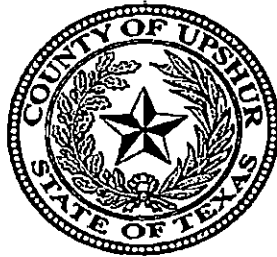


# **COUNTY AUDITOR'S REPORT**

## **SHERIFF'S DEPARTMENT JAIL COMMISSARY AUDIT**

**FISCAL YEAR 2022**



**January 23, 2023**

**Connie Williams, C.P.A**  
**Upshur County Auditor**

**Linda Sikes**  
**Upshur County Assistant Auditor**

**Greg Dodson**  
**Upshur County Assistant Auditor**

**Upshur County Auditor**

P.O. Box 730  
Gilmer, TX 75644  
(903) 680-8110



**Connie Williams**

County Auditor  
Linda Sikes  
Assistant Auditor  
Greg Dodson  
Assistant Auditor

January 24, 2023

Sheriff Larry Webb  
Upshur County Sheriff's Office  
405 Titus Street  
Gilmer, Texas 75644

RE: Sheriff's Office Jail Commissary Audit for Fiscal Year 2022

Sheriff Webb;

Pursuant to Texas Local Government Code 351.0415, the Upshur County Auditor's Office conducted an internal audit of the Sheriff's Department Jail Commissary (Commissary) and Inmate Welfare (Welfare) accounts for the period October 1, 2021 through September 30, 2022. A copy of the report will be provided to the Texas Commission on Jail Standards in accordance with Texas Government Code (TGC) 511.016.

As part of the procedures performed, we reviewed the Commissary Services Agreement dated August 15, 2018 between Keefe Commissary Network (Keefe) and the Upshur County Sheriff's Office. We also reviewed the Inmate Telephone Service Agreement dated November 30, 2016 between NCIC and Upshur County. Additionally, we reviewed the Inmate Communications Addendum and Extension of Inmate Phone Contract dated August 14, 2020 between NCIC and Upshur County and the Inmate Communications Addendum dated May 28, 2021 which added mail scanning. We selectively tested supporting documentation to determine whether:

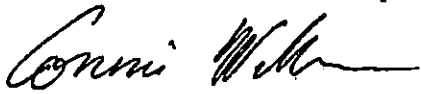
- Commissary operations comply with the respective statutes of Texas Administrative Code (TAC), Local Government Code (LGC) and Texas Commission on Jail Standards (TCJS).
- The Upshur County Inmate Commissary Plan is in compliance with Texas Administrative Code Title 37.
- Separate Commissary accounts are maintained showing the amount of proceeds from Commissary operations and that disbursements from the Commissary proceeds comply with LGC 351.04.
- Commissions paid based on vendor contracts for Commissary sales and inmate telephone service comply with the respective contract terms.
- Appropriate internal controls exist for Commissary operations that: accurately track inmate orders of commissary items; charge inmates trust accounts for items ordered and properly reflect deposits to inmates trust accounts.

- Bank reconciliations were accurately completed and timely submitted to the County Auditor's Office for review.

The enclosed Auditor's Report presents an overview of the Sheriff's Office Jail Commissary (Commissary) and Inmate Welfare accounts, the results of our audit and suggested opportunities for procedural improvements.

Please accept my gratitude and appreciation for the assistance and cooperation we received, from you and your staff, in completing the audit.

Sincerely,



Connie Williams  
Upshur County Auditor

cc: Upshur County Judge Todd Tefteller  
Commissioners:

Gene Dolle, Pct 1.  
Dustin Nicholson, Pct 2  
Michael Ashley, Pct 3  
Jay Miller, Pct. 4

Chief James Grunden

Results of this audit are mailed to:  
Texas Commission of Jail Standards  
Attn: Shannon Herklotz,  
P.O. Box 12985  
Austin, Texas 78711

## INTRODUCTION

The Upshur County Auditor's Office conducted an internal audit of the Sheriff's Office Commissary accounts in accordance with Local Government Code (LGC) 351.0415 and Texas Government Code (TGC) 511.016. The internal audit covered the period October 1, 2021 through September 30, 2022.

The internal audit objectives consisted of:

Objective 1: Ensuring accurate accounting of inmate trust accounts to reflect commissary purchases, deposit of funds and payments for prescriptions and medical services.

Objective 2: Verification that commissions paid to the Sheriff's Department and County Treasurer were in agreement with the terms and conditions of the external vendor contracts for the provision of Commissary products and inmate phone service.

Objective 3: Validating that all expenditures made from the Inmate Welfare account, to which net proceeds of the Commissary are deposited, complied with LGC 351.0415 (c).

Objective 4: A review of the Inmate Commissary Plan to ensure compliance with Texas Government Code Title 37.

Objective 5: Review the monthly bank reconciliations for the two Commissary bank accounts (Inmate Trust and Inmate Welfare) to ensure existence of appropriate controls over funds.

## BACKGROUND

The Commissary sells food products, hygiene supplies, writing materials, e-cigarettes and nicotine pouches in addition to the food and supplies provided to inmates by the County. Individual inmate Commissary Trust Accounts (Trust Account) are established at the time of the inmates' book in. Deposits to the inmates' Trust Accounts consist of funds in the inmates' possession at book in and subsequent deposits by family and friends. Inmates place orders for Commissary items, subject to availability of funds, via phone by entering their individual inmate booking number (SO number) and pin linked to their Trust Account. The total for each purchase, based on item number, quantity and listed menu price is charged to the Inmate's Trust Account. Additional funds may be added to inmates' Trust Accounts by cash or credit card via a Kiosk

located in the lobby, or via credit card by phone or website. Daily deposits are made into the Upshur County Inmate Trust account via ACH by Access Corrections.

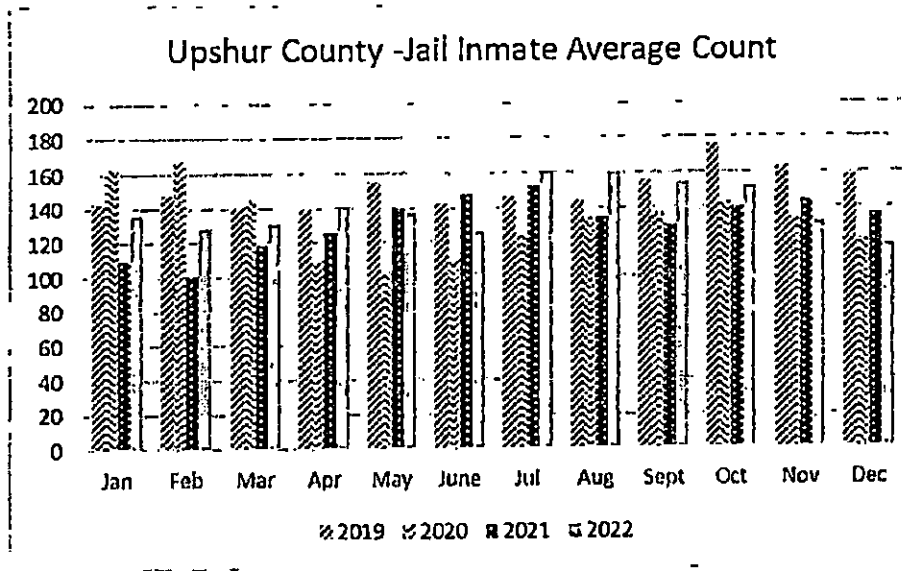
Medical and dental clinic services, prescriptions, medications and indigent kits are provided to inmates without sufficient funds to pay for these services. The cost of these services for indigent inmate care are covered by the County's General Fund and remain as a receivable should reimbursement ever be made by the inmates. As of September 30, 2022 the amount due the County for indigent services provided to active inmates is \$ 28,384.15 and for prior inactive inmates is \$ 985,839.98. The Sheriff's Office applies the first forty percent (40%) of deposits to an inmate's account to any outstanding debt, the remaining sixty percent (60%) of the deposits are available for Commissary purchases.

In addition to Commissary items, inmates may also purchase pre-paid phone minutes, video visitations, e-cigarettes and nicotine pouches utilizing funds available in their Trust Account. The Commissary recognizes a gross profit of \$ 9.97 for each e-cigarette sale and \$ 11.10 for each nicotine pouch sale, and a 25 % profit on phone minutes and video visitation minutes.

The Sheriff's Office has a Commissary Services Agreement (the Agreement) with Keefe Commissary Network, LLC (Keefe) to supply commissary items, services and related computer software to facilitate commissary operations. The term of the Agreement is five (5) years and was effective August 1, 2018. Per the Agreement Keefe will pay a commission to the Sheriff's Office equal to 38.5 % of gross sales less any non-commissioned items (stamps, indigent kits, admission kits). The Inmate Welfare account earned \$ 47,647 in commission on commissary sales during FY 22 and \$ 146,198 in e-cigarettes and nicotine pouches in FY 22.

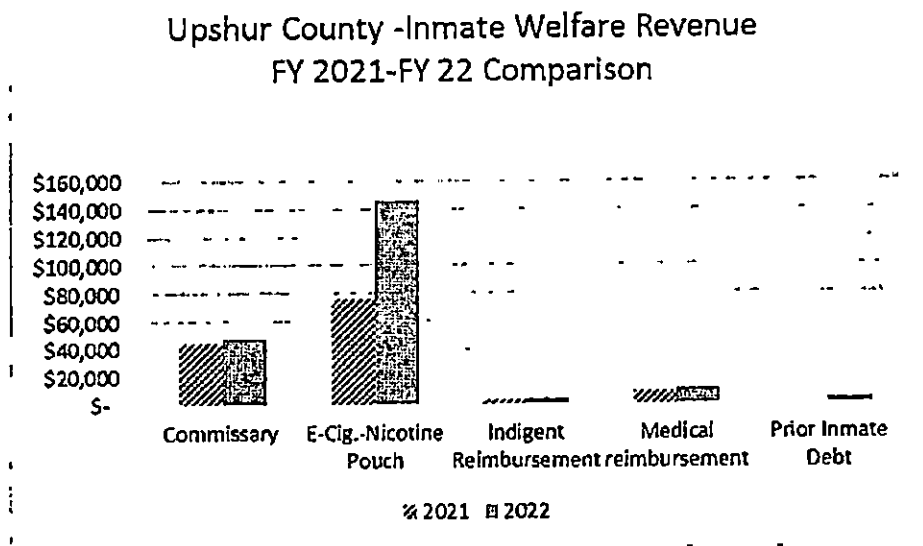
The inmate telephone system is provided by NCIC under a five (5) year contract with the Sheriff's Office effective November 30, 2016, extended with Addendum dated August 14, 2020 and extension of services to include mail scanning per Addendum dated May 28, 2021. The contract has the option to renew for a twelve (12) month period under the same terms and conditions. Per the contract NCIC will provide at no cost a fully operational, local and long distance, phone system and video visitation/messaging system inclusive of all equipment, repair and installation. Terms of the contract state Upshur County will receive a minimum annual guarantee payment of \$ 73,000 upon activation and at the end of each contract year. In addition, Upshur County will receive 60% of gross revenue exceeding the minimum guarantee.

The Upshur County Jail has a maximum capacity of 226 inmates. The chart below presents comparative results of the average inmate population for the jail for calendar years ended December 2019, 2020, 2021 and 2022.



Proceeds generated from the commission paid on Commissary proceeds and the sale of e-cigarettes, nicotine pouches, phone and visitation minutes are deposited into a separate bank account entitled Inmate Welfare Fund. As provided in section 351.0415 (C) of the Local Government Code (LGC), the proceeds from a county jail Commissary may be used only for the following five purposes: (1) fund, staff and equip a program addressing the needs of the inmates, (2) supply inmates with clothing, writing materials and hygiene supplies (3) establish, staff, and equip the Commissary operation and fund the salaries of staff responsible for managing the inmates' commissary accounts, (4) fund, staff, and equip both an educational and law library, or (5) fund physical plant improvements, technology, equipment, programs, services and activities that provide for well-being, safety, and security of the inmates and facilities.

The Commissary generated a total of \$ 213,025 in revenue in FY 2022 for commissions on commissary sales, gross e-cigarette and nicotine pouch sales and inmate reimbursements for indigent kits and medical expenses. Below is a chart by category of the sources of Commissary revenue for FY 2022.



## **OBJECTIVE 1: INMATE TRUST ACCOUNTS**

We reviewed monthly bank statements and selected five (5) individual Access Secure Deposits and obtained a breakdown of the individual inmate deposits that comprised the total. We then performed the following procedures.

- Selected five (5) inmates from the breakdown provide for five (5) deposits and verified that the deposit had been correctly applied to each individual's Trust Account by reviewing the Individual Account Summaries.
- To ensure that deductions from the individual Trust Accounts for Commissary Purchases were supported by orders for Commissary items, we compared each deduction to the Trust Account to an Order Summary of items purchased.
- The policy of the Sheriff's Department is to apply 40 % of the available balance in an inmate's trust account to the inmate's outstanding debt. We noted that the Keefe software automatically applied 40 % of all deposits to an inmate's trust account to existing outstanding debt.

### *Findings:*

- Adequate procedures are in place to ensure that all funds added, commissary purchases, and deductions for purchases and payments for debt owed are accurately posted to the each inmate's Trust Account. Detailed summary reports can be generated for every Inmate Trust account which details all deposits and withdrawals from the individual Trust Accounts. Keefe Software prevents purchases exceeding the available balance within an inmate's Trust Account.

## **OBJECTIVE 2: VERIFICATION OF COMMISSIONS**

- The Auditor's Office reviews the weekly invoices from Keefe to ensure that the 38.5 % commission earned on sales is correctly calculated and deducted from the amount due for each weekly invoice. Additionally, we ensure that the commission earned each month for Commissary purchases, e-cigarette and nicotine pouch sales and phone/video conferencing minutes is properly deposited into the Inmate Welfare Account. Additionally, the Auditor's Office ensures that debt paid for indigent services is remitted to the County Treasurer for deposit into the General Fund.
- Per terms of the contract with NCIC, Upshur County is to receive a Minimum Annual Guarantee of \$ 73,000. As of January 23, 2023 payment is still pending.

### *Findings:*

- Adequate procedures are in place to verify the correctness of commissions paid and are properly transferred to the Inmate Welfare Account.

## **OBJECTIVE 3: VALIDATION OF EXPENDITURES**

### *INMATE WELFARE ACCOUNT*

We reviewed copies of checks and invoices/supporting documentation for all disbursements made in FY 22 and noted the following:

- All disbursements with attached receipt were in compliance with authorized purposes designated in LGC 351.0415.
- Payment to one vendor qualifies for IRS 1099 MISC reporting.

#### *Recommendations:*

- The Sheriff's Office should review the IRS Instructions for Form 1099 MISC and determine at the end of each year if any payments qualify for 1099 reporting.

## **OBJECTIVE 4: INMATE COMMISSARY PLAN**

The Upshur County Jail Commissary Plan complies with all requirements of Texas Administrative Code Title 37.

## **OBJECTIVE 5: BANK RECONCILIATIONS**

The monthly bank reconciliations for both the Inmate Welfare Account and the Inmate Trust Account were completed and submitted to the Auditor's Office on a timely basis. We were impressed that both the Inmate Trust Account and the Inmate Welfare reconciliations were complete and up to date.

#### *Recommendations:*

- Outstanding disbursements payable to the Inmate Welfare Account for October 2019 Indigent (\$446.26) and Phone (\$3460.00) payments consistently appear on the outstanding items list. These transactions show to be payments for the October 2019 period but have no corresponding check numbers assigned on the Outstanding Register. These are duplicate entries and should be voided in the system.
- The Sheriff's Office should periodically review the list of authorized signors and remove any authorized signors that have terminated or add additional authorized signors as necessary.
- Outstanding check number 1299 on the Inmate Welfare Account should be voided as the check was reissued.
- Outstanding check number 1410 should be voided and reissued to the appropriate payee.