

MIM Distributors
PO Box 40799
San Francisco, CA 94140

September 1, 2018

North Carolina Department of Public Safety, Prisons
Director of Rehabilitative Programs and Services
MSC 4221
Raleigh, NC 27699-4221

Re: **Request Appeal of *Under Lock & Key* May/June 2018 Issue 62**

To Whom It May Concern:

We are in receipt of a Censorship Notice (notice), dated August 13, 2018, for the above referenced issue of *Under Lock & Key* (ULK). The notice states that the publication was rejected because of alleged content in violation of policy D.0109(f). However, the addendum references a violation of section (h) and specifies the offending material as being on page 2. The notice states page 2 "has verbiage that may incite distributive behavior." Distributive behavior is not a violation of policy D.0109.

A careful review of page 2 of the publication shows no content which remotely meets the alleged objection set forth in the notice. Further, the content of page 2 does not meet any definition of objectionable content as defined by any portion of policy D.0109.

Due process requires adequate notice of the reasons for censorship. Instructive is the District Court's reasoning set forth in *Prison Legal News v. Jones*, "Procurier demands that the publisher "be given a reasonable opportunity to protest" the censorship. *Id.* at 418. For an opportunity to be reasonable, the publisher must know of the grounds upon which the publication has been censored. See Henry J. Friendly, "Some Kind of Hearing", 123 U. Pa. L. Rev. 1267, 1280 (1975) (explaining that it is "fundamental" to due process that "notice be given . . . that . . . clearly inform[s] the individual of the proposed action and the grounds for it"). This knowledge component of due process does not turn on whether the publication is the first copy or a subsequent copy. What matters is the basis for censorship. If a subsequent impoundment decision is based on a different reason not previously shared with [the publisher or distributor], due process requires that [the publisher or distributor] be told of this new reason." 126 F. Supp. 3d 1233, 1258 (N.D. Fla. 2015).

We require the decision to censor the issue referenced above be vacated and delivered to the prisoners to which it was addressed. Please govern yourself accordingly.

Sincerely,
MIM Distributors