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April 17, 2019

The Hon. Ken Paxton, Attorney General of Texas  
Attn: Opinion Committee  
P. O. Box 12548  
Austin, Texas 78711-2548

**RQ-0284-KP**

**FILE# ML-48538-19**  
**I.D.# 48538**

SUBMITTED VIA EMAIL:  
[Opinion.committee@oag.texas.gov](mailto:Opinion.committee@oag.texas.gov)

Re: Request for Opinion regarding TEX. LOC. GOV'T CODE SEC. 351.0415(c),  
Commissary Operation by Sheriff or Private Vendor

Dear General Paxton:

As the District Attorney of Hunt County, Texas, I respectfully request an Attorney  
General Opinion from your office.

The Sheriff of Hunt County, Texas contracts for the operation of a commissary for the  
use of inmates committed to the county jail. The proceeds of that operation are then deposited  
into an account called "Hunt County Jail Commissary." From that account, numerous  
expenditures are made, including a stipend paid to the Chief Deputy of the Hunt County Sheriff's  
Department, in the amount of \$13,500.00 per annum.

Local Government Code Sec. 351.0415(c)(3) provides that "the sheriff or [his] designee  
may use commissary proceeds only to:

- (3) establish, staff, and equip the commissary operation and fund the salaries of staff responsible for managing the inmates' commissary accounts."

According to the Hunt County Sheriff, the Chief Deputy's duties with regard to the commissary funds are as follows:

1. The Chief Deputy is the Sheriff's designee.
2. The Chief Deputy supervises, interacts and discusses the concerns of the commissary account with other members of staff as needed.
3. The Chief Deputy reviews, approves expenditures and purchases from the commissary account.
4. The Chief Deputy reviews and approves the monthly payments to Keefe Commissary Network for goods purchased by inmates.
5. The Chief Deputy oversees, approves and co-signs monthly checks from the inmate trust funds that are received from inmate accounts for the following categories:
  - a. Commission collected on commissary goods sold;
  - b. Damages;
  - c. Expired checks;
  - d. Indigent hygiene;
  - e. Medical expenses;
  - f. Phone time purchases;
  - g. Postage; and
  - h. Prescriptions.
6. The Chief Deputy reviews the commissary fund worksheets to ensure that the figures on the invoices match the figures in the Sheriff's Office reports.
7. The Chief Deputy reviews invoices and takes corrective action as need before co-signing disbursement checks.

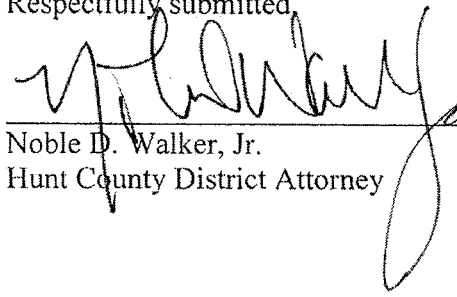
8. The Chief Deputy approves and reviews programs put into place by the Inmate Services Coordinator, and expenditures in support of those programs.
9. The Chief Deputy oversees physical plant improvements paid for by the commissary account; and
10. The Chief Deputy reviews and approves requests from the jail librarian for book purchases for the inmate library.

On the basis of the facts stated above, the questions presented are as follows:

- (1) Would a sheriff's expenditure of funds for a salary stipend for a chief deputy with the above stated duties be a permitted expenditure pursuant to Tex. Local Gov't Code Sec. 351.0415(c)?
- (2) If so, must the amount of the stipend bear some reasonable relationship to the time and effort spent in performing those duties?

We respectfully request your opinion as to the foregoing and thank you for your attention to this matter. Please do not hesitate to contact me should you have any questions, comments, or require any additional information.

Respectfully submitted,



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Noble D. Walker, Jr.  
Hunt County District Attorney

cc: The Hon. J. Andrew Bench  
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3<sup>rd</sup> Floor, Hunt County Courthouse  
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