

**Stanislaus County Commissary
Grand Jury Case # 06-30
2005-2006**

SUMMARY

The Stanislaus County Civil Grand Jury (CGJ) received a complaint that alleged unreasonable pricing of commissary items for sale to inmates incarcerated in Stanislaus County correctional facilities. The complaint further stated that the “Stanislaus County Sheriff’s Department and the Commissary Support Services are taking advantage of inmates and their families in the form of “price gouging.”

After reviewing various county policies and procedures, interviewing the Jail Detail Commander/Member of the Inmate Welfare Fund Committee (IWFC) and considering relevant sections of the California Penal Code, the CGJ found that the complaint did not have merit.

- (1) Stanislaus County commissary prices are established in accordance with county policy and the California Penal Code, section 4025 which states in part that “. . . the sale prices of the articles offered for sale at the store shall be fixed by the sheriff.” The CGJ found that the commissary rates are established by the Custodial Account Clerk (CAC) who researches, reviews and compares bids for commissary items,¹ subject to approval by the IWFC.²
- (2) The CGJ found that the Stanislaus County commissary prices are reasonably comparable to San Joaquin County Jail (SJCJ), a correctional facility of similar size and nearby geographic location. The CGJ also compared policies, procedures and pricing with Deuel Vocational Institute (DVI), a state correctional institution. The CGJ found that due to the size and buying power of DVI, its prices are generally lower. The CGJ found that the cost of commissary items in Stanislaus County is reflected by the needs of the inmate population. The prices are not unreasonable.
- (3) Commissary profits are distributed in accordance with California Penal Code, section 4025 which states in part that “. . . Any profit shall be deposited in an inmate welfare fund (IWF) to be kept in the treasury of the county. The money and property deposited in the inmate welfare fund shall be expended by the sheriff primarily for the benefit of the inmates confined in the jail.” Based on documentation and sworn testimony, the CGJ found that profits generated from commissary sales are being utilized for the benefit of the inmates.

¹ Adult Detention Division Manual (Manual), Section 7 p. 24.

² Id. at 27.

INTRODUCTION

The CGJ received a complaint that alleges commissary items for sale in correctional facilities in Stanislaus County are higher priced than commissary items sold at the California Department of Corrections (CDC) Canteen Services [a.k.a. Deuel Vocational Institute]. The complaint alleges that the Stanislaus County Sheriff's Department and Commissary Support Services are taking advantage of the inmates and their families in the form of "price gouging."

The purpose of the CGJ investigation was to determine:

- 1) How commissary prices in Stanislaus County correctional facilities are established.
- 2) If those commissary prices are reasonable by making a comparison to both San Joaquin County Jail (county) and Deuel Vocational Institute (state) commissary prices.
- 3) Whether commissary profits are distributed according to the law and county policy.

METHOD OF INVESTIGATION

The CGJ reviewed the following documents:

Stanislaus County:

- Auditor-Controller Policy And Procedure [purchasing guidelines]
- Adult Detention Division Policy Manual (Manual) for Inmate Welfare Fund-Commissary (pages 121-122 and 124-127)
- Commissary Rules and Regulations (11/05)
- Commissary Delivery Schedule
- Contract Overview Process
- February 2006 Inmate Welfare Expenditure and Revenue Statement
- Inmate Commissary [order form/price list]
- Inmate Welfare Budget
- Jail Commissary Budget
- Refocus Budget

San Joaquin County:

- Commissary Distribution Policy
- Commissary Pricing List
- Commissary Procedure Manual
- Commissary Store Pricing Procedures
- Pricing Procedure
- Vendor Selection and Purchases

Deuel Vocational Institute (DVI):

- General Population Canteen Price List (January 2006)
- Inmate Welfare Fund Monthly Statements (April 2006)
- Mainline Canteen List (March 2006)
- Monthly Canteen Report (March to May 2006)
- Preliminary Inmate Services Allotments for the Fiscal Year 2005/06

California Penal Code:

- Section 4025 authorizes the Sheriff of each county to operate and set prices for a commissary.
- Section 5005 authorizes the State Department of Corrections to operate a canteen at any state prison and the authority for the Director to set prices and select items for sale.
- Section 5006 establishes an inmate welfare fund/inmate canteen fund for the purpose of distributing profits for the benefit of the inmates.

The CGJ interviewed the Jail Detail Commander from the Stanislaus County Sheriff's Department /Member of the Inmate Welfare Fund Committee (IWFC).

The CGJ toured the following correctional facilities in Stanislaus County:

- Downtown Men's Jail
- Safety Center
- Honor Farm
- Juvenile Hall

STATEMENT OF FACTS

(1) According to the Manual, regarding the Inmate Welfare Fund-Commissary, the Custodial Account Clerk (CAC) duties are as follows:

- Act as Committee's Secretary
- Maintain the Inmate Welfare Fund Capital equipment inventory
- Maintain on file copies of all inmate purchase orders charged to the IWF
- Oversee all of the Jail Store Purchases³

In addition, the Manual requires that the IWF "moneys [sic] will be expended for the benefit, education and welfare of the inmate."

³ Id. at 25.

(2) California Penal Code, section 4025 states as follows:

(a) The sheriff of each county may establish, maintain and operate a store in connection with the county jail and for this purpose may . . . 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.

(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 within the jail. Any funds that are not needed for the welfare of inmates may be expended for the maintenance of the county facilities.

(3) California Penal Code, section 5005 states in part as follows:

The Department may maintain a canteen at any prison or institution under its jurisdiction for the sale to persons confined therein . . . the Director shall specify what commodities shall be sold in the canteen. The sale prices of the articles offered for sale shall be fixed by the director at the amounts that will, as far as possible, render each canteen self-supporting.

(4) California Penal Code, section 5006 states in part as follows:

All moneys [sic] now held for the benefit of prisoners . . . shall be deposited in the Inmate Welfare Fund of the Department of Corrections in the State Treasury which fund is hereby created.

FINDINGS

The CGJ found the following:

- 1) Stanislaus County, San Joaquin County and Deuel Vocational Institute have established a commissary/canteen consistent with the California Penal code.
- 2) Prices for commissary/canteen items are set by the Sheriff / Director of the correctional facility.

- 3) Prices of commissary/canteen items are set according to the particular county or state policy. These policies and procedures differ between (1) Stanislaus County and San Joaquin County, and (2) Stanislaus County and DVI.
 - In Stanislaus County, the Custodial Account Clerk (CAC) oversees all of the jail store purchases⁴ and “prices charged in the store will be established by the CAC and approved by the IWFC. Adjustments will be made periodically to keep pace with inflation.”⁵ In SJCJ, the Material Specialist is responsible for pricing items which may be priced at 40% above cost.⁶ While there is no percentage above cost stated in Stanislaus county policy and procedures, there is no significant difference in the process of pricing commissary items between this county and SJCJ. The CGJ found that there is also no significant difference between the prices of commissary items in the two counties, which are of similar size and within the same geographic region.
 - When comparing Stanislaus County commissary price lists and procedures to those of DVI, overall DVI procedures result in prices that are set lower. The DVI Prison Canteen Managers (PCMs) maintain an overall 65% average mark-up but may still have the option to set different mark-ups on non-contract selling price items.⁷ Although there are minimal differences in pricing DVI canteen items versus county commissary items, DVI canteen items were found to be priced lower than Stanislaus County commissary items.
- 4) The list of commissary items differ from county to county, county to state, and facility to facility.
- 5) Both state and county correctional facilities operate an IWF.

CONCLUSION

- 1) According to sworn testimony, state correctional facilities like DVI have greater buying power than county facilities and therefore are able to set canteen prices lower than commissary prices.

⁴ Id.

⁵ Id. at p. 27.

⁶ SJCJ Pricing Procedure, dated 07/08/05.

⁷ Preliminary Inmate Services Allotments for the Fiscal Year 2005/06 at p. 1.

- 2) According to sworn testimony, commissary prices and commissary item availability may be impacted by factors such as the prison population, the cultural diversity of the inmates and the geographic location of the facility. After considering the price differences between items sold in Stanislaus County correctional facilities and items sold in DVI, the CGJ found that the Stanislaus County commissary prices were not unreasonable.
- 3) According to sworn testimony with respect to the IWF, and review of budgets and revenue statements,⁵ the CGJ found that the Stanislaus County Sheriff's Department is in compliance with state law. Stanislaus County has utilized IWF money to maintain commissary operations and to provide inmate programs such as vocational, educational and rehabilitation programs.

RECOMMENDATIONS

The CGJ has no recommendations.

⁵ In reference to the following: February 2006 Inmate Welfare Expenditure and Revenue Statement; Inmate Welfare Budget; Jail Commissary Budget; and the Refocus Budget.