

INVESTIGATIVE REPORT

Finding of Record and Closure

*****PUBLIC REPORT*****

(Edited to remove confidential information per AS 24.55.160)

Ombudsman Complaint J2000-0010

April 18, 2001

SUMMARY OF THE COMPLAINT

On October 17, 1999, an Anchorage Police Department officer arrested Susannah Cantre (not her real name) on a warrant and took her to the Sixth Avenue Correctional Center (SACC), a state facility operated by the Alaska Department of Corrections (Corrections). Ms. Cantre told the ombudsman that she took \$697 cash with her to the jail. When she was released, she learned that the property inventory had credited her with only \$74 cash.

Ms. Cantre complained to then-SACC Superintendent Gary Webster, who assigned staff to investigate her claims. As part of the investigation, the investigating officer viewed a videotape of Ms. Cantre's property inventory.

After the agency concluded there was no evidence to support Ms. Cantre's claims, she filed a complaint with the Office of the Ombudsman on January 6, 2000. During the ombudsman investigation, the ombudsman investigator asked the agency for a copy of the videotape of the property inventory. The agency reported that the videotape had been damaged and was no longer viewable.

The ombudsman opened an investigation into the following allegation:

Allegation 1: Contrary to law, the Department of Corrections and its staff at the Sixth Avenue Correctional Center failed to properly inventory the complainant's money and failed to return to the complainant more than \$600.

During the course of the investigation, the ombudsman added a second

allegation:

Allegation 2: The Sixth Avenue Correctional Center unreasonably failed to safeguard a videotape that was evidence in a complaint involving mishandled money.

Assistant Ombudsman Mark Kissel investigated these allegations. He notified SACC Assistant Superintendent Cheri Hagen on November 2, 2000, that the Office of the Ombudsman was investigating Ms. Cantre's complaint.

INVESTIGATION

Complainant's Claims

Ms. Cantre said that on the evening of October 17, Anchorage police officers came to her apartment and arrested her on a warrant for failing to complete court-ordered community service work. Ms. Cantre said she asked the officers if she could get her wallet and some money. She said she took a large amount of cash, \$697, so she could post bond. Ms. Cantre said she gave the money to an APD officer named Stanfield.

Ms. Cantre said she later saw Officer Stanfield give the money to the booking officer at SACC. The money was in a "crumpled pile" on a desk or table during the property inventory, she said.

Ms. Cantre said she asked that her money be counted in her presence so that she could sign for it. Instead, she said, she was taken to the booking area after her jewelry was photocopied. She said a corrections officer (CO) told her that her money "was in good hands."

She said that she went to court the next day and the judge set bail. She had a local bail bondsman arrange for her release. The bondsman told her she had only \$74 at the jail, but later she received a receipt for \$75 from the bondsman, she said.

Agency Investigation

Ms. Cantre complained about her missing money to jail personnel and later to Superintendent Webster. The superintendent assigned SACC Security Sgt. Michael Spring to investigate Ms. Cantre's complaint. On November 4, 1999, he wrote a memo with his findings to Assistant Superintendent Cheri Hagen.

In the report, Sgt. Spring wrote that prison documents indicate that Ms. Cantre had \$74 when she arrived at the jail. He said that \$65 and her jewelry went to Fred's Bail Bonding for her bond, and she left the jail

with \$9. Sgt. Spring wrote:

I reviewed the video tape of her intake property inventory. It showed no money inventoried. The intake officer, Ofc. Dodson, and the female officer who conducted the pat search, Ofc. Thomas appeared to follow correct procedure during the inventory. The \$74 was found in a jacket pocket in the booking office and is not on tape....

CO Eric Dodson and CO Diane Thomas both provided incident reports. Both denied that any money came in with the arresting officer.

Attached to Sgt. Spring's memo were statements from CO Dodson and CO Thomas and booking and property documents.

On October 29, 1999, CO Dodson wrote his recollection of the evening Ms. Cantre was booked. He was intake officer that evening:

Upon inventorying her property I found no money and logged none on the paper booking sheet. After she was brought into the booking office, she was complaining about not having her money. Her coat was searched by another officer and an amount of money was found. I counted it and gave it to the Post 3 officer who gifted it into her account. It was not the amount of money she said she had. She claimed to have had several hundred dollars. The amount we found was around seventy dollars.

CO Thomas also wrote her recollection in an undated incident report:

I was the only female officer on shift that night and was called to the intake area to pat search, escort to booking and then strip search inmate Cantre. Inmate Cantre was upset because we had not located her money which she said was in her coat pocket. Ofc. Dobryanow (Post 4) took her coat from the property bag, searched it, and took a wad of money from the pocket which he handed to officer Massey (Post 3) to count. Officer Massey counted the money and entered the amount, \$74.00...

The booking record appears to be a computer-generated form with lines for Ms. Cantre's signature. The form lists personal information and includes a list of clothes, jewelry, and other personal property inventoried during intake. The printed form shows "0" cash, but the zero is crossed out and "\$74.00" is handwritten below it. Where Ms. Cantre was asked to sign to "acknowledge the correctness" of her personal property inventory, she wrote "My money is missing" before her

signature.

On the afternoon of October 18, when Ms. Cantre was released, she signed another line of the booking document acknowledging “receipt of all property and cash held in trust.”

Another document from the jail shows deposits to and withdrawals from Ms. Cantre’s jail account. The document shows on October 17 a \$74 deposit described as “gift 111111 booking error” added to the zero balance already entered for Ms. Cantre. The document also shows two withdrawals on October 18: \$65 to “Fred,” the bail bondsman, and \$9 to Ms. Cantre upon release.

Follow the Money

Several significant differences exist between the stories of Ms. Cantre and Corrections as presented in the table below:

	Cantre Version	Corrections Version
Amount	\$697	\$74
How discovered	APD Officer Stanfield handed the money to a corrections officer in the intake area	Corrections Officer Dobryanow found the money in the pocket of Ms. Cantre’s jacket
Location of money	On table in property inventory area	In Ms. Cantre’s jacket in the booking area
Amount given to Fred’s Bail Bonding	\$75	\$65

The amount of the bail bond is significant because Ms. Cantre contends that Corrections released to the bail bondsman \$1 more than the agency claims was in her account. The ombudsman investigator asked Ms. Cantre to provide a copy of her bail bond receipt to confirm this, but she never did.

Ms. Cantre said she contacted APD Officer Stanfield to get confirmation for her version of the property inventory and booking. She said Officer Stanfield could not remember enough to support her claim.

Evidence Damaged

On April 7, 2000, the ombudsman investigator asked Assistant

Superintendent Hagen to provide a copy of the videotape of Ms. Cantre's property inventory. The investigator repeated that request a week later and again on May 12. On May 16, Ms. Hagen responded via e-mail:

We have ran into a problem with the tape. Apparently the tape has been damaged and we can't get it to work. We've tried everything we good (sic) but nothing shows on it now. I can say that I've watched it and no money was counted at the time of the inventory. They did find money on her later, but it was not the amount that she claims she had. I don't know what more we can do to help, we did try everything. I have no idea how the tape got damaged.

In a subsequent conversation, Ms. Hagen said the tape appeared to have been erased and they were unable to get a picture out of it. She said the tapes are standard T-160 videocassettes that are recorded at a slow speed on special equipment. One tape records for 24 hours, she said.

Ms. Hagen said Sgt. Spring asked her to watch the tape when he viewed it for his investigation. She did. The tape had no sound, but she said this is not unusual. Staff in the control room sometimes turn off the sound because it plays through a speaker there and can be bothersome.

From what she saw on the video picture, however, Ms. Hagen said it appeared that Ms. Cantre was giving the inventory staff "a hard time," and they hurried her through to the booking area, which is in a different room. She said staff do not want prisoners to act up in the inventory area because it is within sight of other prisoners waiting to be processed. Disruptive behavior often becomes contagious, and a corrections officer will try to separate a loud or argumentative prisoner from other prisoners as quickly as possible. Ms. Hagen said she believes that is why the inventory staff moved Ms. Cantre to booking quickly and failed to find her money right away. Ms. Hagen said she did not see any money on the videotape.

Ms. Hagen said she was planning to move the recording equipment to a new location. This would allow sound recording without bothering staff in the control room. She said she also was planning to review the recording system as a whole because of generally poor image quality and other viewing problems.

Ms. Hagen said it is not uncommon for property to be found later in a prisoner's clothing when the prisoner is hurried through to booking. Ms. Hagen said she has worked at SACC since September 1999. In that time, she said, this has been the only complaint received about missing

property.

According to Ms. Hagen, the videotapes of prisoner property inventories are kept in the control room for 30 days. After that, they are moved to the security sergeant's office, where they are kept for a year. The tapes are not locked up, she said, and numerous people have access to them. Ms. Hagen said she has authority to secure a tape. She said she would do that, for instance, in a case alleging excessive use of force. She said she did not secure the tape in this case because she watched it and did not see anything to substantiate Ms. Cantre's claim.

Officer Stanfield's Recollection

The ombudsman investigator contacted the arresting officer, Frank Stanfield of the Anchorage Police Department. Officer Stanfield said he had some memory of Ms. Cantre's arrest and recalled that Ms. Cantre had contacted him more than once about her missing money. He said he recalls that drugs were found in Ms. Cantre's apartment, but admitted he may be confusing this with another arrest. If drugs were involved, money could have been confiscated, he said. However, he said he remembers that during the arrest Ms. Cantre asked him to get her money from another room or closet, which he did. He said he recalls placing the money in her purse or her jacket pocket. He said he has no idea how much money it was.

Arrest records

The ombudsman investigator requested police reports for three arrests made at Ms. Cantre's apartment building the night of October 17, 1999. What follows is a summary from Anchorage police reports.

Two Anchorage policemen arrived at the building to serve warrants on a man. As the officers approached the building, they spotted another man in the entry area who they knew was on probation and whom they suspected of being a drug dealer. This man ran into an apartment as soon as he saw the officers. Police contacted this man in the apartment, searched him, found illegal drugs, and arrested him. As the officers placed the suspect in handcuffs, a crowd of men in the building became aggressive. The policemen called for assistance. Officer Stanfield was one of the police officers who responded.

After the officers concluded the arrest, Officer Stanfield and two others remained to serve the misdemeanor warrants. They located the man named in the warrants in Ms. Cantre's apartment and arrested him. While doing a pat search, the officers found cocaine and \$435 cash in his pockets.

Officers then checked Ms. Cantre's identity. A computer search

revealed an outstanding warrant for Ms. Cantre for contempt of court related to a misdemeanor charge of driving with a suspended license. She also was arrested.

The APD records do not mention Ms. Cantre's money.

Fred's Bail Bonding

The ombudsman investigator contacted Fred's Bail Bonding and spoke with the owner, Fred Adkerson. Mr. Adkerson had no memory of the particular transaction involving Ms. Cantre, but he supplied a copy of Ms. Cantre's receipt and statement of charges. The documents show that on October 18, 1999, Fred's Bail Bonding executed a bail bond for Ms. Cantre in the amount of \$500, receiving as security Ms. Cantre's jewelry. The documents also show that the bail bond premium was \$75, and that a payment of \$65 had been made, with a balance due of \$10.

OMBUDSMAN'S ANALYSIS AND FINDING

Standards

Alaska Statute 12.25.140 requires that officers make a receipt for money taken from a person being arrested:

When money or other property is taken from a person arrested upon a charge of a crime, the officer taking it shall immediately make duplicate receipts for the property, specifying particularly the amount of money or kind of property taken.

Ombudsman Standards

The first allegation is that Corrections acted contrary to law. The Office of the Ombudsman Policies and Procedures Manual at 4040(1) defines "contrary to law." The portions of the definition that apply to this complaint are:

(A) failure to comply with statutory or regulatory requirements; ...

(E) individual misconduct in which a state employee:

(a) performs for an illegal or improper purpose, or

(b) performs in an illegal manner (see AS 11.56.850, AS 11.56.860).

The second allegation is that Corrections acted unreasonably. The Office of the Ombudsman Policies and Procedures manual at 4040(2) defines "unreasonable." The portion of the policy that applies to this complaint is:

(A) a procedure adopted and followed by an agency in the management of a program is inconsistent with, or fails to achieve, the purposes of the program ...

Allegation 1: Money

Allegation 1 is:

Contrary to law, the Department of Corrections and its staff at the Sixth Avenue Correctional Center failed to properly inventory the complainant's money and failed to return to the complainant more than \$600.

Ms. Cantre alleged that staff at the Sixth Avenue Correctional Center did not adhere to AS 12.25.140 in that they failed to specify accurately the amount of money taken from her. She has, from her initial contact with the ombudsman through the present, staunchly maintained that she knew exactly how much money she took with her to the jail. She has also insisted that corrections officers stole her money. The ombudsman investigator, however, could not verify the amount claimed by Ms. Cantre. The ombudsman investigator found no evidence that the \$697 existed or that Corrections officers stole her money.

The recollections of two of the officers present during Ms. Cantre's property inventory and booking are consistent, although not identical. For example, CO Dodson, who was the intake officer that evening, said that another officer found the money and gave it to him. He said he counted it and passed it on to "the Post 3 officer" who gifted it into her account. CO Thomas, the female officer assigned to search the prisoner, recalled that CO Dobryanow took the money from Ms. Cantre's coat and handed it directly to CO Massey (Post 3), who counted it.

This discrepancy is not significant. Persons witnessing the same event often remember different details. Both officers agreed on this: Ms. Cantre's money was found in her coat after the property inventory. The booking record supports the officers' recollections. The amount of money inventoried during intake was entered as zero. That amount was crossed out later with "\$74.00" handwritten below it.

Although Ms. Cantre recalled that Anchorage Police Officer Stanfield handed her money to a corrections officer when they reached the jail, Officer Stanfield recalled that, at her request, he took Ms. Cantre's money from a closet in her apartment and placed it immediately in her purse or jacket.

Ms. Cantre was correct that her bail bond premium was \$75. Her receipt

from Fred's Bail Bonding, however, shows that she paid \$65 on October 18 with her jewelry as collateral. This accords with Correction's records, which also show a \$65 payment from Ms. Cantre's account to Fred's on that date.

Ms. Cantre said that Officer Stanfield handed her money to a Corrections officer who placed it on the table in the property inventory area. She was aware that property inventories are videotaped, and she said the videotape would show a pile of crumpled bills on the table in front of the intake officer.

Sgt. Spring and Assistant Superintendent Hagen both viewed the tape during the in-house investigation of Ms. Cantre's complaint. Both indicated the video did not support Ms. Cantre's version of events. Unfortunately, the ombudsman investigator was not able to view the tape himself.

None of the evidence available in this investigation supports Ms. Cantre's contention that she had nearly \$700 cash when taken to the jail or that SACC staff failed to account for all of her money. The evidence did not show that the agency failed "to comply with statutory or regulatory requirements" or that "individual misconduct" occurred as described in ombudsman standards. Consequently, the ombudsman finds Allegation 1 *not supported* by the evidence.

Allegation 2: Missing Evidence

Allegation 2 is:

The Sixth Avenue Correctional Center unreasonably failed to safeguard a videotape that was evidence in a complaint involving mishandled money.

Ms. Cantre and Corrections disagreed about how much money she brought with her to the jail. They also disagreed about where that money was during Ms. Cantre's property inventory. Ms. Cantre said the money was on a table in front of the intake officer. Several Corrections officers maintain the money was in Ms. Cantre's coat and not discovered until after Ms. Cantre left the intake area for the booking area. A simple way for the ombudsman investigator to check the memories of those involved would have been to view the videotape of the property inventory and see whether there was money on the intake table. Unfortunately, this was not possible. Corrections does not know how it happened, but the videotape of Ms. Cantre's property inventory was damaged or erased.

SACC videotapes property inventories to create a record of the property received and procedures followed by staff. When claims arise about

damaged or missing property, or about the conduct of prisoners or staff during the inventory, the videotapes provide important evidence. The videotaping is intended to keep the property inventory process honest, both in fact and in appearance, protecting the inmates' property from theft and the staff from false accusations.

Ms. Hagen reported that the tapes are kept for a year and are not locked up. She said numerous employees have access to them, including officers who conduct the property inventories. By storing the videotapes in an insecure area, Corrections harmed the integrity of the videotaping procedure and, by extension, the property inventory process itself.

This was certainly the result for Ms. Cantre. When the ombudsman investigator told her the videotape had been erased or damaged, she said she was not surprised. She said she was more convinced than ever that Corrections staff had stolen her money, because now they were covering up the evidence. "I guess they all had dinner on me," she said.

By not safeguarding the videotapes, Corrections harmed the integrity of the property inventory process, exactly the result the videotaping was intended to avoid. Because the agency does not know how the tape was erased, it also does not know whether an employee at SACC erased the tape intentionally. The agency's actions in this instance were inconsistent with and failed to achieve the purposes of the program, warranting a finding of "unreasonable" under ombudsman standards. Consequently, the ombudsman finds allegation 2 *justified* by the evidence.

Recommendation

This investigation revealed several shortcomings regarding the SACC videotaping system, several of which Assistant Superintendent Hagen addressed while the investigation was under way.

Specifically, Ms. Hagen reported to the ombudsman that the image quality problem has been "corrected ... with new equipment." She also said that the videotapes are now stored in a locked office with access limited to "key personnel."

Ms. Hagen said that she looked into the possibility of moving the equipment to a better location where it would not disturb staff, but that proved impractical at present. Ms. Hagen wrote:

... we have not moved the equipment. We have been monitoring the problems we had before but due to personnel shortages (both maintenance and security staff) we haven't been able to move it. At this point in time we

may not move it because we will only be here in this building approximately one more year. We are not expecting to do any additional changes due to the short time we have left here. The new Anchorage Jail will have much more sophisticated equipment as well as better security.

To further safeguard the videotaped evidence in any complaint involving property inventory, the ombudsman offered one recommendation as a result of this investigation:

Immediately upon receiving a complaint that touches on property inventory procedures, the superintendent should secure the videotape of the questioned property inventory in a locked cabinet with access restricted to the superintendent and the superintendent's designee.

Agency Response

The ombudsman investigator contacted Allan Terreault, the new superintendent of SACC, after the preliminary investigative report was mailed to him. Mr. Terreault said that he agrees with the findings and accepts the ombudsman's recommendation. He said he would put the recommendation into effect immediately with a memo to staff. The ombudsman, therefore, closed Ms. Cantre's complaint as ***partially justified*** and ***rectified*** and will so notify the complainant.