwood Correctional Complex for responding to our inquiries, facilitating tours of the jail facilities and assisting with the inmate survey. We also appreciate the assistance and cooperation of all IWF contractors, especially those who allowed us to observe and in some cases, participate in program activities. Lastly, we thank the Sheriff and the Chief of Correction for opening their organizations up to us for this review.

## Highlights of Survey of Largest California Counties (Self-Reported Information)

County	Agency	Average daily population of your jails?	What is your total IWF budget in FY 2014-15.	Telephone revenue as % of budget.	Commissary revenue as % of budget.	All Other revenue as % of budget.	Number of FTE positions funded by the IWF?	Annual cost of those positions?	Annual number of inmates in IWF-funded programs?	Annual cost of those programs?	% of gross telephone revenue received?	% of gross commissary sales received?	Weekly spending limit on commissary purchases?	Solicit inmate feedback about your IWF?
<b>Alameda</b>	Alameda County Sheriff's Office	3,335	\$ 4,900,000	37.0%	34.0%	29.0%	17,00	\$ 2,012,747	6,610	\$ 1,599,085	70.5%	40.0%	\$ 150	No
<b>Contra Costa</b>	Contra Costa County Sheriff	1,690	\$ 1,800,000	46.0%	49.0%	5.0%	18,00	\$ 1,456,243	All inmates	\$ 1,800,000	57.0%	25.0%	\$ 100	No
<b>Fresno</b>	Fresno County Sheriff's Office	2,756	\$ 2,900,000	44.0%	55.0%	1.0%	15,00	\$ 1,465,167	19,080	\$ 190,000	56.0%	50.0%	\$ 175	No response
<b>Los Angeles</b>	Los Angeles County Sheriff's Department	19,014	\$ 45,065,871	33.3%	39.9%	26.6%	92,00	\$ 14,044,000	92,786	\$ 25,216,704	Minimum Annual Guarantee of \$15,000,000	Minimum Annual Guarantee of \$18,000,000	\$ 195	Weekly town hall meetings with inmates
<b>Orange</b>	Orange County Sheriff-Coroner Department	6,800	\$ 3,500,000	67.0%	23.0%	10.0%	33,00	\$ 3,492,000	No response	No response	No response	No response	Maximum Account Limit of \$500	No response
<b>Sacramento</b>	Sacramento County Sheriff's Department	4,499	\$ 6,151,504	60.0%	30.0%	10.0%	25,00	\$ 2,834,962	Unknown	\$ 500,000	90.0%	55.1%	\$ 150	Unknown
<b>San Bernardino</b>	San Bernardino County Sheriff's Department	6,000	\$ 5,991,743	43.1%	44.4%	12.5%	38,50	\$ 3,414,600	No response	\$ 2,264,216	59.1%	50.9%	\$ 100	No response
<b>Santa Clara</b>	Santa Clara County Sheriff's Office	4,100	\$ 3,550,713	49.8%	48.7%	1.5%	20,10	\$ 2,836,213	Average daily programs population of 900	\$ 491,550	61.0%	50.0%	\$ 150	No

**Notes:**  
The counties of Los Angeles, San Bernardino and Santa Clara reported using portions of their unallocated IWF fund balances as revenue, but these amounts and their percentages of total revenue were excluded from Table 3.1 in Section 3 of this audit to make meaningful comparisons between revenue sources across IWFs in all of the survey counties.

**Survey of Inmates  
County of Santa Clara  
July 31, 2014**

	Men				Women				Combined Men & Women	
	English	Spanish	Vietnamese		English	Spanish	Vietnamese		All Languages	%
Survey Language	43	41	3		7	4	3		101	
Total No. of Respondents										

1 When you came to jail, were you told about the IWF and what the money is used for?	2	7	1		1	2	1		14	14%
Yes	38	31	1		6	2	2		80	79%
No	3	1	1						5	5%
Don't remember		2							2	2%
No Response	43	41	3		7	4	3		101	100%

2 Which of the things below have you done while in jail?	36	31	1		5	2	3		78	77%
Watched television	28	27	2		6	1	1		65	64%
Utilized a hot water dispenser	28	27	2		1	2			60	59%
Received a haircut	20	28	2		4	2	1		57	56%
Played a board game	14	28	3		6	2	2		55	54%
Attended a religious service/activity	17	15	2		2	1			37	37%
Utilized athletic equipment	16	13	2		4	2			35	35%
Received extra food/drinks for working	11	4	2		4				21	21%
Received legal research assistance	4	8			1	1	1		15	15%
Took the Food Safety test	3	8	1				1		13	13%
Took a parenting class	2	2	1		2		1		8	8%
Took the GED test	3	3				1			7	7%
Other - Specify	2	2							4	4%
None of these										

3 Would you say the jail activities listed above are:	18	30	3		6	1			58	57%
Very helpful	22	9			1	1	3		36	36%
Somewhat helpful	3	1				2			6	6%
Not at all helpful									1	1%
No Response	43	41	3		7	4	3		101	100%
Total										

4 Would you say commissary prices are:	23	28	2		4	2	3		62	61%
Very high	17	6			3				26	26%
High	3	6	1			1			11	11%
About right						1			1	1%
Low		1							1	1%
No Response	43	41	3		7	4	3		101	100%
Total										

5 Would you say telephone charges are:	28	35			5	2	3		73	72%
Very high	11	2			2				15	15%
High	3	2	3			2			10	10%
About right									0	0%
Low	1	2							3	3%
No Response	43	41	3		7	4	3		101	100%
Total										



**Search CAL. PEN. CODE § 4025 : California Code - Section 4025**

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- (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.
- (c) There shall also be deposited in the inmate welfare fund 10 percent of all gross sales of inmate hobbycraft.
- (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 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.
- (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 the provisions of 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 the provisions of 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 inmate 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 inmate welfare fund.
- (i) The sheriff may expend money from the inmate welfare fund to provide indigent inmates, 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 inmate's 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 inmate welfare fund for the transfer of any inmate to the custody of any other law enforcement official or jurisdiction.

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**SANTA CLARA COUNTY  
DEPARTMENT OF CORRECTION  
INMATE WELFARE FUND**

**POLICY NUMBER 1.0 – DIRECT AND INDIRECT COSTS**

**EFFECTIVE DATE:** February 15, 2008

**PURPOSE:** To define and establish guidelines for direct and indirect costs of the Inmate Welfare Fund (IWF).

**APPLICABILITY:** Inmate Welfare Fund

**DEFINITIONS:** Direct Services are those activities that are conducted with or on behalf of a particular inmate or group of inmates. These activities include direct assistance for, counseling, training, or education of an inmate; preparing for direct assistance for, counseling, training, or education of an inmate; communications with other staff, family members, or outside agencies or governmental entities to further direct assistance for, counseling, training, or education of an inmate (including but not limited to assisting the courts and answering court questions regarding the programming status of inmates); documenting direct assistance for, counseling, training or education of an inmate; and providing direct recreation services to improve inmate morale or well-being. Items that further inmates' benefit, education and welfare may include physical items—such as educational, informative, or other reading material and recreational supplies—that further inmate recreation or improve inmate morale or well-being.

Indirect Services are those activities that support, administer or facilitate the direct services described above. For example, indirect services include but are not limited to administration and financial management, janitorial services, personnel recruitment, personnel supervision, personnel training, coordinating with other agencies or governmental entities on a programmatic or administrative level (i.e., not planning for services to be provided to an individual inmate or an identifiable group of inmates), security clearances and access for program staff, policy-making, policy and legal compliance, contract management, or classification.

**POLICY:** The money and property deposited in the IWF shall be expended for the benefit, education and welfare of the inmates confined within Santa Clara County jails.

No less than 69% of total IWF expenditures in any fiscal year shall be attributable to direct services or physical items that further inmates' benefit, education, and welfare.

No more than 31% of total IWF expenditures in any fiscal year shall be attributable to Indirect Services for programs that further inmates' benefit, education, and welfare.

The assignment of expenditures to the categories of direct services or indirect services shall be based on the assignments listed in Attachment A, when those expenditures are made for the same or substantially similar positions or functions. When expenditures are made for positions or functions that are not the same or substantially similar to those listed in Attachment A, the County should, if possible, base its assignment of that expenditure to direct services or indirect services on the most analogous position or function listed in Attachment A. Any conflict between this Policy and Attachment A shall be resolved in favor of the Policy.

**POLICY REVISION:** This Policy will remain in effect until the IWF Committee repeals the Policy. Revisions to this Policy must be approved by the IWF Committee.

**SIGNATURE OF ISSUING AUTHORITY**



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John Hirokawa, Chief of Correction and  
Inmate Welfare Fund Committee Chairman

**SANTA CLARA COUNTY  
DEPARTMENT OF CORRECTION  
INMATE WELFARE FUND**

**IWF POLICY NUMBER 2.0 – EXCLUDED EXPENDITURES**

**EFFECTIVE DATE:** February 15, 2008

**PURPOSE:** To define expenditures that may not be charged to the Santa Clara County Department of Correction's Inmate Welfare Fund (IWF).

**APPLICABILITY:** Inmate Welfare Fund

**POLICY:** Inmate welfare funds shall not be used to pay required County expenses of confining inmates in a local detention system, such as meals, clothing, housing, or medical services or expenses, except that inmate welfare funds may be used to augment those required County expenses as determined by the Board or its designee to be in the best interests of inmates, consistent with California Penal Code 4025.

Subject to IWF Policy 1.0, the following positions (and any position containing duties reflected in Fiscal Years 2004, 2005, 2006, and 2007 job descriptions for those positions), functions, and expenses related to such positions or functions may not be funded through the IWF:

1. Commit Desk Officer or other booking officers;
2. Visiting staff, except those expenditures made to provide expanded visitation to inmates beyond what is required by Title 15 and/or other applicable law;
3. Window B Officers;
4. Functions required by Title 15 and/or other applicable law, including mandated services for pro per inmates, mandated disciplinary hearing-related functions, ADA or other disability-related access requirements, court-mandated services and programs, translation and interpretation, and mandated religious services, except as to augment these functions as permitted under IWF Policy 1.0.;
5. Kitchen Officers;
6. Regimented Corrections Program Officers, Commissary Delivery Officers, and other personnel providing security, except to the extent that time studies demonstrate that such personnel are providing, in addition to security, direct or indirect services to inmates;

7. Rehabilitation Officers, except to the extent that time studies demonstrate that such personnel are providing direct or indirect Services to inmates;
8. Administrative Booking Officers; and
9. Food services and landscaping, unless related to programs that serve legitimate educational and/or vocational benefits for the inmates who participate in them and such programs are accredited through an educational entity.

**POLICY REVISION:** This Policy will remain in effect until the IWF Committee repeals the Policy. Revisions to this Policy must be approved by the IWF Committee.

**SIGNATURE OF ISSUING AUTHORITY**



---

John Hirokawa, Chief of Correction and  
Inmate Welfare Fund Committee Chairman



## County of Santa Clara Department of Correction

180 W. Hedding Street  
San Jose, California 95110-1772  
(408) 299-4005 Fax: (408) 288-8271



John Hirokawa  
Chief of Correction

October 14, 2014

To: Gabe Cabrera, Harvey M. Rose Associates, LLC

From: Chief John Hirokawa *JH1357*

Re: **Accomplishments and Activities - Inmate Welfare Fund**

The following is a list of accomplishments and activities related to the Inmate Welfare Fund.

- At a recent Inmate Welfare Fund Committee meeting, the member-at-large with expertise in working with inmates and inmate programs Dr. Jeff Schwartz said this about the programs for inmates in the jail:
  - "The Program Officers ...were very committed, very involved. They knew what they were doing. They were exemplary. And equally exemplary were the deputies and their support for the programming going on in their units – that's not typical." In comparing our County to other jail systems he has worked with, he said: "It was really first rate – something of a model, in terms of getting Programs staff and uniform staff working pretty seamlessly towards same objectives."*
- Every year, the Inmate Welfare Fund (IWF) is audited by an independent auditor that audits all IWF financial transactions to ensure that they are fairly represented. The IWF always passes the annual audit, with no material findings or questioned costs.
- The IWF funds agreements with Catholic Charities and Correctional Institutions Chaplaincy for the provision of religious services to inmates. Every year, these contractors provide:
  - 3,600 religious services
  - 575 referrals to community based organizations
  - Religious services for 25,230 inmates

Board of Supervisors: Mike Wasserman, Dave Cortese, Ken Yeager, S. Joseph Simitian, Cindy Chavez  
County Executive: Jeffrey Smith

- The IWF also funds a separate agreement with Catholic Charities for inmate services, such as making copies of documents for pro per inmates, responding to inmate requests, notary services, book delivery, medical requests like reading glasses, and divorce/marriage information. Each year, Catholic Charities provides 4,900 of these services, and makes 36,000 copies for pro per inmates.
- General Education, Vocational education, and substance abuse classes are provided through the IWF-funded contract with Milpitas Adult Education. Over 2,600 inmates per year receive instruction in job readiness, study skills, art, math, ESL, and GED test preparation. In the vocational area, 1,200 inmates are educated in computers, welding, cabinet making, and upholstery. Approximately 5,400 inmates participate in substance abuse education classes.
- PACT, the Parenting Education and Parent/Child Visitation program, provides parenting classes for about 550 inmates each year. This IWF-funded program also provides 965 child supervised visits for the inmates.
- The IWF enables the department to provide various legal services through a contract with Legal Research Associates, such as legal research, document retrieval, and response to questions. Every year, this service provides services to 4,400 inmate requests per year, and provides 11,600 responses for criminal cases. When additional information is requested by inmates for other legal matters such as civil and family law, over 16,000 packets of information are provided to the inmates.

September-2014		IWF Time Study Sheet														
IWF Manager - (Employee Name)		Pay Period 09/15 to 09/28														
		Mon	Tue	Wed	Thu	Fri	Sat	Sun	Mon	Tue	Wed	Thu	Fri	Sat	Sun	Total
		15	16	17	18	19	20	21	22	23	24	25	26	27	28	
<b>POSITION TASKS</b>																
1	Assist in the preparation of the IWF Financial Plan & Financial Status Report	1.0	1.0	1.0	1.0	1.0										5.0
2	Attend/participate in IWF-related meetings															
3	Audit IWF warehouse inventory															0.0
4	Conduct analysis of IWF-related issues															0.0
5	Conduct IWF-related contract negotiations; generate and manage IWF contracts; process contracts in SAP															0.0
6	Conduct IWF-related research & networking (trend, industry standards, etc.)															0.0
7	Coordinate IWFC meetings; prepare, post & distribute IWFC agendas; maintain IWFC meeting logs															0.0
8	Generate RFPs/RFQs; conduct IWF-related competitive vendor selection process; and evaluate vendor proposals															0.0
9	Handle IWF-related communication (e-mail, phone, correspondence); and serve as liaison between inmates, vendors and DOC staff															0.0
10	Maintain IWF-related document/information including contracts, requisitions, commissary & warehouse inventory logs															0.0
11	Other Direct Tasks															0.0
12	Prepare cost & revenue projections															0.0
13	Prepare IWF work plan & coordinate IWF Work Group meetings															0.0
14	Prepare reports/transmittals and keep the IWFC informed of IWF-related matters/issues															0.0
15	Prepare/analyze statistical reports regarding IWF-eligible inmate programs, commissary volume & sales, and IWF contracts															0.0
16	Process security clearance requests from vendors															0.0
17	Receive, research and respond to IWF-related complaints/requests/comments for/from inmates															0.0
18	Review and approve IWF-related invoices, purchase requisitions, and requests for inmate games, equipment and other supplies															0.0
19	Review input from individual inmates regarding IWF-eligible programs															0.0
<b>Position Tasks Total</b>		1.0	1.0	1.0	1.0	1.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	5.0
<b>OTHER TASKS NOT LISTED ABOVE</b>																
1																0.0
2																0.0
<b>Other Tasks Not Listed Above Total</b>		0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
<b>GRAND TOTAL</b>		1.0	1.0	1.0	1.0	1.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	5.0

**Inmate Programs**  
**County of Santa Clara**  
**FY 2014-15**

<b>Education</b>	<b>Unit Responsible</b>	<b>Not funded by IWF</b>	<b>Fully-funded by IWF</b>	<b>Partially-funded by IWF</b>	<b>Male Female</b>	<b>M &amp; F</b>	<b>Main Jail</b>	<b>Elmwood</b>	<b>Facilities</b>
1	Breaking Barriers Programs			1	1		1		
2	Bridge Programs	1			1			1	
3	Choices Programs	1			1			1	
4	Custody Alternative Supervision Program (CASP) -In-custody phase Programs	1			1				1
5	Empower Programs			1	1			1	
6	Get Right Programs			1	1				
7	Lifeline Programs	1			1		1		
8	New Directions Programs			1	1			1	
9	New Horizons Programs			1	1			1	
10	New Life Programs			1	1			1	
11	Parents and Children Together (PACT)-Men's Programs	1			1			1	
12	Parents and Children Together (PACT)-Women's Programs		1		1			1	
13	Pride Programs			1	1			1	
14	Program about Change and Experience (PACE) Programs			1	1			1	
15	Reentry Correction Program (RCP)-Phase 1 -Men's Programs			1	1			1	
16	Reentry Correction Program (RCP)-Phase 1 -Women's Programs			1	1			1	
17	Roadmap to Recovery (journaling) Programs	1			1			1	
18	Strive Programs			1	1			1	
19	Un Dia A La Vez (an ESL class) Programs	1			1			1	
20	Women Investigating New Gates for Sobriety (WINGS) Programs			1	1			1	
<b>Total</b>		<b>7</b>	<b>1</b>	<b>12</b>	<b>15</b>	<b>3</b>	<b>2</b>	<b>16</b>	<b>2</b>

8

<b>Vocational</b>	<b>Unit Responsible</b>	<b>Not funded by IWF</b>	<b>Fully-funded by IWF</b>	<b>Partially-funded by IWF</b>	<b>Male Female</b>	<b>M &amp; F</b>	<b>Main Jail</b>	<b>Elmwood</b>	<b>Facilities</b>
1	Business Management Program (embroidery and silk screening) Operations		1		1			1	
2	Cabinet Making/Wood Shop Program Operations	1			1			1	
3	Combination Welding Program Operations	1			1			1	
4	Computer Training Program Operations	1			1			1	
5	Engraving Program Operations	1			1			1	
6	Servesafe Program Operations			1	1			1	
7	Sustainability Program (landscaping) Operations	1			1			1	
8	Upholstery Program Operations	1			1			1	
<b>Total</b>		<b>7</b>	<b>0</b>	<b>1</b>	<b>4</b>	<b>1</b>	<b>0</b>	<b>8</b>	<b>0</b>

## **Section 1. Distribution of Direct and Indirect Inmate Welfare Costs in Accordance with State Law and Local Policies**

### **Background**

Policy 1.0 of the Santa Clara County Inmate Welfare Fund Committee and the 2008 Settlement Agreement in *Hopkins et al. v. Flores et al.* require no less than 69.0 percent of all Inmate Welfare Fund (IWF) expenditures in any fiscal year must be for “direct services,” which involve direct assistance for counseling, training and education of inmates. The remaining 31.0 percent of IWF expenditures must be for “indirect services,” which are to support, administer or facilitate direct services. Accordingly, all IWF expenditures, including personnel expenditures, are assigned to the categories of direct and indirect services.

### **Problem and Adverse Effect**

The County’s IWF currently pays for 20.10 Full-Time Equivalent (FTE) positions in the Sheriff’s Office and the Department of Correction (DOC). These FTEs represent the sum of time spent by all staff performing IWF-related work in the two departments, based on prior time studies. Of these 20.10 FTEs, 13.05 FTEs are charged to the IWF as a direct services expense. However, 1.10 FTEs of these 13.05 FTEs actually perform indirect services and therefore, should not be charged to the IWF as direct services. These FTEs are in two functional areas: *Classification* and *Inmate Services*. The departments reported that they charged the 1.10 FTEs as direct services in accordance with prior time studies conducted by third-party consultants. Nonetheless, based on our interviews with employees in these positions and our understanding of the 2008 Settlement Agreement in *Hopkins et al. v. Flores et al.* and local policies, these FTEs are performing indirect services activities, and should only be funded as part of the 31.0 percent share of the IWF, which is available to fund indirect services.

### **Recommendations, Savings and Benefits**

The overall percentage split between direct and indirect services charges to the IWF in the current fiscal year is 72.9 percent and 27.1 percent, respectively, of total expenses. To achieve the allowed 69/31 percentage split, we recommend reclassifying \$137,500 of the \$160,075 in direct services charges for the 1.10 FTEs in *Classification* and *Inmates Services* to an indirect services expense, and excluding the remaining \$22,575 from IWF funding. This would save the Fund \$22,575 and require that the unfunded portion of that staffing increment be eliminated, or funded from another source, such as the County’s annual AB 109/AB 117 funding allocation from the State, or with discretionary General Fund revenue, if necessary.

## **BACKGROUND**

The County of Santa Clara’s Inmate Welfare Fund (IWF) is established and administered by authority of Section 4025 of the California Penal Code. Section (e) of 4025 specifies permissible IWF expenditures and prohibits certain expenditures as follows:

- Money and property in the IWF must be used primarily for the benefit, education, and welfare of the inmates confined within the jail.
- Any funds that are not needed for inmate welfare may be expended for the maintenance of county jail facilities. Maintenance of county jail facilities may include, but is not limited to, the salaries 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.
- Funds cannot be used to pay required county expenses of confining inmates. Title 15 of the California Code of Regulations (CCR) specifies what expenditures the County is required to provide.<sup>1</sup> Funds may be used to augment, but not replace, these expenditures.

***IWF Position Allocation***

The Inmate Welfare Fund Committee, which was created by the Board of Supervisors to administer the IWF, currently uses the IWF to pay for 20.10 Full-Time Equivalent (FTE) positions performing work in 10 functional areas throughout the Office of the Sheriff and the Department of Correction (DOC), as shown in Table 1.1 below. These FTEs are the sum of time spent by all Sheriff’s Office and DOC staff in these areas and reported as IWF-related in prior time studies. The total annual cost to the IWF of these FTEs is \$2,836,213.

**Table 1.1  
Functional Area and FTE Count  
FY 2014-15**

<u>Function</u>	<u>FTE</u>
Administration	1.00
Assignment	0.30
Classification	1.10
Commissary	5.25
Fiscal	2.55
Information Services	0.40
Inmate Services	0.90
Operations	1.20
Programs	7.20
Warehouse	<u>0.20</u>
<b>Total</b>	<b>20.10</b>

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<sup>1</sup> Section 6030 of the California Penal Code authorizes the 13-member California Board of State and Community Corrections (BSCC), whose members are prescribed by statute, to establish minimum standards for local correctional facilities. These minimum standards are outlined in Title 15 of the California Code of Regulations.

### ***Methodology***

One of the key objectives of this audit was to determine whether any current IWF-funded positions are performing tasks which are duplicative of State mandated tasks of operating a county jail.

To accomplish this objective, we reviewed all relevant sections of the State Penal Code and Title 15 to gain an understanding of what types of staffing expenditures the County of Santa Clara's IWF is allowed to make. We also reviewed all positions that are currently funded by the IWF, as outlined in the FY 2014-15 "IWF Position Allocation" matrix, and each position's prescribed tasks, as detailed in "IWF Position Task Summary", which is Attachment A to the IWFC's Policy 1.0 regarding direct and indirect costs. Finally, using the stipulations of the Penal Code and the requirements of Title 15, we determined what, if any, IWF-funded positions are performing tasks which are duplicative of State mandated tasks of operating a county jail, and therefore, potentially unallowable IWF expenses.

### ***Summary of Findings***

Of the 20.10 FTEs funded by the IWF, 2.0 FTEs are performing tasks whose expenditures are arguably required expenditures pursuant to the requirements of Title 15, and therefore not allowable, on their face, for funding from the Inmate Welfare Fund. These FTEs are in two functional areas: *Classification* and *Inmate Services*. However, this determination is significantly affected by the discretion provided in Penal Code Section 4025 permitting the use of inmate welfare funds to augment, but not replace, required county expenses of confining inmates, and by the 2008 Settlement Agreement in *Hopkins et al. v. Flores et al.* The remainder of this section addresses these 2.0 FTEs in more detail, in light of the applicable law and regulations, and the Settlement Agreement.

#### ***Classification Positions (1.10 FTE)***

Current Classification staffing is 32.0 Full-Time Equivalent (FTE) positions. Classification staffing is primarily responsible for assigning inmates to housing units within the jails. New inmates are interviewed by intake staff from the unit, using a structured questionnaire, and their criminal history information is obtained from various government databases. Classification staff then make initial housing assignments depending upon on each inmate's alleged crime, criminal history, gang affiliations and other factors that determine with what other types of inmates the new inmate may be safely housed and in the least restrictive environment.

Of the 32.0 FTEs, the equivalent of 1.10 FTEs are funded by the IWF, based on the sum of time spent by all Classification staff and reported as IWF-related in prior time studies. The 1.10 FTEs include 0.80 FTE of Correctional Officer time, and 0.30 FTE of Law Enforcement Clerk time, which is presumably time spent gathering records for Correctional Officer review. The annual cost to the IWF of these FTEs is \$168,120.

Article 5, Section 1050 of Title 15 of the California Code of Regulations (CCR) requires the County to have a written classification plan and classification system "to properly assign

inmates to housing, work, rehabilitation programs, and leisure activities,” which is the purpose of the County’s Classification unit and therefore, appears on its face to be a required county expense not eligible for Inmate Welfare Fund support. The full text of Section 1050 is provided as Attachment 1.1.

However, this assessment is tempered by the 2008 Settlement Agreement in *Hopkins et al. v. Flores et al.*, which required no less than 69.0 percent of all IWF expenditures in any fiscal year must be for “direct services,” and the remaining 31.0 percent of expenditures must be for “indirect services.” The indirect services listed, which are to support, administer or facilitate direct services, specifically include Classification activities. Although the Settlement Agreement expired in 2013 and is no longer in force, its requirements regarding direct and indirect costs and the percentage split between them were adopted as Policy 1.0 of the Inmate Welfare Fund Committee, as described in the Introduction.

The current “IWF Position Allocation” matrix shows that 0.60 FTE of the total 1.10 FTEs in Classification was charged to the IWF as a direct services activity, while 0.50 FTE was charged as an indirect services activity. The 0.60 FTE is for Correctional Officer time, which was reported in the “IWF Position Task Summary” as related to various “direct tasks” of determining inmate eligibility for IWF programs.

We believe this 0.60 FTE should not be charged to the IWF as a direct service, because the function of Classification is to determine appropriate housing assignments for inmates, not to determine eligibility for IWF programs, which is a separate function carried out by Inmate Programs staff. In other words, determining that an inmate may safely be housed in a jail housing unit where IWF programs are offered, is not the same as determining that the inmate is eligible for programs themselves. Therefore, Classification is an indirect services activity, which is specifically defined in the Settlement Agreement and Policy 1.0 of the IWFC, and should only be funded as part of the 31.0 percent share of the Fund, which is available to fund indirect services.

The Sheriff’s Office and DOC reported that they charged the 1.10 FTEs to the IWF as a direct service in accordance with previous time studies performed by third-party consultants. The first time study, conducted by Macias Consulting Group in 2009, identified 1.10 FTEs that were performing IWF-related work in the area of Classification but were not receiving IWF funds at that time. The 1.10 FTEs included 0.90 FTE of Correctional Officer time, and 0.20 FTE of Law Enforcement Clerk (LEC) time. The consultant classified all of the Correctional Officer time as a direct service, and all of the LEC time as an indirect service. The second time study, conducted by IntelliBridge Partners in 2011, also identified 1.10 FTEs that were performing IWF-related work in Classification. We note that Correctional Officer time under the second study decreased by 0.10 FTE, from 0.90 FTE to 0.80 FTE, and LEC time increased by 0.10 FTE, from 0.20 FTE to 0.30 FTE, for no net change in the number of FTEs in Classification from the previous study. However, one notable difference between the two studies is that IntelliBridge classified 6.0 FTE of the Correctional Officer time as a direct service, and the remaining 2.0 FTE as an indirect service, whereas the previous consultant classified all of the Correctional Officer time as a direct service.



It is unclear from either time study why the consultants classified between 0.60 FTE and 0.90 FTEs of Correctional Officer time as a direct service, because Classification activities are specifically defined in the 2008 Settlement Agreement in *Hopkins et al. v. Flores et al.* and Policy 1.0 of the Inmate Welfare Fund Committee as indirect services activities, and should only be funded as part of the 31.0 percent share of the IWF, which is available to fund indirect services.

***Inmate Services Positions (0.90 FTE)***

Current Booking and Records staffing is 45.50 FTE positions. The majority of these FTEs are Law Enforcement Records Technicians/Supervisors (26), followed by Law Enforcement Clerks (11), Law Enforcement Records Specialists (4), and Office Specialists I/II (3.5) who are assigned to work primarily in the Sheriff's Administrative Booking unit. However, some of them work within the Administration building at Elmwood Correctional Complex.

Employees in these positions manage records of all processes within the criminal justice system for each person booked into the County's jails. These records include intake information, personal property receipts, commitment papers, court orders, reports of disciplinary action, custody holds from other agencies and release instructions. They also input and update government databases.

Of the 45.50 FTEs, the equivalent of 0.90 FTE is funded by the IWF based on the sum of time spent by all Booking and Records staff and reported as IWF-related in prior time studies. This 0.90 FTE includes 0.50 FTE of Law Enforcement Records Technician time, and 0.40 FTE of Office Specialist III time. The annual cost to the IWF of these FTEs is \$98,137.

Article 4, Section 1041 of CCR Title 15 requires the County to have written policies and procedures "for the maintenance of individual inmate records," which is essentially the purpose of the Administrative Booking unit and therefore, appears on its face to be a required county expense not eligible for Inmate Welfare Fund support. The full text of Section 1041 is provided as Attachment 1.2.

However, Policy 1.0 of the Inmate Welfare Fund Committee and the Settlement Agreement specifies various "indirect services" that the IWF is allowed to pay for, which again are to support, administer or facilitate direct services to inmates.

The current "IWF Position Allocation" matrix shows that 0.40 FTE of the 0.50 FTE of the Law Enforcement Records Technician time in Administrative Booking was charged to the IWF as a direct services activity, and was reported in the "IWF Position Task Summary" as related to various "direct tasks" of a) processing inmate clearances/releases for out-of-custody, alternative-to-incarceration programs, such as house-arrest electronic monitoring and the Public Service Program, and b) responding to inmate requests for information about their release dates, charges, bail, next court date and warrant searches.

The matrix also shows that 0.10 FTE of the 0.40 FTE of Office Specialist III time at Elmwood's Administration building was charged to the IWF as a direct services activity, for the "direct tasks" of processing inmate requests for legal research assistance from the County's contracted third-party vendor.

Here, too, the Sheriff's Office and DOC reported that they charged 0.40 FTE of Law Enforcement Records Technician (LERT) time, and 0.10 FTE of Office Specialist III time to the IWF as a direct service in accordance with previous time studies.

The first time study identified 0.70 FTE of LERT time performing IWF-related work in the Administrative Booking area, including 0.50 FTE of direct services, and 0.20 FTE of indirect services. Meanwhile, the second time study decreased overall LERT time by 0.20 FTE, from 0.70 FTE to 0.50 FTE. This FTE was split between direct services (0.40 FTE) and indirect services (0.10 FTE), which is how it is currently funded by the IWF.

The first time study identified 0.40 FTE of Office Specialist III time performing IWF-related work within Elmwood's Administration building, including 0.20 FTE of direct services, and 0.20 FTE of indirect services. The second time study also identified 0.40 FTE of Office Specialist III time in this area, but decreased direct services by 0.10 FTE, from 0.20 FTE to 0.10 FTE, and increased indirect services by 0.10 FTE, from 0.20 FTE to 0.30 FTE, which is also how it is currently funded by the IWF.

Notwithstanding the work of previous consultants, and based on our review of what IWF-funded activities constitute "direct services" and "indirect services," as outlined in Policy 1.0 of the Inmate Welfare Fund Committee and the Settlement Agreement, as well as our interviews with Booking and Records staff, we believe that the 0.40 FTE of Law Enforcement Records Technician time, and 0.10 FTE of Office Specialist III time should not be charged to the Fund as a direct services activity, because those activities involve direct assistance for counseling, training or education of inmates, as opposed to the administrative functions described above. Those functions should only be funded as part of the 31.0 percent share of the IWF, which is available to fund indirect services.

Lastly, we note that 0.80 FTE of Law Enforcement Clerk time in the Programs area, involving administrative functions that are significantly similar to those of the Law Enforcement Records Technicians in Administrative Booking, is correctly funded as an indirect services activity.

### ***Direct and Indirect Services Expenses Split***

Together, there are 1.10 FTEs of indirect services activities that should not be charged to the IWF as a direct services expense. This includes the 0.60 FTE in *Classification* and the 0.50 FTE in *Inmates Services*. The annual costs of these FTEs to the IWF total \$160,075.

The overall percentage split between direct and indirect services charges to the IWF in the current fiscal year is 72.9 percent and 27.1 percent, respectively, of total IWF expenses, as compared to the 69/31 percentage split allowed by Policy 1.0 of the Santa Clara County Inmate Welfare Fund Committee and the 2008 Settlement Agreement in *Hopkins et al. v. Flores et al.*

To achieve the allowed 69/31 percentage split for all IWF expenses, we recommend reclassifying \$137,500 of the \$160,075 in direct services charges for the 1.10 FTEs in *Classification* and *Inmates Services* to an indirect services expense. This would result in an overall percentage split between direct and indirect services charges that is exactly 69.0 percent to 31.0 percent, respectively, of total IWF expenses. The remaining \$22,575 of the \$160,075 should be excluded from IWF funding. This would save the Fund \$22,575 annually, and require that this unfunded portion of staffing increment be eliminated, or funded from another source, such as described below.

***Public Safety Realignment (AB 109/AB 117)***

AB 109/AB 117, also referred to as Public Safety Realignment, was a State budget initiative to reduce prison costs by releasing non-violent offenders back to their county of origin and providing funding for local entities. Accordingly, the County of Santa Clara annually receives an AB 109/AB 117 funding allocation from the State. We reviewed the relevant legislation and the County's Public Safety Realignment implementation plan (and updates), and did not find any language in those documents that would prohibit the County from using its AB 109/AB 117 allocation to pay for the unfunded portion of the 1.10 FTEs in *Classification* and *Inmate Services*, which amounts to \$22,575.

We note that the County's FY 2015 Final Budget shows that the County expects to receive \$39.1 million in AB 109/AB 117 funding, but will require \$43.3 million to maintain its Public Safety Realignment operations, for a net difference of \$4.2 million, which will be funded by the General Fund on a one-time basis in FY 2014-15. To the extent that the County receives a larger AB 109/AB 117 allocation than it requires for its operations in FY 2014-15 and in future fiscal years, or under spends its \$43.3 million estimated Public Safety Realignment budget, we believe that it could be used to pay for the subject \$22,575. Alternatively, if AB 109/AB 117 monies are unavailable, we recommend that the Board of Supervisors fund the \$22,575 with discretionary General Fund revenue.

**CONCLUSION**

Of the 20.10 FTEs funded by the IWF, 13.05 FTEs are charged to the Fund as a direct services expense. Of these 13.05 FTEs, 1.10 FTEs are performing functions that are indirect services activities, and should only be funded as part of the 31.0 percent share of the Inmate Welfare Fund, which is available to fund indirect services.

## **RECOMMENDATIONS**

It is recommended that the Santa Clara County Inmate Welfare Fund Committee:

- 1.1 Reclassify \$137,500 of the \$160,075 in direct services charges for the 0.60 FTE in *Classification* and the 0.50 FTE in *Inmates Services* to an indirect services expense, and exclude the remaining \$22,575 from IWF funding. (Priority 2)

## **SAVINGS AND BENEFITS**

Implementation of Recommendation 1.1 would save the County's Inmate Welfare Fund \$22,575 annually. If the Board of Supervisors chooses to pay for this unfunded portion of the subject 1.10 FTEs with discretionary General Fund revenue, rather than AB 109/AB 117 monies, implementing Recommendation 1.1 would increase the County's annual General Fund costs by \$22,575.

[Home](#) » [Table of Contents](#)

### § 1050. Classification Plan.

15 CA ADC § 1050

BARCLAYS OFFICIAL CALIFORNIA CODE OF REGULATIONS

Barclays Official California Code of Regulations [Currentness](#)  
 Title 15. Crime Prevention and Corrections  
 Division 1. Board of State and Community Corrections  
 Chapter 1. Board of State and Community Corrections  
 Subchapter 4. Minimum Standards for Local Detention Facilities  
 Article 5. Classification and Segregation

15 CCR § 1050

### § 1050. Classification Plan.

(a) Each administrator of a temporary holding, Type I, II, or III facility shall develop and implement a written classification plan designed to properly assign inmates to housing units and activities according to the categories of sex, age, criminal sophistication, seriousness of crime charged, physical or mental health needs, assaultive/non-assaultive behavior and other criteria which will provide for the safety of the inmates and staff. Such housing unit assignment shall be accomplished to the extent possible within the limits of the available number of distinct housing units or cells in a facility. The written classification plan shall be based on objective criteria and include receiving screening performed at the time of intake by trained personnel, and a record of each inmate's classification level, housing restrictions, and housing assignments.

Each administrator of a Type II or III facility shall establish and implement a classification system which will include the use of classification officers or a classification committee in order to properly assign inmates to housing, work, rehabilitation programs, and leisure activities. Such a plan shall include the use of as much information as is available about the inmate and from the inmate and shall provide for a channel of appeal by the inmate to the facility administrator. An inmate who has been sentenced to more than 60 days may request a review of his classification plan no more often than 30 days from his last review.

(b) Each administrator of a court holding facility shall establish and implement a written plan designed to provide for the safety of staff and inmates held at the facility. The plan shall include receiving and transmitting of information regarding inmates who represent unusual risk or hazard while confined at the facility, and the segregation of such inmates to the extent possible within the limits of the court holding facility.

Note: Authority cited: Section 6030, Penal Code. Reference: Section 6030, Penal Code.

#### HISTORY

1. Editorial correction of NOTE filed 9-30-82 (Register 82, No. 40).
2. Change without regulatory effect (Register 86, No. 32).
3. Amendment filed 6-2-88 as an emergency; operative 6-3-88 (Register 88, No. 24). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 10-3-88.
4. Certificate of Compliance filed 9-7-88 (Register 88, No. 39).
5. Editorial correction of printing error in NOTE (Register 91, No. 32).
6. Designation and amendment of subsection (a) and new subsection (b) filed 8-4-94; operative 9-5-94 (Register 94, No. 3).
7. Amendment of subsection (a) filed 1-26-98; operative 2-25-98 (Register 98, No. 5).
8. Editorial correction restoring inadvertently deleted subsection (a) designator (Register 98, No. 6).

This database is current through 9/19/14 Register 2014, No. 38

15 CCR § 1050, 15 CA ADC § 1050

END OF DOCUMENT

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[Documents In Sequence](#)

[Home](#) » [Table of Contents](#)

### § 1041. Inmate Records.

15 CA ADC § 1041

BARCLAYS OFFICIAL CALIFORNIA CODE OF REGULATIONS

Barclays Official California Code of Regulations [Currentness](#)

Title 15. Crime Prevention and Corrections

Division 1. Board of State and Community Corrections

Chapter 1. Board of State and Community Corrections

Subchapter 4. Minimum Standards for Local Detention Facilities

Article 4. Records and Public Information

15 CCR § 1041

### § 1041. Inmate Records.

Each facility administrator of a Type I, II, III or IV facility shall develop written policies and procedures for the maintenance of individual inmate records which shall include, but not be limited to, intake information, personal property receipts, commitment papers, court orders, reports of disciplinary actions taken, medical orders issued by the responsible physician and staff response, and non-medical information regarding disabilities and other limitations.

Note: Authority cited: Section 6030, Penal Code. Reference: Section 6030, Penal Code.

#### HISTORY

1. Editorial correction of NOTE filed 9-30-82 (Register 82, No. 40).
2. Change without regulatory effect (Register 86, No. 32).
3. Amendment filed 8-4-94; operative 9-5-94 (Register 94, No. 31).

This database is current through 9/19/14 Register 2014, No. 38

15 CCR § 1041, 15 CA ADC § 1041

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## **Section 2. Reducing Recidivism By Lowering Inmate Telephone Rates**

### **Background**

The County of Santa Clara contracts with Global Tel-Link (GTL) Corporation to provide an inmate telephone system and services. Telephone calling rates are established by agreement of the two parties. GTL collects inmate call revenues and pays the County a 61.0 percent commission on gross revenue billed by GTL. Pursuant to Section 4025 of the California Penal Code, the County must deposit this money into the Inmate Welfare Fund (IWF), and the Inmate Welfare Fund Committee (IWFC), which was created by the Board of Supervisors to administer the IWF, must use the IWF for the welfare of inmates.

### **Problem and Adverse Effect**

Eighty-seven percent of the County's inmates surveyed as part of this audit indicated that current telephone rates under the GTL contract are "high" or "very high," and many wrote that the money in the Inmate Welfare Fund should be used to reduce telephone call rates. Some wrote that their families are being taken advantage of by the high cost of their telephone calls. Telephone calls (in addition to letters and visits) are a primary means for inmates to maintain contact with their families, and numerous studies have shown that inmates who maintain family contact have better post-release outcomes and lower recidivism rates. To the extent that high – or perceived high – telephone call rates create a financial barrier to that contact, the risk of an inmate reoffending and returning to jail is increased.

### **Recommendations, Savings and Benefits**

In order to increase family contact by inmates while incarcerated and potentially reduce recidivism, the County of Santa Clara should implement a pilot program for a period of three months by amending its contract with GTL to reduce certain calling rates for inmates from September through November 2015. Based on the rate reduction recommended in this section, we estimate that gross revenue billed by GTL over the three months would decrease by \$162,351, and the County's commission over the three months would decrease by \$99,034. However, this impact could be mitigated by increased call volume and revenue due to lower rates during the pilot program.

## **BACKGROUND**

Inmates housed in the County of Santa Clara's jails are permitted to make personal telephone calls at their own expense. To provide personal telephone services for inmates, the County contracts with Global Tel-Link (GTL) Corporation to provide the necessary telephone system and services. This contract with GTL runs through November 30, 2015. Individual inmates pay GTL for their telephone calls based on rates established in the contract. These rates vary depending upon the type and length of each telephone call made. The complete set of rates from the GTL contract is provided as Attachment 2.1. GTL collects the inmate call revenues and then pays a commission to the County. The commission rate is 61.0 percent of all gross revenue billed

monthly by GTL, whether collected by GTL or not.<sup>1</sup> The County deposits these monthly commissions into the Inmate Welfare Fund (IWF), which must be used by the Inmate Welfare Fund Committee (IWFC), which was created by the Board of Supervisors to administer the Fund, primarily for the benefit, education and welfare of the inmates confined within the jail, pursuant to Penal Code Section 4025.

### ***Surveyed Inmates Say Telephone Call Rates Are Too High***

We developed and physically administered a survey to inmates in the men's and women's jail facilities at Elmwood Correctional Complex to gauge their satisfaction with the County's administration of the IWF. Among other questions, the survey asked inmates to rate the reasonableness of current telephone call rates. Eighty-seven percent of all inmates surveyed (i.e., 88 of 101 inmates) indicated that current telephone call rates are "high" or "very high." Many inmates as part of their written survey comments wrote that the money in the IWF, which comes significantly from monthly commissions from GTL, should be used to reduce telephone call rates. Some wrote that their families are being taken advantage of by the high cost of their telephone calls.

### ***Lowering Recidivism Through Family Communication***

Research shows that inmates who maintain close contact with their family members while incarcerated have better post-release outcomes and lower recidivism rates. For instance, an article published in August 2012 in *Corrections Today*, a publication of the American Correctional Association, noted that:

*"Family can be a critical component in assisting individuals transitioning from incarceration because family members provide both social control and social support, which inhibit criminal activity...In contrast, those without positive supportive relationships are more likely to engage in criminal behavior."*<sup>2</sup>

Further, a study published in October 2012 in *American Jails*, a publication of the American Jail Association, found that:

*"Incarcerated men and women who maintain contact with supportive family members are more likely to succeed after their release...Research on people returning from prison shows that family members can be valuable sources of support during incarceration and after release. For example, prison inmates who had more contact with their families and who reported positive relationships overall are less likely to be re-incarcerated."*<sup>3</sup>

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<sup>1</sup> Gross revenue on which monthly commission is paid does not include: taxes and tax-related surcharges; credits; billing recovery fees; and any amount GTL collects for, or pays to, third parties, including but not limited to payments in support of statutory or regulatory programs mandated by governmental or quasi-governmental authorities, and any costs incurred by GTL in connection with such programs.

<sup>2</sup> Bonita Cosgrove, Dennis Ferrell, Long Charkoudian & Shawn Flower, *The Role of Family and Pro-Social Relationships in Reducing Recidivism*, *Corrections Today*, August/September 2012.

<sup>3</sup> Ryan Shanahan & Sandra Villalobos Agudelo, *The Family and Recidivism*, *American Jails Magazine*, September/October 2012.



In addition, a Vera Institute of Justice study, published in 2011, stated:

*“Research shows that incarcerated people who maintain supportive relationships with family members have better outcomes - such as stable housing and employment – when they return to the community. Many corrections practitioners and policy makers intuitively understand the positive role families can play in the reentry process, but they often do not know how to help people in prison draw on these social supports.”<sup>4</sup>*

Also, a 2003 study by the Washington D.C.-based Urban Institute noted:

*“Research findings highlight the importance of contact among family members during incarceration. Facilitating contact has been shown to reduce the strain of separation and increase the likelihood of successful reunification. Studies comparing the outcomes of prisoners who maintained family connections during prison through letters and personal visits with those who did not suggest that maintaining family ties reduces recidivism rates.”<sup>5</sup>*

When the Federal Communications Commission (FCC) voted in August 2013 to cap the cost of *interstate* (between two states) inmate telephone calls nationwide, the issue of family contact and recidivism played a contributing role in the FCC’s decision. For instance, the then acting FCC Commissioner stated:

*“Studies have shown that having meaningful contact beyond prison walls can make a real difference in maintaining community ties, promoting rehabilitation, and reducing recidivism. Making these calls more affordable can facilitate all of these objectives and more.”<sup>6</sup>*

From interviews with various Correctional staff, we learned that in addition to visits and letters, telephone calls are a primary means for inmates in the County’s jail facilities to communicate with their families. To the extent that high – or perceived high – telephone call rates create a financial barrier to that communication, the research shows that inmates’ risk of reoffending and returning to jail is higher.

### ***The City and County of San Francisco Example***

The San Francisco Sheriff’s Department contracts with Global-Tel Link for inmate telephone services. In June 2014, the Department and GTL agreed to amend their existing contract to reduce calling rates. The purpose of these reductions was “to facilitate inmates’ communication

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<sup>4</sup> Margaret diZerega & Sandra Villalobos Agudelo, *Piloting a Tool for Reentry: A Promising Approach to Engaging Family Members*, Vera Institute of Justice, 2011.

<sup>5</sup> Elizabeth Cincotta McBride, Amy Solomon & Jeremy Travis, *Families Left Behind: The Hidden Costs of Incarceration and Reentry*, Urban Institute, Justice Policy Center, October 2003, Revised June 2005.

<sup>6</sup> Statement of Acting Chairwoman Mignon Clyburn, Re: Rates for Interstate Inmate Calling Services, WC Docket No. 12-375.

with support systems, which is shown to reduce recidivism...”.<sup>7</sup> One of the key amendments was to reduce *intrastate* (within the same state) rates. As discussed later in this section, a 15-minute *intrastate* call under the prior agreement ranged from \$4.03 to \$13.35, depending on method of payment for each call made. Under the amended contract, a 15-minute *intrastate* call now costs \$4.05.

To pay for this lower rate, the Department appears to have agreed to receive a smaller commission from GTL. In an article published in June 2014 in the *San Francisco Chronicle*, San Francisco’s Sheriff is paraphrased as saying that “the reduction [to San Francisco’s commission] will be backfilled for the first few years by a \$1.0 million judgment the city won against its inmate telephone provider, Global Tel-Link, last year.”<sup>8</sup>

Under the prior contract, GTL paid the Department an annual payment of \$100,000, and a commission rate of 65.0 percent of all gross revenue generated by GTL. Under the amended contract, the annual payment is now \$68,000, and every month the Department receives the greater of either: \$40,000 or 60.0 percent of all gross revenue generated by GTL. GTL also agreed to pay the Department, until its contract expires on May 31, 2015, an initial annual “Technology Payment,” consisting of four quarterly payments of \$1,470, for a total of \$5,880. GTL also agreed to pay the Department one additional quarterly payment of \$1,470 for the “traffic months of March, April and May 2015.” Presumably, this means call volume is higher in these months, for which the Department will receive additional phone revenue in the form of a technology payment.

### **Impact of FCC Ruling to Reduce the Cost of Interstate Calling Rates in the County of Santa Clara**

A FCC ruling to lower the cost of *interstate* rates nationwide took effect on February 11, 2014. Prior to this ruling, the *interstate* rate in the County of Santa Clara was \$0.89 per minute. This equated to a per-call charge of \$17.30 for a 15-minute call, after a \$3.95 per-call surcharge was included. After the ruling, the *interstate* rate decreased to either \$0.21 or \$0.25 per minute, depending on method of payment for each call made. This equates to total cost per call of \$3.15 or \$3.75, respectively, for a 15-minute call, with no per call surcharges. *Interstate* rates in the County of Santa Clara before and after the FCC ruling are summarized in Table 2.1 below.

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<sup>7</sup> City and County Board of Supervisors, File No. 140582.

<sup>8</sup> Marisa Lagos, *Ross Mirkarimi tries to reduce costs of inmates’ phone calls*, *San Francisco Chronicle*, June 8, 2014.

**Table 2.1**  
**Interstate Call Rates**  
**County of Santa Clara**

<u>Rates Before FCC Ruling</u>	<u>Rates After FCC Ruling</u>
\$0.89 per minute	\$0.21 per minute for debit or pre-paid calls \$0.25 per minute for collect calls
\$3.95 per-call surcharge	No per-call surcharge
\$17.30 for a 15-minute call	\$3.15 for a 15-minute debit or pre-paid call \$3.75 for a 15-minute collect call

As shown in Table 2.2 below, demand for *interstate* telephone calls increased substantially when rates were reduced, with the volume of calls, for the same four month-period in 2014 versus 2013, increasing by 471 percent, while the volume of call minutes increased 607 percent, as inmates called more frequently, and also talked slightly longer when they did call. As a result of this increase in the demand for this service, GTL actually billed slightly more revenue for the same period in 2014 versus 2013, even though the revenues it billed per call and per minute were reduced by about 80 percent. The County of Santa Clara has not received any commission revenue from these higher call volumes, as a judicial appeal of the part of the FCC ruling that prohibits per-call charges, which affects the amount of commission telephone providers may release to correctional facilities, is still pending. However, the County continues to receive commission revenue from GTL for *intrastate* calls.

We note that the FCC issued a Further Notice of Proposed Rulemaking (FNPRM) on September 25, 2014, conveying its intent to impose a cap on *intrastate* (within the same state) rates nationwide. This FNPRM does not recommend what the cap should be and instead seeks comment on what it should be. In a letter to the FCC, the heads of the three largest inmate calling providers, including GTL, said they would agree to a cap of \$0.20 per minute for debit and pre-paid calls and \$0.24 per minute for collect calls, regardless of whether the calls are *interstate* or *intrastate*. They also told the FCC that these lower rates are feasible only if implemented in conjunction with corresponding reductions in commission payments to jails and sheriff departments.

**Table 2.2**  
**Impact of FCC Ruling on Call Volume and Revenue**  
**County of Santa Clara**

<u>Time Period</u>	<u>Calls</u>	<u>Minutes</u>	<u>Min/Call</u>	<u>Revenue Billed</u>	<u>Rev/Call</u>	<u>Rev/Min</u>
<i>Feb-May 2013</i>	2,038	16,969	8	\$23,153	\$11.36	\$1.36
<i>Feb-May 2014</i>	11,635	120,035	10	\$26,861	\$2.31	\$0.22
<b>Percentage Change</b>	<b>471%</b>	<b>607%</b>	<b>24%</b>	<b>16%</b>	<b>-80%</b>	<b>-84%</b>

**Impact of Reducing the Cost of Intrastate Calling Rates in the County of Santa Clara**

Based on the experience with *interstate* calls, it is possible that a similar increase in demand could occur by reducing the rate for *intrastate* calls, made by inmates to locations within the State of California. Currently, in the County of Santa Clara such calls cost from \$0.07 to \$0.25 per minute, depending on the time of day called, distance of the call, and length of the call. All calls are also charged a \$2.95 surcharge. On average, a 15-minute call within California costs a Santa Clara inmate \$4.65.

The City and County of San Francisco has already moved to reduce its *intrastate* charges to inmates, cutting its previous surcharge of \$2.53 to \$2.80 per call, depending on method of payment, to \$1.50 per call, but slightly increasing its per-minute charges of \$0.10 to \$0.15 per minute, depending on method of payment, to \$0.17 per minute. The result of San Francisco’s changes was to reduce the cost of a 15-minute call, which formerly ranged from \$4.03 to \$13.35, to \$4.05.

We spoke to San Francisco Sheriff’s fiscal staff and heard anecdotally that the demand for *intrastate* telephone calls has increased since June 2014, when rates were reduced. However, we requested, but did not receive, actual call data from such staff, to try and assess the impact of similar rate reductions on revenues in the County of Santa Clara. We note that in Santa Clara, GTL received gross revenue of \$2,879,632 from *intrastate* calls in FY 2013-14, paying the County a commission of \$1,756,575 on that amount, which was deposited into the Inmate Welfare Fund and helped pay for services provided from the Fund to inmates.

As shown in Table 2.3 below, Santa Clara’s average *intrastate* rate is between \$0.01 and \$0.06 per minute less than San Francisco’s fixed rate of \$0.17 per minute, but Santa Clara’s *intrastate* per-call surcharge is \$1.45 more than that of San Francisco.

**Table 2.3**  
**Current Intrastate Call Rates**  
**County of Santa Clara**

<u>Santa Clara's Rates</u>	<u>San Francisco's Rates</u>
\$0.16 for the first minute ( <i>average</i> )	\$0.17 per minute
\$0.11 for each additional minute ( <i>average</i> )	
\$2.95 per-call surcharge	\$1.50 per-call surcharge
\$4.65 for a 15-minute call	\$4.05 for a 15-minute call

Assuming the County of Santa Clara adopted the same *intrastate* rate structure that San Francisco has adopted, and assuming no change in call volumes, GTL's annual gross revenue from *intrastate* calls would decrease by \$649,403, or 22.6 percent, primarily due to the reduction of \$1.45 in the surcharge applied to all *intrastate* calls. In turn, the County's commission from GTL would be reduced by \$396,136, to \$1,360,440 in FY 2014-15. In order for the County's revenue to remain the same, the reduction in rates would have to be accompanied by a 49.3 percent increase in *intrastate* calling minutes, from the current 7,752,068 to 11,572,085. Additional reductions in *intrastate* calling rates or other reductions in "local area" calling rates would either have to be counterbalanced by even greater increases in call volumes, or would result in further erosion of gross revenues for GTL, and for the County's commission revenue from such calls.

Due to the positive effect of greater contact between inmates and their families on inmate recidivism, we recommend that the Department of Correction implement a pilot program to reduce *intrastate* telephone rates to the levels previously approved by the City and County of San Francisco. The pilot program could be set up to coincide with the last three months of the current contract with GTL, namely September, October and November 2015. This timeline would also provide the DOC with sufficient time to obtain actual call data from the San Francisco Sheriff's Department to try and assess the impact of similar rate reductions on revenues in the County of Santa Clara. However, we also recognize that this is a policy decision for the Board of Supervisors, balancing the positive effect of lower rates on inmates' ability to call, versus the loss of revenue that currently supports the Inmate Welfare Fund, and would require either reductions in IWF costs, or identification of other sources of revenue to support the Fund.

## **CONCLUSION**

Because the vast majority of inmates surveyed for this audit (i.e., 88 of 101 inmates) indicated that current telephone calling rates are too high, and research shows that inmates who maintain family contact, including via phone, have better post-release outcomes and lower recidivism rates, the County should implement a pilot program for a period of three months by amending its contract with GTL to reduce *interstate* calling rates for inmates from September through November 2015. If the County matched San Francisco's *intrastate* rates, we estimate that gross

revenue billed by GTL over the three months would decrease by \$162,351, and the County's commission over the same three months would decrease by \$99,034. However, this impact could be mitigated by increased call volume and revenue due to lower *intrastate* rates during the period of the pilot program.

## **RECOMMENDATIONS**

It is recommended that the Department of Correction:

- 2.1 Implement a pilot program for a period of three months (September to November 2015) by amending its contract with Global Tel-Link to reduce *intrastate* calling rates to match San Francisco's *intrastate* rates. (Priority 1)

## **SAVINGS AND BENEFITS**

Implementation of Recommendation 2.1 would reduce gross revenue billed by GTL by \$162,351, and the County's commission by \$99,034, during the period of the pilot program. However, to the extent that inmates in the County's jails maintain closer contact with their families because of lower telephone calling rates, they are less likely to recidivate and return to jail. This may in turn decrease the County's incarceration costs.

Call Type	Connect Charge	1st Minute	Additional Minutes	15 Minute Total
<b>Local</b>				
Daytime	\$ 2.9500	\$ 0.1530	\$ 0.0759	\$ 4.1660
Evening	\$ 2.9500	\$ 0.1151	\$ 0.0569	\$ 3.8620
Night/Weekend	\$ 2.9500	\$ 0.0677	\$ 0.0569	\$ 3.8140
<b>Intralata</b>				
<b>Daytime</b>				
0-20 Miles	\$ 2.9500	\$ 0.1530	\$ 0.0759	\$ 4.1660
21-40 Miles	\$ 2.9500	\$ 0.1910	\$ 0.1327	\$ 4.9990
41-70 Miles	\$ 2.9500	\$ 0.2194	\$ 0.1517	\$ 5.2930
71 Miles and over	\$ 2.9500	\$ 0.2479	\$ 0.1991	\$ 5.9850
<b>Evening</b>				
0-20 Miles	\$ 2.9500	\$ 0.1151	\$ 0.0569	\$ 3.8620
21-40 Miles	\$ 2.9500	\$ 0.1625	\$ 0.1138	\$ 4.7060
41-70 Miles	\$ 2.9500	\$ 0.1720	\$ 0.1233	\$ 4.8480
71 Miles and over	\$ 2.9500	\$ 0.1815	\$ 0.1422	\$ 5.1220
<b>Night/Weekend</b>				
0-20 Miles	\$ 2.9500	\$ 0.0677	\$ 0.0569	\$ 3.8140
21-40 Miles	\$ 2.9500	\$ 0.1056	\$ 0.0853	\$ 4.2500
41-70 Miles	\$ 2.9500	\$ 0.1341	\$ 0.0948	\$ 4.4110
71 Miles and over	\$ 2.9500	\$ 0.1625	\$ 0.1422	\$ 5.1030
<b>Interlata</b>				
Daytime	\$ 3.1000	\$ 0.6900	\$ 0.6900	\$ 13.4500
Evening	\$ 3.1000	\$ 0.6900	\$ 0.6900	\$ 13.4500
Night/Weekend	\$ 3.1000	\$ 0.6900	\$ 0.6900	\$ 13.4500
<b>Interstate</b>				
Daytime	\$ 3.9500	\$ 0.8900	\$ 0.8900	\$ 17.3000
Evening	\$ 3.9500	\$ 0.8900	\$ 0.8900	\$ 17.3000
Night/Weekend	\$ 3.9500	\$ 0.8900	\$ 0.8900	\$ 17.3000
<b>International Mexico</b>				
Daytime	\$ -	\$ 1.2000	\$ 1.2000	\$ 18.0000
Evening	\$ -	\$ 1.2000	\$ 1.2000	\$ 18.0000
Night/Weekend	\$ -	\$ 1.2000	\$ 1.2000	\$ 18.0000
<b>Other International</b>				
Daytime	\$ -	\$ 1.5000	\$ 1.5000	\$ 22.5000
Evening	\$ -	\$ 1.5000	\$ 1.5000	\$ 22.5000
Night/Weekend	\$ -	\$ 1.5000	\$ 1.5000	\$ 22.5000

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### **Section 3.      Diversifying Revenue Sources of the Inmate Welfare Fund**

#### **Background**

The County of Santa Clara's Inmate Welfare Fund (IWF) is funded primarily by two sources: 1) profit from inmate commissary sales, and 2) telephone commission payments from a pay telephone provider based on inmate telephone calls. Together, the sources make up a combined 98.5 percent of the IWF's total revenue. Of the eight counties surveyed for this audit, the County of Santa Clara had the fourth highest percent of its IWF funded by commissary sales and telephone commissions, after the counties of Los Angeles, San Bernardino and Fresno. The average combined revenue from these sources in the comparison counties, excluding Santa Clara, was 91.7 percent. This suggests that other counties have achieved more diversity in their IWF revenue sources.

#### **Problem and Adverse Effect**

Because the County's IWF has a relatively smaller base of revenues than those in other counties, it has a greater risk of suffering significant losses when one source drops, such as when the Federal Communications Commission (FCC) lowered rates on *interstate* inmate calling services - calls made by incarcerated inmates between states. In addition to lowering *intrastate* rates, which are recommended in Section 2, the FCC may declare that telephone commission payments cannot be made by telephone service providers to correctional facilities. If these payments are banned by the FCC, all counties, including Santa Clara, would need to identify other sources of revenue for their Inmate Welfare Funds, to maintain their current level of IWF services, or they would be forced to reduce IWF services.

#### **Recommendations, Savings and Benefits**

The County of Santa Clara should seek a greater diversity of funding sources for its IWF, just as other counties have done. Specifically, it should try to increase its revenue from non-commissary and non-telephone sources by at least 6.8 percent, from its current level of 1.5 percent of total IWF revenues, to 8.3 percent, which is the average of the comparison counties. To the extent the County of Santa Clara is successful at diversifying its Fund's revenues, it would reduce the potential risk of not having sufficient funds to pay for IWF services.

### **BACKGROUND**

Table 3.1 below demonstrates the heart of the problem related to the Inmate Welfare Fund and how it is funded. Compared to other counties, the County of Santa Clara relies almost entirely on telephone call revenue and commissary revenue. The County receives 49.8 percent in telephone call revenue and 48.7 percent in commissary revenue, totaling 98.5 percent of its total IWF revenue. This is the fourth highest percentage of these two funding sources, other than the counties of Los Angeles (99.8 percent), San Bernardino (99.7 percent) and Fresno (99.0 percent). On average, the other counties receive 50.6 percent in telephone revenue and 41.1 percent in commissary revenue, totaling 91.7 percent of their total IWF revenues, or 6.8 percent lower than

the County of Santa Clara. Hobby-craft sales and investment interest add an additional 1.5 percent to the County of Santa Clara’s total IWF revenues. By comparison, other counties received an average of 8.3 percent from revenue sources other than telephone and commissary sales.

**Table 3.1  
Breakdown of Budgeted IWF Revenues by County  
FY 2014-15**

<u>County</u>	<u>Telephone Revenue</u>	<u>Commissary Revenue</u>	<u>“Other” Revenue<sup>1</sup></u>	<u>Total</u>
<b>Alameda</b>	37.0%	34.0%	29.0%	100.0%
<b>San Diego</b>	56.0%	33.0%	11.0%	100.0%
<b>Orange</b>	67.0%	23.0%	10.0%	100.0%
<b>Sacramento</b>	60.0%	30.0%	10.0%	100.0%
<b>Contra Costa</b>	46.0%	49.0%	5.0%	100.0%
<b>Santa Clara</b>	49.8%	48.7%	1.5%	100.0%
<b>Fresno</b>	44.0%	55.0%	1.0%	100.0%
<b>San Bernardino</b>	49.1%	50.6%	0.3%	100.0%
<b>Los Angeles</b>	45.4%	54.5%	0.2%	100.0%
<b>Average Excl Santa Clara</b>	<b>50.6%</b>	<b>41.1%</b>	<b>8.31%</b>	

**Notes:**

- 1 The “other” or alternative sources of revenue reported by Alameda include a GTL contract signing bonus, federal grants and vendor advertisements. Santa Clara also receives revenue from vendor advertisements, but deposits them into the General Fund, not the IWF. Contra Costa, Sacramento and Santa Clara reported revenue from hobby-craft sales. Contra Costa, Fresno, Orange, Sacramento, San Bernardino and San Diego reported revenue from investment interest. Orange also reported revenue from rents, leases and education contracts. San Diego reported additional revenue from print shop sales. We note that Los Angeles, San Bernardino and Santa Clara reported using portions of their unallocated IWF fund balances as revenue, but these amounts were excluded from this table to make meaningful comparisons between revenue sources across IWFs in all of the survey counties.

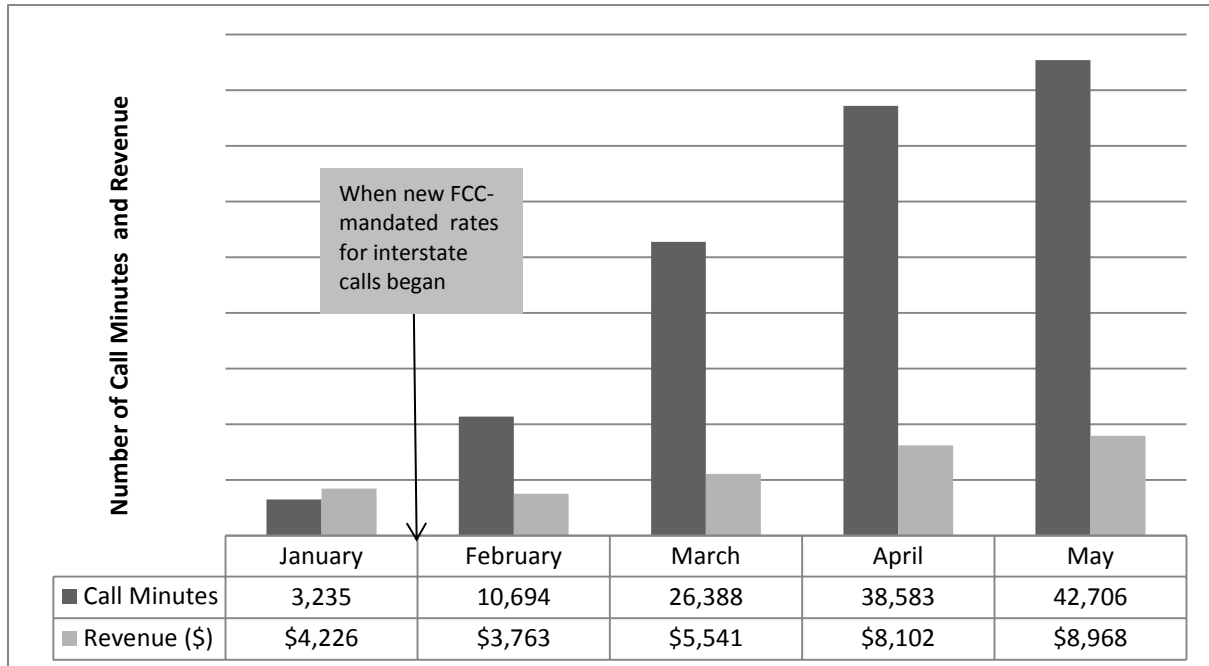
**Telephone Revenue**

The County of Santa Clara’s telephone revenue as a percentage of total IWF revenues was 49.8 percent, the fourth highest of the comparison counties, as shown in Table 3.1. Only the Counties of Orange, Sacramento and San Diego, with telephone revenue of 67.0 percent, 60.0 percent and 56.0 percent (respectively) of total IWF revenues, ranked higher than Santa Clara. The average telephone revenue as a percentage of total IWF revenues for the counties, excluding Santa Clara, was 50.6 percent or 0.8 percentage points higher than that of Santa Clara.

In December 2010, the County of Santa Clara entered into an agreement with Global Tel-Link (GTL) Corporation to provide telephone services to inmates at the Main Jail and Elmwood Correctional facilities. In this agreement, which is up for renewal in November 2015, GTL agreed to deliver a rate of 61 percent commission payments of gross telephone revenue back into the IWF.

However, in November 2013, the Federal Communications Commission (FCC) issued a ruling that capped rates charged per minute on *interstate* (between state) calls for inmates. The ruling went into effect in February 2014. The ruling capped rates at \$0.25 per minute for collect calls and \$0.21 per minute for debit and pre-paid calls. This represented a 71.9 percent drop and 76.4 percent drop, respectively, from \$0.89 per minute in the County of Santa Clara. This ruling effectively stopped payment of a relatively small portion of the IWF’s total telephone revenue, approximately \$55,000, or about 3.0 percent of the \$1.7 million commission to be paid by GTL to the County in FY 2014-15.

**Table 3.2**  
**County of Santa Clara**  
**Interstate Call Minutes and Gross Revenue Billed**  
**January 2014 to May 2014**



According to data obtained from DOC and GTL, when the new rates began in February 2014, call minutes for *interstate* calls increased each month thereafter (see Table 3.2 above). Because of these higher call volumes, total gross revenue billed by GTL increased, but the County has not received a commission on this revenue, pending the judicial appeal of part of the FCC ruling that prohibits per-call charges on *interstate* calls.

Conversely, because of the actions of the FCC on inmate *interstate* rates, and the likelihood the PUC and FCC could regulate and/or eliminate commission payments on inmate *intrastate* telephone calls, the projected loss in revenue – approximately \$1.7 million annually in telephone commission payments – would devastate the largest source of funding for the County of Santa Clara’s IWF.

On September 25, 2014, the FCC announced its intention to place a cap on *intrastate* rates and to ban the charges that make up the commission payments to correctional facilities on all types of calls. These new rules would tentatively give local governments and correction facilities two years to prepare before the charges are eliminated. The three largest inmate telephone service providers (GTL, Securus Technologies and Telmate), recognizing that the FCC has legal authority to regulate *intrastate* rates, sent a letter to the FCC that stated the companies would agree to a flat rate cap of \$0.20 per minute on debit and prepaid calls and \$0.24 per minute for collect calls. The companies said that their proposed rates would apply to both *intrastate* and *interstate* calls.

### ***Technology Grants/Other Payments***

The County of Alameda contracts with GTL for telephone services. Their contract calls for a “Technology Grant” of \$150,000 per year from GTL. The purpose of this grant was not specified in the contract. Regardless, GTL and Alameda County have interpreted the FCC ruling to preclude this grant.

However, the County of Santa Clara could negotiate with GTL to receive other revenues. One such idea floated by a GTL representative to audit staff would amend the contract to keep revenue streams to the County from telephone revenue consistent with historical levels, known as Minimum Annual Guarantee (MAG). In other words, the County would receive a baseline commitment from GTL for a certain amount of revenue per year, regardless of actual calls made and revenue generated. This might be feasible for GTL to commit to because other counties have secured this payment, including the County of Los Angeles, which receives a MAG of \$15 million per year.

In June 2014, as part of its amended contract with the San Francisco Sheriff’s Department, GTL agreed to provide four quarterly payments of \$1,470, totaling \$5,880, in what are known as “Technology Payments.” The nature and purpose of these payments were not specified in the amended contract. However, GTL also agreed to provide one additional Technology Payment of \$1,470 for “the traffic months of March, April, and May,” which indicates to us that these payments relate to call volume. From interviews with Sheriff’s Office staff, we learned that they have spoken with GTL representatives about possibly amending the County’s existing contract to include these payments, but the two parties have not completed this process.

## **Commissary Revenue**

In July 2014, the County of Santa Clara switched commissary vendors from Keefe Commissary Network, LLC to Aramark Correctional Services, LLC. With the new vendor, the County receives an annual commission of 50 percent of gross commissary sales, up from 45 percent from Keefe. The average commission received is 45.2 percent of gross sales in the comparison counties.

The County's commissary revenue as a percentage of total IWF revenues was 48.7 percent, the fifth highest of the comparison counties, as shown in Table 3.1. Fresno, Los Angeles, San Bernardino and Contra Costa, with commissary revenue of 55.0 percent, 54.5 percent, 50.6 and 49.0 percent (respectively) of total IWF revenues, ranked higher than Santa Clara. The average telephone revenue as a percentage of total IWF revenues for the counties, excluding Santa Clara, was 41.1 percent or 7.6 percentage points lower than that of Santa Clara.

### ***Spending Limits on Commissary Purchases***

Inmates in the County's jails are allowed to make commissary purchases at their own expense. The current inmate spending limit is \$150 per week.<sup>1</sup> According to our survey of other counties, the average spending limit is \$146 a week. However, some counties have larger limits. For instance, Fresno County's spending limit is \$175 per week, while Los Angeles County limit is \$195 per week.

Sheriff's staff advised us that the County's inmate spending limit was last increased in November 2012, when it went from \$120.75 to \$150 per week.

We estimate that increasing the current limit by \$25, from \$150 to \$175 per week, could potentially increase IWF commissary revenue by \$7,500 each year. This estimate is based on two months of actual sales data. In July and August 2014, over 17,000 commissary orders were placed by inmates. Of these orders, more than 100 reached the current spending limit of \$150, totaling approximately \$15,000 over the two-month period, or \$7,500 per month or \$90,000 per year. If the County increased the limit to \$175 per week, and assuming that the 100 inmates who spent at the previous limit would also spend at the new limit, their orders would total \$8,750 per month or \$105,000 per year.

The net difference between inmates' old spending (\$90,000) and new spending (\$105,000) is \$15,000 per year. Of this, the County could receive \$7,500 per year, based on its 50 percent commission of gross sales.

Sheriff's staff advised that materials from commissary purchases are sometimes used by inmates to create weapons that can be used to assault other inmates or correction officers, creating a safety hazard. Because of this hazard and the relatively small amount of additional revenue that would be generated for the IWF, we recommend that the County not increase the inmate spending limit at this time.

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<sup>1</sup> Families of inmates may make additional online commissary purchases on behalf of inmates at a rate of \$100 per week.

## **Other Revenue**

The County's "other" or alternative sources of revenue as a percentage of total IWF revenues was 1.5 percent, the fourth lowest, above Los Angeles at 0.2 percent, San Bernardino at 0.3 percent and Fresno at 1.0 percent, of the comparison counties, as shown in Table 3.1. The average other revenue as a percentage of total IWF revenues for the counties, excluding Santa Clara, was 8.3 percent, or 6.8 percentage points higher than that of Santa Clara. Therefore, the County should seek to increase alternative sources of revenue by at least 6.8 percent, from 1.5 percent to 8.3 percent of total revenue, to achieve the average of other counties.

Alameda County's other sources of revenue were the highest as a percentage of total IWF revenues of the counties. It receives 29.0 percent of its total revenues from alternative sources, or \$1.4 million. The primary sources of these funds are telephone contract signing bonuses, grants and vendor advertisements.

Alameda County officials indicated they are in the process of negotiating with GTL to introduce computer tablets to inmates for purpose of selling services, including (but not limited to) music subscription services, book purchases, educational programs, and telephone services. The venture would generate revenue for the IWF similarly to how telephone and commissary sales do now – by providing a certain percentage of commission payments paid back to the county. Alameda officials were quick to point out that this program is in the early development stages and the county is only acting as a testing ground. However, the County could pursue this innovative and potentially lucrative revenue source with GTL or any other telephone service provider.

San Diego County receives 4.0 percent of their IWF from inmate-operated print shop sales, or \$228,000. There is no such print shop in the County of Santa Clara. Exploring print shop sales might be feasible, but the County would have to commit to buying printing equipment and materials, and training inmates before any IWF revenues could be gained. Further, the County already operates a print shop in the Information Services Department (ISD) for County print jobs. An inmate-operated print shop in Santa Clara would compete with this ISD shop if not limited to non-County work only.

Orange County reported, but did not describe in its survey response, how it utilizes "rents, leases and education contracts" to fund 8.0 percent of their total IWF, or \$280,000.

Lastly, the counties of Los Angeles and San Bernardino reported using \$12,008,226 and \$730,993, respectively, of their unreserved IWF fund balances as sources of revenue for their FY 2014-15 IWF expenditures. In the case of Los Angeles, IWF staff told us that their \$12 million allocation of fund balance to their IWF budget is to pay for several inmate education and vocational training projects, which will be completed over the course of many years. We note that the Santa Clara County IWFC used about \$50,000 of approximately \$1 million in unreserved fund balance to pay for IWF expenditures in FY 2014-15, as described in the Introduction. These amounts were excluded from Table 3.1 in order to make meaningful comparisons between revenue sources across IWFs in all of the survey counties.

***Pursuing Diversification through Educational Program Opportunities***

The County of Santa Clara has contracted with Milpitas Unified School District's Adult Education Program (MAE) for the past 25 years to provide adult education classes to inmates. The County pays MAE \$20,000 per year for General Education Development (GED) tests only. MAE provides teachers to the jails who teach GED preparation classes, art classes and vocational classes as an "in-kind" service to the County. The following opportunities exist for the County to pursue state and federal education funds to pay for these GED tests, classes and/or teachers.

- Alameda County receives \$800,000 per year from the State of California as part of the Adults in Corrections Education Program.
- The Federal Interagency Reentry Council, a council of 20 federal agencies committed to reducing recidivism by increasing opportunities for inmates, including education opportunities, has funding opportunities to increase number of teachers for County of Santa Clara inmates.
- In 2013, the U.S. Department of Education and Department of Justice-administered Promoting Reentry Success through Continuity of Education Opportunities, or PRSCEO, gave \$1 million in grants to states and adult education programs.
- In 2013, the Counties of Orange and Los Angeles received \$2.75 million in federal funds, as part of the Trade Adjustment Assistance Community College and Career Training (TAACCCT) Grant Program.
- The Milpitas Unified School District receives more than \$75 million from the California State Department of Education for Average Daily Attendance compliance – the number of students in class and number of hours taught. These funds do not relate to the County's contract with MAE for GED tests. However, to the extent that they are available from the State, they may be used by MAE to pay for additional teachers to provide free classes for inmates.

**CONCLUSION**

The County of Santa Clara's Inmate Welfare Fund Committee should consider obtaining other sources of revenues other than those authorized under Penal Code Sections 4025 and 4575. Its two main sources of revenue, commissary sales and telephone revenue, are subject to marketplace activity and external forces (including the FCC, the State Legislature and the effects of AB 109/AB 117 Public Safety Realignment on inmate population). Other California counties have established more diverse revenue sources that are secure and pursuable and that make up larger portions of their total IWF revenue. The County's contracts for telephone services (GTL) and commissary (Aramark) are written in ways to allow changes to be made without undercutting the County's business relationship with the two vendors who provide much-needed services to inmates.

## **RECOMMENDATIONS**

It is recommended that the Inmate Welfare Fund Committee:

- 3.1 Evaluate and implement commercial activities to expand available services to inmates with a goal to increase its IWF revenues from non-commissary and non-telephone sources by at least 6.8 percent, from its current level of 1.5 percent of total IWF revenues, to 8.3 percent, which is the average of the comparison counties. (Priority 1)
- 3.2 Review existing contracts with Aramark, GTL and Milpitas Unified School District to ensure that all avenues of potential revenue from existing transactions are being secured for the IWF, such as increasing total commission payments on telephone revenue by increasing the commission percentage, in addition to other possible business arrangements, including signing bonuses and fees, advertising arrangements with contractors, and technology upgrades. (Priority 2)

## **SAVINGS AND BENEFITS**

Implementation of Recommendations 3.1 and 3.2 would have no fiscal impact upon the County's General Fund; however, they have the potential to both diversify and to increase the County's IWF revenues.



**County of Santa Clara**  
**Department of Correction**



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John Hirokawa  
Chief of Correction

December 12, 2014

To: Gabe Cabrera, Contract Principal Management Auditor

From: Chief John Hirokawa *JH1357*

Re: **Response to "Management Audit of the County of Santa Clara Inmate Welfare Fund"**

The Department of Correction (DOC) management has reviewed the "Management Audit of the County of Santa Clara Inmate Welfare Fund" report prepared by the Harvey M. Rose Accountancy Corporation. Our responses to the recommendations are contained herein. We would like to thank the Harvey M. Rose staff for their professionalism and willingness to cultivate a deep understanding of the IWF issues.

**RECOMMENDATIONS AND DOC RESPONSES**

1.1 *Reclassify \$137,500 of the \$160,075 in direct services charges for the 0.60 FTE in Classification and the 0.50 FTE in Inmate Services to an indirect expense, and exclude the remaining \$22,275 from IWF funding.*

Disagree. As stated in the Management Audit Report, the IWF is regulated by Penal Code Section 4025, and guided by the outcomes of the 2008 Settlement Agreement and the biennial findings of an independent auditor. This independent auditor reviews how the positions are allocated for direct and indirect services. The DOC and the Inmate Welfare Fund Committee have been diligent every year about aligning the budget with direct and indirect service allocations, within the construct of the statute, the Settlement Agreement, and the recommendations from the independent auditor.

The Department's position is that, since the positions support screening, eligibility and suitability determination for IWF programs, as well as direct clerical support of

an IWF funded legal research contract, that the positions are appropriately classified as “direct service”.

If the Board approves Recommendation 1.1, there will be an impact for the FY 2016 budget, which the DOC will have address by reducing budgeted expenditures (cutting positions or services) or finding other funding sources. For FY 2015, the DOC will perform an analysis of the financial status of the budget and review options for balancing the budget in the current year.

- 2.1 *Implement a pilot program for a period of three months (September to November 2015) by amending its contract with Global Tel-Link to reduce intrastate calling rates to match San Francisco’s intrastate rates.*

Partially agree. The Department agrees with implementing a pilot program, and the Management Audit Recommendation would allow the sufficient time for the San Francisco call revenue data to establish a more reliable trend. However, we are concerned about the likelihood of a pending Federal Communications Commission (FCC) decision that would mandate significant intrastate call rate reductions. That decision could possibly decrease the rates even lower than San Francisco’s intrastate rates. We request that the Board’s final decision about the timing for implementing a pilot program, or whether the pilot should proceed at all, be deferred until we have more information or a ruling from the FCC.

If the Board approves Recommendation 2.1, the Management Audit Report projects a revenue decrease to the IWF of \$99,034. Instead of reducing the revenue budget immediately, the DOC would first assess the impact of the lower rates on the revenue stream. As the Management Audit Report correctly points out, when the FCC ruling reduced the interstate rates, the volume and length of calls increased. The interstate rates comprised a much smaller percentage of the telephone commissary revenues, but the trend is worth analyzing before budget recommendations are made to the Inmate Welfare Fund Committee.

- 3.1 *Evaluate and implement commercial activities to expand available services to inmates with a goal to increase its IWF revenues to non-commissary and non-telephone sources by at least 6.8 percent from its current level of 1.5 percent of total IWF revenues, to 8.3 percent, which is the average of the comparison counties.*

Agree.

- 3.2 *Review existing contracts with Aramark, GTL, and Milpitas Unified School District to ensure that all avenues of potential revenue from existing transactions are being secured for the IWF, such as increasing total commission payments on telephone revenue by increasing the commission percentage, in addition to other possible business arrangements, including*

*signing bonuses and fees, advertising arrangements with contractors, and technology upgrades.*

Agree. It should be noted for all three contracts that when other potential revenue sources are identified, the contracts would need to be amended to reflect the new terms, and those amendments would require Board approval.

For the Milpitas Unified School District, the term date is June 30, 2016, and so the Department would be able to explore new business arrangements during CY 2015.

For the Aramark contract (commissary services), that contract began only six months ago, and the term date is June 30, 2017 with an option to extend for two additional years. The Department believes it is too early in the life of the contract to renegotiate the commission percentage, but the Department can start exploring commission percentage changes early in CY 2017.

For the GTL contract (inmate telephone services), the contract term is November 30, 2015 with an option to extend for two additional years. Because of the complexity of the contract and the time needed to replace telephone infrastructure, the Department is preparing the Request for Proposal process now. In the preparation of the RFP, and the subsequent contract negotiation, the Department will include commission percentages or other business arrangements that are advantageous to the IWF revenue.