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## OBFC Investigation Report and Recommendations December 2021

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### REPORT SUMMARY

The Office of the Ombuds for Corrections (OBFC) received a complaint regarding an incident at MCF-St. Cloud. Complainant's personal religious writings were discarded upon intake without him being given an opportunity to have them shipped as allowed by policy. The OBFC found that several Department of Corrections (DOC) policies were violated by staff, and some policies should be revised.

The Ombuds made the following recommendations, several which were accepted in whole or in part by the DOC:

- Complainant should be allowed an opportunity to file a claim for this loss of property and the \$8.00 filing fee should be waived. - *DOC accepted recommendation and will contact complainant regarding waiver on or before December 10, 2021.*
- Increase the length of time allowed to make a property claim from 24 hours to 10 calendar days to allow a reasonable amount of time for such claims to be made. Further, the DOC should amend the current Offender Handbook, so it clearly provides the time limit for making a property claim. - *DOC accepted recommendation in part and agreed to increase the time from 24 hours to 3 calendar days and will update handbook by July 1, 2022. In addition, DOC will be implementing a new policy that no property will be destroyed or discarded until it is photographed, and the photograph stored in a central repository.*
- Property items should be searched/thrown away in owner's presence. - *DOC did not accept recommendation.*
- The DOC should revise the Offender Intake Inventory Record to allow for area(s) on the form to describe all allowed and non-allowable property more specifically in possession of the incarcerated person upon intake to the MN DOC Facilities. - *DOC did not accept recommendation.*
- Staff involved in the intake process should receive additional/refresher training on property intake policies and procedures. - *DOC accepted recommendation. The training program will be developed by July 1, 2022 and all security staff shall complete it by September 30, 2022.*

**Office of the Ombuds for Corrections**

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## Summary Description of Incident

Complainant states that upon his intake at MCF – St. Cloud, two handwritten religious manuscripts, which he brought with him from county jail, were taken from his property and thrown in the garbage. Complainant was told by an unknown correctional officer that the items were considered contraband as they were handwritten. Complainant was not allowed an opportunity to have those items “sent out,” despite having the funds with him to do so.

Complainant had brought several items of legal paperwork with him from the county, as well as multiple pieces of loose, yellow legal pad paper he obtained while at the county facility from county correctional staff. All these items had been placed in a large, manilla envelope which had the words “legal mail” marked on the outside. Despite it being marked as legal mail, complainant knew that correctional officers would look through the contents as it was being brought in from the outside. The multiple pieces of yellow legal pad paper were given to him while in county jail and complainant used them to write out two personal manuscripts, which detailed his personal account of his journey to the Muslim faith. The loose pages had been stacked in order and placed on top of each other, then subsequently placed in the manilla envelope, along with his legal documents. Complainant shares that his religious affiliation is Muslim, and both books were his personal account of his Muslim faith walk since being incarcerated. Complainant had hopes of someday publishing either one of the books, if not both, and he had hoped to pass the original manuscripts down to his sons one day.

Upon his arrival at MCF – St. Cloud intake, all his property was taken from him and placed on a table. Complainant was then escorted to have his medical and mental health screening in a different area of intake, as well as his unclothed body search. Once those intake processes were completed, complainant was returned to his initial intake area where he had left all his personal items per staff instruction. The search of his property was not done in his presence.

When complainant arrived back in the intake area, the correctional officer then brought him what was left of his property that he was going to be allowed to take with him inside the prison facility. When complainant examined the manilla envelope marked as legal mail, he immediately noticed that the two manuscripts were missing. He asked the correctional officer what happened to his books. The correctional officer told complainant that those legal pad pages had been thrown in the garbage. When complainant asked if he could exercise his right to have that material “sent out” instead, according to the DOC policy and procedure, the officer allegedly told complainant, “no we don’t do that, and the books are contraband because they were handwritten.”

Complainant states that he felt as though racial and religious discrimination played a major role in the loss of his two religious related manuscripts regarding his Muslim faith. Complainant felt that his rights were violated.

## OBFC Investigative Actions

An Assistant Ombuds (AO) interviewed complainant at the facility, reviewed the Offender Intake Inventory Record<sup>1</sup> for complainant as found in MN Department of Corrections (DOC) Correctional Operations Management System (COMS) database. In addition, the AO completed a review of the Allowable Property list found in DOC Policy 302.250C<sup>2</sup>, as well as MN DOC Policies and Procedures 302.250<sup>3</sup>, 301.030<sup>4</sup>, 202.040<sup>5</sup>, 303.090<sup>6,7</sup> and the 2019-2020 DOC Adult Facilities Offender Handbook<sup>8</sup>.

The AO was not able to interview the staff involved in this incident as they failed to identify themselves on the Offender Intake Inventory Record<sup>9</sup>, therefore the exact correctional officer conducting complainant's intake is not known. In addition, complainant could not recall the name of the correctional officer.

According to the Offender Intake Inventory Record<sup>10</sup> that DOC completed, complainant was in possession of the following items that were listed as being "Allowable Items to Property:"

- Legal papers (floppy disks, CDs, DVDs, flash drives not allowed)
- Photographs (must meet DOC criteria): 9
- Religious items (no more than 5): 2 Qurans
- Finance: check in the amount of \$259.33

The next heading on the intake form is "Items Needing Further Disposition: Offender will choose to ship or dispose, indicated by (S) or (D)." There are a total of 18 categories of items listed under this heading describing a variety of different types of property an incarcerated person could have in their possession upon arriving at the intake facility. None of the items listed in this section were checked when the Offender Intake Inventory Records was completed, nor did complainant's property in question fit into the description of any of the 18 categories.

## OBFC Findings

**Correctional Staff Failed to Properly Complete Offender Intake Inventory Record:** In reviewing the Intake Inventory Record form for the complainant, there were several areas of notable concern including sections not filled out properly or at all, incorrect dates, lack of staff name and signature as required in two separate sections, and no documentation that the property existed and was taken from complaint and disposed.

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<sup>1</sup> Minnesota Department of Corrections Offender Intake Inventory Record-Form 302.250P (8/2016)

<sup>2</sup> Minnesota Department of Corrections Policy 302.250C DOC Allowable Property List Adult Facilities

<sup>3</sup> Minnesota Department of Corrections Policy 302.250 Offender Property

<sup>4</sup> Minnesota Department of Corrections Policy 301.030 Contraband

<sup>5</sup> Minnesota Department of Corrections Policy 202.040 Offender Intake Screening and Processing

<sup>6</sup> Minnesota Department of Corrections Policy 303.090 Offender Property and Assigned-Duty Injury Claims

<sup>7</sup> MN Office of the Ombuds for Corrections Complaint Form from Frank Ford, Workpro case #202000384

<sup>8</sup> Minnesota Department of Corrections Adult Facilities Offender Handbook 2019-2020

<sup>9</sup> Minnesota Department of Corrections Offender Intake Inventory Record-Form 302.250P (8/2016)

<sup>10</sup> Minnesota Department of Corrections Offender Intake Inventory Record-Form 302.250P (8/2016)

Nowhere on this form does the staff member mark or indicate that there were items taken from complainant or that he had arrived at the facility in possession of items that were not allowed or were contraband and were subsequently confiscated or thrown in the trash. Any items not allowed should have been marked in the list of Items Needing Further Disposition, and complainant should have been allowed an opportunity to have those items sent out.

MN DOC Policy 202.040 Procedures A. states, “The following screening/assessment procedures must be completed on new court commitments and non-department admissions.” And 202.040 Procedures A., 8., states, “...staff inventory and secure the offender’s personal property, complete the appropriate disposition forms, and process any incoming funds.” On the date of his intake, the correctional officer processing complainant’s intake did not properly inventory all his property that he arrived with, and did not complete the proper disposition forms, in this case specifically, the Offender Intake Inventory Record.<sup>11</sup>

**Correctional Staff Destroyed Incarcerated Individual Property:** Based on information from the complainant, the DOC correctional officer who conducted his intake at MCF – St. Cloud, stated that he threw away personal documents belonging to complainant that he described as handwritten manuscripts detailing his journey to the Muslim faith since being incarcerated. During review of DOC policies, along with a review of the Allowable Property list<sup>12</sup>, the OBFC was not able to find any mention of handwritten documents being forbidden unless they were of a particular nature or were related to a Security Threat Group (STG). The Allowable Property list does specifically list personal documents except those considered vital statistic documents. The list does allow a 3-ring binder with up to 40 pages but does not specify whether it includes handwritten pages.

**Violation of DOC Policy 302.250 Offender Property<sup>13</sup>:** DOC Policy 302.205, Procedures A. (b) states, “Any clothing (county jumpsuit, shoes and coats) *or articles not authorized* are returned to the county or sent out at the offender’s expense.” Complainant inquired of the correctional officer if he could send the manuscripts out after they were thrown away, however his request was denied.

DOC Policy 302.250, Procedures A, (c), (1-2) states:

(c) Upon initial admission to the DOC, property department staff search and inventory the offender’s property using the Offender Intake Inventory Record (attached) and authorized items are recorded in the correctional operations management system (COMS).

(1) Unauthorized items are shipped or disposed of as indicated on the Offender Intake Inventory Record.

(2) The incoming property of a general population offender must be inspected and processed, which generally occurs within two business days.

The only three options listed in the above-mentioned policy regarding property are:

1. The property is allowed in the DOC facility;
2. The property items need to be returned to the county from which the inmate came from; or
3. The property is sent out at the offender’s expense.

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<sup>11</sup> Minnesota Department of Corrections Offender Intake Inventory Record-Form 302.250P (8/2016)

<sup>12</sup> Minnesota Department of Corrections Policy 302.250C DOC Allowable Property List Adult Facilities

<sup>13</sup> Minnesota Department of Corrections Policy 302.250 Offender Property

There is no option listed for staff to throw select items into the garbage, unless the property meets the definition of Contraband as described in DOC Policy 301.030 Contraband<sup>14</sup>.

As noted earlier, complainant was familiar with DOC policies and procedures as he had been incarcerated before, which is how he knew to ask if the items could be sent out. Complainant made it clear during his interview that he arrived at the facilities with funds that would have covered the shipping costs to send anything out of the facility.

DOC Policy 302.250, Disposition of Property E, 1., (b) states, “Property staff must verify the ownership of the item before disposition and make adjustments to the offender’s property inventory record as needed.”

Additionally, DOC Policy 302.250, Disposition of Property E, 3., (a), (1-3) states:

Staff must give or send the offender a completed Property Disposition Records that notifies the offender they have 30 days to inform the property department whether they want staff to: (1) Return the item(s) to the sender at the offender’s expense; (2) Ship the item(s) to an address provided by the offender at the offender’s expense; or (3) Dispose of the item(s) and charge any disposal fee to the offender’s account.

During complainant’s intake process, the items he arrived at the facility with from county transfer were searched, but not in complainant’s presence. Therefore, the correctional staff conducting the search were not able to verify with complainant whether he was the owner of the manuscripts (papers), nor could he have informed the correctional staff member what the multiple pages contained. Furthermore, there was no indication on complainant’s Offender Intake Inventory Record of these papers, only that he was in possession of legal papers. In addition, there was no record of any materials that were disposed of or thrown away.

**Likely Violation of DOC Policy 301.030 Contraband<sup>15</sup>:** This policy defines Contraband as, “Objects that either by statute or this policy are not allowed in a Minnesota correctional facility or on its grounds unless they have been specifically authorized by the facility warden (or designee who is a captain or higher authority).”

DOC Policy 301.030 Contraband, Procedures A., (1-18) more specifically defines, those, “...items and their related paraphernalia, as examples, are contraband and are not allowed in Minnesota correctional facilities or on their grounds.”

The OBFC reviewed all 18 items defined in this policy and could not find a category where complainant’s manuscripts would/could have been defined in as contraband, and hence would have prompted its immediate removal and destruction. Yet, during his interview, complainant specifically recalled being told that the manuscripts constituted contraband because they were “handwritten and were therefore not allowed in a Minnesota correctional facility.”

## **OBFC Recommendations**

**Claim should be allowed:** Despite the amount of time that has elapsed since this incident occurred, due to the staff violations of policy involved, complainant should be allowed an opportunity to file a claim for

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<sup>14</sup> Minnesota Department of Corrections Policy 301.030 Contraband

<sup>15</sup> Minnesota Department of Corrections Policy 301.030 Contraband

this loss of property as outlined in MN DOC Policy 303.090 Offender Property and Assigned-Duty Injury Claims, as well as the MN DOC Adult Facilities Offender Handbook 2019-2020, page 30 (Claims). The appropriate claim forms should be provided to complainant to initiate the filing of a claim, and the \$8.00 filing fee should be waived in this case.

**Increase time allowed to file claims:** The DOC should amend policy 303.090 to allow an incarcerated person 10 days to file a complaint so that it would consider situations like the one being addressed here but would also allow for more time for an incarcerated person to discover damage to or loss of property that is perhaps not used daily and would be missed by a 24-hour time constraint.

Transitioning to incarceration can be a difficult and overwhelming process and it may take additional time for newly incarcerated persons to adjust and learn how things operate, like the grievance process, as well as learn policies and procedures. Ten days is consistent with the maximum number of days an incarcerated person can reply to someone in the chain of command if they disagree with their outcome or decision. The DOC should also update their Offender Handbook<sup>16</sup> to ensure that the section pertaining to MN DOC Policy 303.090 includes the language so that it accurately reflects the policy and informs the incarcerated person of the time constraint for filing.

**Property to be inventoried in owner's presence:** The DOC should make a procedural change that upon intake, the incarcerated person's property is searched in their presence. In addition, any items thrown away should be done so in the presence of the incarcerated person. In this case, it would have allowed for an opportunity for complainant to explain what the property was/contained, which could have allowed for a thorough review of the material and may have prevented the loss from occurring.

**Amend intake inventory record:** The DOC should revise the Offender Intake Inventory Record to allow for area(s) on the form to describe all allowed and non-allowable property more specifically in possession of the incarcerated person upon intake to the MN DOC Facilities, to include personal papers, published and legal materials, consumable items that are perishable or inexpensive non-durable items. MN DOC Policy 302.250 Offender Property<sup>17</sup>, as well as page 20 of the Adult Facilities Offender Handbook<sup>18</sup> states that these items are not inventoried.

**Require additional training:** Staff involved in the intake process should receive additional/refresher training regarding the intake process overall and proper completion of all required DOC forms, in particular the Offender Intake Inventory Record<sup>19</sup>. Staff should review what items are allowed and not allowed inside DOC facilities and what items constitute contraband. Unless the item is deemed contraband as outlined in MN DOC Policy 301.030, Contraband<sup>20</sup>, the incarcerated person should be allowed an opportunity to send out those materials that are deemed to be not allowed.

## DOC Response

The following letter is the Department of Corrections response provided in accordance with Minnesota Statutes section 341.93 subd. 6.

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<sup>16</sup> Minnesota Department of Corrections Adult Facilities Offender Handbook 2019-2020

<sup>17</sup> Minnesota Department of Corrections Policy 302.250 Offender Property

<sup>18</sup> Minnesota Department of Corrections Adult Facilities Offender Handbook 2019-2020

<sup>19</sup> Minnesota Department of Corrections Offender Intake Inventory Record-Form 302.250P (8/2016)

<sup>20</sup> Minnesota Department of Corrections Policy 301.030 Contraband

November 29, 2021

Mr. Mark Haase, Ombuds  
Office of the Ombuds for Corrections  
540 Fairview Avenue, North  
Suite 202  
St. Paul MN 55104

Re: ██████'s Property Recommendation

Dear Mr. Haase:

I have reviewed your report, findings, and the corresponding recommendation regarding complainant's personal religious writings, which were discarded upon intake without him being given an opportunity to have them shipped as allowed by policy.

After review of the following recommendations by your office we concur that change is supported as you will see further reasons detailed below:

1. Mr. ██████ should be allowed an opportunity to file a claim for this loss of property and the \$8.00 filing fee should be waived.

On or before December 10, 2021 the Associate Warden of Administration will write to Mr. ██████ to advise him of the fee waiver and describe the changes being implemented to address the circumstances identified in his intake.

2. Increase the length of time allowed to make a property claim from 24 hours to 10-calendar days to allow a reasonable amount of time for such claims to be made. Further, the DOC should amend the current Offender Handbook, so it clearly provides the time limit for making a property claim.

We concur in part and deny in part. We agree that the current property claim policy should be modified from 24-hours to 3-calendar days. The current 24-hour timeframe was established on the belief that the incarcerated person (IP) would have unpacked and used all items in that time to determine if property was missing or damaged. We cannot support the 10-calendar day recommendation because the longer the timeframe between receiving the property and filing a claim, could make the investigation and review of any possible damage difficult. In addition, in the absence of written documentation from the property owner within the 3-day timeframe, no property will be destroyed or discarded until it is photographed, and the photograph stored in a central repository.

We will update the "Offender Handbook" to reflect the extension of the claim period to 3-calendar days. This change to the "Offender Handbook" will be implemented on or before July 1, 2022.

3. Property items should be searched/thrown away in owner's presence. This recommendation is denied in whole. Upon review of this recommendation, we identified several security-related concerns and logistics that make it unrealistic to have IP's present during the property inspection. For instance, some facilities store property outside the secure perimeter until it is searched; in some cases, staff do not search and inventory property the same day the IP arrives; and limiting the handling of property reduces the risk of lost or damaged items. In the end, the goal is and must be to reduce the risk of contraband entering a facility, including weapons, drugs, and cellphones. Furthermore, there are times when a considerable number of IP's are brought in at the same time making the safe management of property and IP's a safety and security risk.
4. The DOC should revise the Offender Intake Inventory Record to allow for area(s) on the form to describe all allowed and non-allowable property more specifically in possession of the incarcerated person upon intake to the MN DOC Facilities.

This recommendation is denied in whole. While the [REDACTED] case identified an unfortunate staff performance problem, currently staff are supposed to complete and sign the property inventory form and follow the process. If the Offender Intake Inventory Record is filled out correctly, in its entirety, as intended (no property comes in or out unless it is documented on the form), the form is appropriate and covers all aspects of property management. With changes to the timeframe, the IP should have ample opportunity to notify staff whether they want to send nonallowable items out or have the items disposed of and staff need to document this information on the form.

5. Staff involved in the intake process should receive additional/refresher training on property intake policies and procedures.

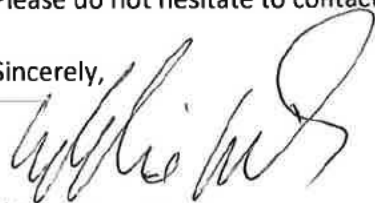
We concur with this recommendation in whole, and we will develop a refresher training module to review the proper processes and to ensure that staff are filling out all areas on the "Offender Intake Inventory Record" accurately and providing a signature. This training will be required for all security staff, living unit staff and utility staff, as they all have the potential to handle property upon intake or transfer. The training program will be developed by July 1, 2022 and all security staff shall complete it by September 30, 2022.

### Conclusion

Thank you for the opportunity to address the concerns you raise. I recognize the value of outside review of incidents concerning those we serve. I readily acknowledge that errors can occur in the intake and inventory process. With that said, there are several recommendations that I think will help ensure more accuracy in the future.

Please do not hesitate to contact me if you have any questions or concerns.

Sincerely,



Eddie Miles, Warden  
MCF-Saint Cloud  
Minnesota Department of Corrections

CC: Michelle Smith, Deputy Commissioner | Paul Schnell, Commissioner





**Commissioner's Office**

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January 31, 2022

Ms. Margaret Zadra, Interim Ombuds  
Office of the Ombuds for Corrections  
540 Fairview Avenue North  
Suite 202  
Saint Paul MN 55104

Dear Ms. Zadra,

Our response to the recommendation for report of claims needs to be amended. After further review, it was determined that DOC policy must comply with the Joint House-Senate Subcommittee on claims. Specifically, the subcommittee shall not consider claims if, the inmate did not notify a department of corrections official in writing of the loss or damage within 24 hours of the time the inmate's property was returned to the inmate or the time the inmate returned to the place where the property was located.

Any variation from the law would require legislative action.

Thank you for making that adjustment to our response.

Sincerely,

A handwritten signature in black ink that reads 'Michelle Smith'.

Michelle Smith, Deputy Commissioner  
Minnesota Department of Corrections