

December 2021

**Audit of the Erie County
Sheriff's Office Commissary Fund
January 1, 2019 through December 31, 2020**



**STEFAN I. MYCHAJLIW
ERIE COUNTY COMPTROLLER**

**HON. STEFAN I. MYCHAJLIW
ERIE COUNTY COMPTROLLER'S OFFICE
DIVISION OF AUDIT & CONTROL
95 FRANKLIN STREET
BUFFALO, NEW YORK 14202**



December 1, 2021

Erie County Legislature
92 Franklin Street, 4th Floor
Buffalo, New York 14202

Dear Honorable Members:

The Erie County Comptroller's Office has completed an audit of the Erie County Sheriff's Office Commissary Fund for the period of January 1, 2019 through December 31, 2020. This audit was conducted at the request of the Erie County Sheriff's Office ("Sheriff's Office").

Our objectives were to test and evaluate revenue and expenditure transactions recorded in the Commissary Fund account and evaluate the internal controls over Commissary Fund transactions. We believe that the evidence obtained provides a reasonable basis for our findings and recommendations based on our audit objectives.

The scope of our audit included the testing of internal controls over Commissary Fund revenues and expenditures, testing of adjusting accounting entries in Erie County's accounting system ("SAP"), and testing of transactions recorded in the commissary fund's document journal. Additional details concerning methodology employed in this audit are discussed in Appendix A.

Management of the Sheriff's Office is responsible for establishing and maintaining a system of internal control for the Commissary Fund activity. The objectives of such a system are to provide management with reasonable, but not absolute, assurance that transactions are executed in accordance with management's authorization and are recorded properly. Because of inherent limitations in the system of internal control, errors or irregularities may nevertheless occur and not be detected.

Our responsibility is to express an opinion based on our audit. We conducted our audit in accordance with Generally Accepted Government Auditing Standards. 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.

Opinion

In our opinion, the internal controls over commissary fund transactions are adequately designed and are operating effectively.

No other specific matters adversely affecting compliance and procedures came to our attention. Our audit was made for the purpose previously discussed, and would not necessarily disclose all instances of noncompliance with respect to areas of operations not audited.

REPORTING REQUIREMENTS

A draft copy of this report was provided to the Erie County Sheriff's Office for their review. Their comments were considered in the preparation of this report. A copy of their response to this report is included in Appendix B.

BACKGROUND

New York State Codes, Rules and Regulations (9 CAR-NY 7016.1) allows the Erie County Sheriff's Office to establish, maintain, and operate a commissary. The purpose of the commissary is to make items available for sale for the health and welfare of the prisoners as well as the security and operation of the facility. A commissary is operated at both Jail Management Division facilities, the Erie County Holding Center and the Erie County Correctional Facility.

Commissaries in New York State must be self-sufficient by charging for goods sold at cost plus an agreed upon mark-up. The mark-up is based on a commission percentage that is agreed upon by both parties within the contract. The commission due to the County from commissary sales is deposited in a separate bank account and can only be used for the rehabilitation and welfare of the prisoners.

The County has contracted with the Keefe Commissary Network ("Keefe") to operate both commissaries on behalf of the Sheriff. The contract with Keefe established prices for specific items and the commission percentage due to the County. Amendment #2, approved by the Erie County Legislature on July 14, 2016, extended the agreement through 2021 and updated the commission percentage to 40%.

The commission due to the County is recorded on Keefe's commissary sales invoices as a rebate. The rebate is paid directly from the Inmate Trust account to the Commissary Fund account. Keefe sends payments for activities that are not invoiced on commissary sales invoices including but not limited to Access Securepaks (purchases by individuals on behalf of an inmate), email services for inmates, and photo services for inmates.

AUDIT RESULTS AND RECOMMENDATIONS

The results and findings of the audit were discussed with the Chief of Administration ("Chief"). Additional details concerning methodology employed in this audit are discussed in Appendix A. The details of significant findings are presented in this section.

Deficiencies

1. Segregation of Duties

Incompatible duties were performed by the staff responsible for Commissary Funds accounting. The responses to the internal control questionnaire and conducting the walkthrough revealed an Account Clerk Typist – Civil was responsible for both preparing and recording cash receipts and preparing and recording disbursements for the Commissary Fund account. Additionally, the Chief of Administration (“Chief”) performed the Chief’s duties and the duties of the Administrative Assistant. The position of Administrative Assistant was vacant as of August 28, 2020 and has not been filled as of the end of field work, December 1, 2021.

We recommend that the Sheriff’s Office evaluate if filling the vacancies will restore proper segregation of duties. We also recommend the Sheriff’s Office reassign duties to mitigate damage.

2. Commission Calculations

We recalculated the commissions due to the County from the Keefe Commissary Network for the audit period, January 1, 2019 through December 31, 2020.

- The commission due the County was recalculated for 42 sales remittances (invoices and credit memos) out of a total 560 remittances. No exceptions were noted.
- Seven of seven Access Securepaks sales summaries were recalculated. All seven sales summaries indicate the commission due was calculated using a commission rate of 25% not the commission rate of 40% which was effective as of July 1, 2016. We calculated the additional commission due to the County at \$16,984 for Access Securepak sales. Audit made no determination if there is a sales tax liability due or the sales were tax exempt.

We recommend that the Sheriff’s Office contact Erie County Department of Law to determine which is the correct commission percentage for calculating Access Securepak sales. The additional commission due should be recovered from the Keefe Commissary Network. A contract extension should not be granted with this vendor until the commission rate for Access Securepaks have been agreed upon by both parties.

AUDITOR COMMENTS

1. Commissary Fund Account Balance

The Commissary Fund’s ending account balance in 2019 was \$778,258 and \$817,872 for years ending 2019 and 2020 respectively.

We recommend that the Sheriff utilize the available cash to fund potential new projects for the purpose of prisoner welfare and rehabilitation in accordance with the New York State Commission of Correction’s guidelines.

2. Recording of Commissary Fund Transactions

The Commissary Fund's transactions are recorded in an excel spreadsheet. A separate Excel file is created to record the activity for each calendar year. Only the bank account's balance is recorded in SAP.

We recommend the Sheriff consult with the Comptroller's Office to evaluate the feasibility of recording all activity for the Commissary Fund in SAP.

RESULTS OF EXIT CONFERENCE

An exit conference was held with the Undersheriff and members of his staff on December 29, 2021. The audit draft report was reviewed and discussed. The Undersheriff was in general agreement with the deficiencies and the auditor comments. The Sheriff's Office declined to provide a written response to the audit report at this time. A summary of the Undersheriff's verbal responses to the deficiencies and auditor comments provided during the exit conference have been included in Appendix B.

The Erie County Comptroller's Office would like to thank the Sheriff and staff of the Sheriff's Office for the courtesy extended to us during the audit.

ERIE COUNTY COMPTROLLER'S OFFICE

Cc: Hon. Timothy B. Howard, Sheriff of Erie County
John W. Greenan, Undersheriff
Denise Manfredo, Chief of Administration
Thomas Diina, Superintendent
Hon. Mark C. Poloncarz, County Executive
Robert W. Keating, Director of Budget and Management
Hon. Stefan I. Mychajliw, Erie County Comptroller
Erie County Fiscal Stability Authority

APPENDIX A

AUDIT METHODOLOGY

The goals of this audit were to test and evaluate revenue and expenditure transactions of the Sheriff's Office Commissary Fund for the audit period of January 1, 2019 through December 31, 2020 and evaluate the internal controls over Commissary Fund transactions.

To achieve these goals, we assessed the internal controls in place over commissary fund revenue and expenditure transactions.

Questionnaires and a walkthrough were utilized to document discussions with the Sheriff's Office staff related to the processes and the recording of financial transactions of the Commissary Fund. A site visit was conducted to confirm details of the questionnaires and walkthrough. Tests of controls were designed and executed with the strengths and weaknesses of the control systems identified. Tests were performed on samples of deposit transactions, expenditure transactions, invoices and credit memos from the Keefe Commissary Network. Access Securepak sales summaries and voided checks were tested at 100%.

Tests of transactions were designed based on the assessment of the internal controls. The transactions were tested for accuracy, occurrence, timing and adequate supporting documentation. The supporting documentation was inspected and the details of the recorded transactions were confirmed with the details of the supporting documentation

The evidence, taken as a whole, was used to form an opinion based on our objectives.

APPENDIX B

AUDITEE'S RESPONSE TO THE REPORT

Below is a summary of the responses provided by the Sheriff's Office during the exit conference to the report's deficiencies and auditor comments.

The segregation of duties deficiency will be rectified come January 1, 2022. For the commission calculations deficiency, the Undersheriff will contact the Erie County Department of Law for the best route forward in dealing with the issue and what are our legal requirements actually are.

Commissary fund account balance the Sheriff's Office recognize that those balances are up substantially. The new Sheriff's administration has created a new position of Chief of Reintegration Services. The entire purpose of that position is to implement prisoner welfare programs and rehabilitation programs within the Holding Center and the Correctional Facility. The Sheriff's Office anticipates substantial use of those funds to be able to implement those programs and expect those balances will drop.

The Sheriff's Office will look at recording the commissary fund's activity in SAP and what it will take to get those items into SAP.