

**Inmate Trust Fund Checking Account  
& Sheriff's Commissary Fund  
Standard Operating Procedures**

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The County Sheriff is authorized to provide a commissary for the benefit of inmates incarcerated in the county jail. The statutory authority is found in 19 O.S. §§ 180.43, 514.2, and 531. The purpose of this hand book is to establish standard operating procedures for operating or contracting for the operation of a commissary.

*Note: If you use a computerized system for recording and tracking commissary and inmate trust transactions, you would not necessarily be obligated to use the referenced OSAI prescribed forms – provided your system/reports contain all the essential information required in the OSAI prescribed forms.*

## **Section 1 – Internally Operated and Contractually Operated Sheriff Commissary Funds**

The county sheriff is authorized to operate a commissary for the benefit of the inmates incarcerated in the county jail. A Sheriff/Jail commissary is a “store” with provisions available for purchase by inmates. The inmate may establish an account with the sheriff’s office or jail by depositing funds into an account called the Inmate Trust Fund Checking Account. The inmate may use his or her account balance to purchase items available for sale in the Sheriff/Jail commissary.

### **Internally Operated Sheriff Commissary**

When a County Sheriff makes the decision to operate a commissary, a separate bank account should be established by the County Sheriff to accommodate the deposits made by the inmates or on behalf of the inmates. This account is called the Inmate Trust Fund Checking Account. It is important to keep accurate records of this account because this money is **not property of the county**, but the County Sheriff is responsible for the safekeeping and accurate reporting of these funds, as follows:

- A receipt must be issued for all deposits by or on behalf of inmates (OSAI Form 4076).
- Individual inmate deposits should be recorded in the Daily Inmate Trust Ledger, OSAI Form number 4074.
- Deposits received should be made **daily** into the Inmate Trust Bank Account.
- On days the bank is not open, (weekends and holidays) procedures should be established to safeguard these deposits until the deposit can be made.
  - An example of safeguarding undeposited inmate trust funds is a secure locked box with limited access.
- A separate Federal Tax Identification number must be acquired through the IRS accurately report these funds.
- If the fund balance exceeds the FDIC limit of \$250,000, separate pledged collateral is required to safeguard the funds.
- The initial purchase of goods to sell may be made from the Sheriff’s Service Fee Fund. All other purchases of goods to sell should be made from the Sheriff’s Commissary Fund.

Once an inmate has established an account in the Inmate Trust Fund, he or she may use those funds to purchase items for sale in the Sheriff/Jail commissary. The procedure is as follows:

- The inmate makes his or her selections on the Commissary Requisition and Receipt, OSAI Form 4079.
- These sales are subject to sales tax; thus, the County Sheriff should obtain a sales tax permit from the Oklahoma Tax Commission.
- When the commissary items are delivered to the inmate, his or her signature should be obtained on the Form 4079 (or packing slip/invoice) as evidence that all items charged to his or her account were truly received.
- Additionally, the deputy delivering the commissary items should also sign and date the Form 4079 (or invoice/packing slip), verifying the goods were delivered.

The procedure for transferring the proceeds from the Inmate Trust Fund to the Sheriff Commissary Account should be as follows:

- At the end of the day, an Inmate Trust Fund check (OSAI Form 4073) should be written to the Sheriff's Commissary Fund and delivered to the County Treasurer. The check will be for the **total dollar amount of purchases from the Sheriff/Jail commissary**. This will be recorded on the Inmate Trust Fund Ledger and on the Inmate Trust Fund Check Register, forms 4074 and 4075.
- The County Treasurer will receipt the check on a Miscellaneous Receipt. This receipt should be retained along with the other commissary financial records. At the end of the month, the Treasurer will apportion these proceeds to the Commissary Fund. Then the proceeds will be processed and approved (appropriated) by the Board of County Commissioners and County Excise Board. The proceeds are not available for use until the appropriation has been approved by both boards.
- The Sheriff's Commissary Fund is a cash fund/purchase order fund as authorized and established by **Title 19 § 180.43D**.
- A Commissary Ledger (OSAI Form 4077) should be maintained by the County Sheriff reflecting all transactions and a current fund balance of the Sheriff/Jail Commissary Fund.
- Typically, the only checks issued from the Inmate Trust Fund are for either commissary purchases or returning the residual balance to the inmate upon release from the county jail.

- However; Oklahoma State Statutes allow the Sheriff/Jail to recover from an inmate's deposits in the Inmate Trust Fund debts for copy fees, medical costs, and court ordered incarceration fees. **See 22 O.S. § 979a and 19 O.S. § 531** for details regarding those costs.

## **Contractually Operated Sheriff Commissary**

The county is also authorized by **Title 19 § 180.43D** to contract for commissary operations. This contract should be approved by the Board of County Commissioners in public meeting and contract should be between the County and the vendor for commissary services. ***The County Sheriff is involved in the selection of the vendor but should not enter into a contract for services individually.*** The Board of County Commissioners represents the county and is responsible for approving all contracts as per 19 O.S. § 3.

When a contract for commissary goods is approved, the software system used by the contractor must be utilized by the County Sheriff's office or jail to account for inmate account balances, deposits, transfers to the Sheriff Commissary Fund and release of funds to inmates.

The Sheriff will maintain these records and the bank account associated with the Inmate Trust Fund Checking Account.

- The commissary vendor must provide the mechanism for depositing funds and initiating purchases.
- The commissary vendor also must calculate the sales tax on collections and remit that amount to the Oklahoma Tax Commission.
- After the vendor receives payment for the proceeds of commissary items, the vendor will issue payment to the county for the **profit** from commissary sales.
- **The profit** margin is determined in the contract between the Board of County Commissioners and the contract provider of commissary items.
- The profit from the sale of commissary items is to be deposited into the Sheriff's Commissary Fund.

## **Section 2 – Inmate Trust Fund Checking Account**

Since the Inmate Trust Fund Checking Account is a bank account maintained separately from the County Treasurer's office, the funds are at a substantially

higher risk of fraud and/or errors occurring without early detection. Additionally, the Inmate Trust Fund maintained separately from the County Clerk's office increases the risk of fraud and/or errors in the disbursement of inmate funds. Therefore, it is extremely important to implement proper internal controls over receipts, disbursements, and bank reconciliations.

The following procedures must be put in place by the County Sheriff to provide for a proper segregation of duties over the collection and disbursement of inmate trust funds:

- The following duties should be segregated: receipts, disbursements, deposits, and bank reconciliation. Ideally these would be performed by separate employees.
- If staffing limitations prevent these duties from being separated, there are other procedures that can be implemented to strengthen internal controls:
  - Supervisor approval on all transactions as evidenced by initials and dates on the document.
  - Implement an internal audit procedure in that the Sheriff or an employee with no accounting duties opens the bank statement and reviews the transactions that seem **unusual** such as:
    - **Checks issued to employees.**
    - **Electronic funds transfers.**
    - **Cash deducted from deposits.**
    - **Bank deposits that are not complete with the names of individuals paying with money orders, cashier's checks, or personal checks.**
  - Implement an internal audit procedure in which the Sheriff reviews and signs all monthly bank reconciliations.
  - Reconciling items, such as outstanding checks, should have a detailed list of those checks outstanding. Form 4075 is used to account for checks issued and when those checks are cashed.
  - The bank account should be reconciled and reviewed monthly.
  - Any unexplained variances should be investigated and rectified in a timely manner.

Sometimes the list of outstanding checks may become extensive because of lost checks, people not cashing checks for minimal amounts, etc. There is a statutory process to follow in order to clear out those old outstanding checks. This statutory process is found in 22 O.S. § 1325 in regard to unclaimed property in possession of the Sheriff.

## **Section 3 –Outstanding inmate checks and Unclaimed Property**

Unclaimed property in the possession of the Sheriff's office for at least **six months** may be disposed of by public sale, destruction, donation, transfer to a governmental subdivision, or deposited in a special fund. Checks issued from the Inmate Trust Fund and uncashed for over six months may be forfeited to the Sheriff Training Fund upon order of the District Court.

The procedure is as follows:

- The Sheriff shall make written application to the District Court requesting the authority to deposit unclaimed funds into the Sheriff's Training Fund.
- The Court shall set the application for hearing not less than ten days nor more than twenty days after filing.
- The Sheriff shall give written notice to the individual at the last known address at least ten days prior to the court hearing.
- In addition to mailing notice, the Sheriff shall also publish notice in an authorized legal newspaper of the county (or adjoining county if the county has no legal newspaper); or post notice in three public places, one being the courthouse in a place other legal notices are posted.
- The notice shall be mailed and published or posted at least ten days prior to the court hearing and should state that upon no one appearing to prove ownership to the money or legal tender, the court shall order the same to be deposited into a special fund of the Sheriff's office.
- Once the money or legal tender is ordered by the court to be deposited into a special fund of the Sheriff, a check should be issued from the Inmate Trust Fund to the Sheriff's Training Fund.
- This check shall be delivered to the County Treasurer who will issue a miscellaneous receipt for the proceeds.
- At the end of the month the County Treasurer will apportion those proceeds and the Board of County Commissioners and County Excise Board will appropriate the proceeds to the Sheriff Training Fund.
- The Sheriff's office shall maintain detailed records of this process and make them available for audit by OSAI.

## **Section 4 –Annual Financial Report to the Board of County Commissioners due by January 15**

The statutory authority allowing the operation of a commissary also requires a yearly financial report to be filed with the Board of County Commissioners. OSAI Form 4078 was created to facilitate the financial reporting for counties that operate a commissary internally and/or for counties that contract for commissary operations.

**Title 19 § 180.43D.** state in part,

“The sheriff shall file an **annual report** on any said commissary under his or her operation no later than **January 15 of each year.**”

This report is to be completed for the annual year beginning January 1 and ending December 31, of each year. The State Auditor and Inspector’s office will review this document and determine that it reconciles to the County Treasurer and County Clerk records.

***NOTE: Completing this report monthly and reconciling it to County Treasurer deposits and County Clerk disbursements (appropriation ledger amounts) will greatly simplify the yearly reporting process.***

### **County Operated Commissary information:**

- Sales: All the sales made from the commissary for the reporting period.
- Purchases: All goods purchased for resale out of the Sheriff’s Commissary Fund account.
- Net profit: Proceeds (commission) made from operating the commissary.
- Beginning Balance: the beginning balance of the Sheriff’s Commissary account reconciled to County Clerk Records.
- Transfers from Inmate Trust:
  - The transfers made from the Inmate Trust Fund to the Sheriff’s Commissary Fund for inmate purchases.
  - Transfers from the Inmate Trust Fund to cover medical costs as allowed by statute.
  - Transfers from the Inmate Trust Fund for court ordered incarceration costs.
- Disbursements: All warrants issued from the Sheriff’s Commissary Fund account for the period (reconcile disbursements each month).

- In the event the sheriff has a county operated commissary and a contractually operated commissary, use the blank space below the disbursements line to record the profits from the commissary provider (from section two of the report).
- Ending Balance: This balance should balance with the County Clerk's appropriation ledger.

**Contractually Operated Commissary information:**

- Proceeds from the commissary provider: payments from the commissary vendor to the county.
- Payments to the commissary provider: any payments of fees the county made to the commissary vendor from the commissary account.
- Beginning Balance: the beginning balance in the commissary account at the beginning of the period.
- Payments from commissary operations: payments you received from the commissary vendor.
- Disbursements: all disbursements from the commissary account for the reporting period (reconcile disbursements each month).
- Ending Balance: this balance should agree with the County Clerk's appropriation ledger.

**Section 5- Reconciliation of the Inmate Trust Fund Checking Account**

**The following procedure should be followed to adequately document the reconciliation to be performed monthly:**

- The Bank Balance is the ending balance reported on your monthly bank statement for the current period.
- Add any deposits in transit (deposits made and recorded on the Inmate Trust Ledger but have not yet been recorded by the bank).
- Subtract any outstanding checks (checks issued and recorded on the Inmate Trust Ledger (form 4074) and Inmate Trust Fund Check Register (form 4075), that have not yet been processed by the bank).
- The adjusted bank balance should equal the fund balance on the Inmate Trust Ledger.
  - Any banking fees charged on the Inmate Trust Fund bank account should be paid from the Sheriff's Commissary Fund.

The Commissary Financial Report should be signed by the preparer and approved by the Sheriff (or designated supervisor). Then it is presented to the board of county commissioners in an open meeting. Once accepted, reviewed, and signed by the board of county commissioners, it will be filed with other board related documents in the office of the county clerk. It is recommended to obtain a copy of the signed report to keep with other commissary records.

Inmate Trust Fund and Commissary records are subject to audit by the Oklahoma State Auditor. 19 O.S. § 517.1 requires a records retention period of seven years when the Sheriff is the sole source of such records. This applies to the Inmate Trust Fund records.