



Memorandum

Ministry of Attorney General
Ministry of Public Safety & Solicitor General
Investigation & Standards Office

PO Box 9279 Stn Prov Govt, Victoria, BC V8W 9J7 Phone: 250 387-5948 Fax: 250 356-9875

Mr. E. Vike
Warden
Kamloops Regional Correctional Centre

December 20, 2010
Emailed Dec 20am
59320-20/09-090

**Re: s.22, - Disciplinary Hearing Review
Rescind decision made and penalty imposed**

I am writing to advise you that the Inmate requested a review of his disciplinary hearing which concluded on December 11, 2010 at Kamloops Regional Correctional Centre (KRCC). The Inmate was charged and plead not guilty to violating Correction Act Regulation (CAR) Section 21(1)(y). The record of proceedings indicated that the Inmate was found guilty as charged. The hearing officer imposed a disposition of 120 hours of intermittent cell confinement.

Pursuant to CAR, Section 29(2), I reviewed the available documents and audio recording of the disciplinary hearing.

Upon review of the disciplinary hearing, I found the hearing was not conducted in an administratively and procedurally fair manner. Pursuant to CAR, Section 29(4)(c), I am rescinding the decision made and the penalty imposed. I am directing that the inmate's record be amended to reflect the rescission. Please notify me by email at s.15 when the inmate's record has been amended.

If you have any questions or comments regarding this appeal, please call me at s.15 .

J. Parkin
Inspector
Investigation & Standards Office

/dk

c: Mr. B. Merchant, Assistant Deputy Minister, Corrections Branch
Mr. P. Coulson, A/Provincial Director, Adult Custody Division
Mr. D. Kaban, Hearing Officer



Memorandum

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Ms. D. Green
Warden
Vancouver Island Regional Correctional Centre

October 6, 2010
Emailed Oct 6pm
59320-20/04-078

**Re: Inmate s.22 - Request for a review of disciplinary hearing
Rescind Decision and Penalty**

The above inmate has requested a review of a disciplinary hearing held at Vancouver Island Regional Correctional Centre (VIRCC) on October 2, 2010.

Pursuant to section 29(2) of the Correction Act Regulation (CAR), I have obtained and reviewed the documents and listened to the audio record of the disciplinary hearing.

The inmate was charged with breaching section 21(1)(g) of the CAR, which states that “an inmate must not unless unreasonably provoked by that person, behave in an insulting or abusive manner toward a person.” He was accused of swearing at an officer. The inmate pled not guilty but after hearing evidence, the hearing officer found him guilty. He was sentenced to 15 days in segregation.

At the hearing, the inmate claimed that he had been provoked and that the charging officer and the witness were both being untruthful in their evidence. He claimed that video evidence would prove this and asked for it to be produced. However, the hearing officer did not address this request for video evidence and no such evidence was produced.

The inmate’s allegations of provocation and lying concerned events that led up to this charge and the hearing officer questioned their relevance to the proceedings. However, provocation is a legitimate defence to this charge and the evidence should be fully tested whenever any such defence is raised, even if it appears to be insubstantial at first glance. Similarly, a claim that a witness is being untruthful must be explored as the credibility of any witness or charging officer rests on their honesty. The inmate asserted that two officers were lying and he indicated how the DVR would show this. Such an allegation should not go unaddressed, for the sake of all parties concerned.

Any reasonable request by an inmate for evidence to support his or her defence must be considered. I believe that this request for the video evidence was reasonable and should have been considered.

In view of this, I have concluded that this disciplinary hearing held on October 2, 2010 was procedurally unfair and therefore fatally flawed.

Pursuant to section 29(4) (c) (i) of the CAR, I am rescinding the decision made and the penalty imposed under section 27. I can see no grounds to support a rehearing.

I am also directing that the inmate's institutional record is amended to reflect this. Please advise me at s.15 when this is done.

Finally, I would like to bring your attention to the following two errors on the Inmate Offence Report concerning this charge.

- The written circumstances include an incorrect CS number for the inmate. The hearing officer noted this when he read out the charge, but did not subsequently speak to it and did not amend it on the final signed copy. Nor did he ask the charging officer to explain the anomaly.
- Part IV of the Inmate Offence Report indicates that the hearing was held in 2009. This is clearly a typing error.

I did not consider either of these to be fatal errors as the overall record was clear and unambiguous. However, when minor errors accumulate they can reach a point where the credibility of the hearing process becomes compromised.

Please feel free to call me at s.15 should you wish to discuss any of the above.

Lyall Boswell
Inspector
Investigation and Standards Office

/dk

C: Mr. B. Merchant, A/Assistant Deputy Minister
Mr. P. Coulson, A/Provincial Director
Mr. T. Peterson, A/ADW, Hearing Officer



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Mr. J. Pastorek [PDF emailed Sep 13am](#)
Warden
North Fraser Pretrial Centre

September 10, 2010

Re: Inmate [s.22](#)
Appeal Allowed — Rescission of decision made and penalty imposed

I am writing to confirm the outcome of the review that I conducted under section 29, Correction Act Regulation (CAR) for the above named inmate's disciplinary hearing concluded at North Fraser Pretrial Centre (NFPC) September 8, 2010.

As discussed with Deputy Warden (DW) Lang September 9, I reviewed the record of proceedings and found the inmate's disciplinary hearing procedurally flawed.

Record of Proceedings

The record of proceedings indicated that the reporting officer filed a charge against the inmate September 2 under s. 21 (1) (a), CAR, which reads, "An inmate must not disobey a direction of a staff member or of the person in charge."

The officer specified, "*Refusing to go to court.*", and his written report of the circumstances read, "*I/M [s.22](#) was belligerent & refusing to attend court this a.m. With the help of a second staff member I/M complied with the court movement but not until that movement and the other i/ms were noticeably delayed.*"

Assistant Deputy Warden (ADW) Penner, presiding as hearing officer, opened the disciplinary hearing September 4. He confirmed that the inmate had received a copy of the IOR. He ensured that the inmate had read and understood it, and he reminded the inmate of his right to seek legal counsel. The inmate advised that he wished to exercise that right and ADW Penner adjourned the hearing to allow him to do so.

ADW Jonas, presiding as hearing officer, reconvened the hearing September 8. He confirmed that the inmate had received a copy of the IOR, understood the charge and had had an opportunity to seek legal counsel. The inmate advised that he was ready to proceed and he entered a plea of not guilty. The charging officer read the written circumstances of the charge and the hearing officer then heard the inmate's account of the circumstances.

The inmate disagreed with the charging officer's report that the inmate's actions "noticeably delayed" the court movement and other inmates, and that the inmate was "belligerent". The inmate also submitted that legal counsel advised him that the incident should have been resolved informally.

After consider the evidence presented, the hearing officer found the inmate guilty. He then reviewed the inmate's institutional records and offered him an opportunity to make submissions for consideration towards potential penalty. The hearing officer subsequently imposed a penalty of five evenings of intermittent cellular confinement between 1730 – 2145 hours commencing immediately after the hearing. He advised the inmate of his rights under s. 27 (4) & (5) and s. 29 (1), CAR, before concluding the hearing.

Findings

Neither the hearing officer nor the charging officer responded to the inmate's submission regarding informal resolution. I also found no evidence of the charging officer considering s. 22 (1), CAR before deciding to file the charge against the inmate.

The hearing officer failed to maintain the duty of fairness after hearing the inmate's submission. Fairness required him to question the charging officer about s. 22 (1), CAR and to provide a decision to the inmate.

The charging officer's written report and oral testimony also supported questioning him about s. 22 (1), CAR.

The charging officer did not substantiate "noticeably delayed" in his written report or oral testimony with evidence of a specific amount of time. Furthermore, the timelines recorded on the IOR did not appear to reasonably support his written statement, "noticeably delayed". The IOR indicated that the offence occurred at approx. 0600hrs and that the charging officer filed the IOR at 0610hrs.

The charging officer also did not substantiate "belligerent" in his written report or oral testimony with an actual description of the behaviour in question.

The hearing officer did not ask the officer to substantiate either statement with specific evidence to support the charge and his decision to file it.


In my opinion, the written report, the charging officer's testimony and the inmate's account supported resolution through s. 22 (1), CAR rather than filing a charge for this matter.

Review Decision

In light of my findings, I have exercised my authority under s. 29 (4) (c) (i), CAR to rescind the decision made and the penalty imposed under s. 27 and to direct that the person in charge change the inmate's records to reflect the rescission.

Please notify me via email at s.15 when staff have changed the inmate's records as directed. I will hold the file for this matter open pending receipt of that confirmation.

If you or your staff has any further questions or comments regarding this appeal, please call me at s.15



S. Muldrew
Inspector
Investigation and Standards Office

- c. Mr. B. Merchant, A/Assistant Deputy Minister, Corrections Branch
Mr. P. Coulson, A/Provincial Director, Corrections Branch
Mr. M. Jonas, Assistant Deputy Warden – Hearing Officer

bc. Leanne Kristofferson



Memorandum

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PO Box 9279 Stn Prov Govt, Victoria, BC V8W 9J7 Phone: 250 387-5948 Fax: 250 356-9875

Mr. X
Warden
Correctional Centre

September 17, 2010
59320-20/

Re: Inmate X – CS#
Rescind decision and penalty

The above inmate has requested a review of a disciplinary hearing held at X Centre on September 12 and 15, 2010.

Pursuant to section 29(2) of the Correction Act Regulation (CAR), I have obtained and reviewed the documents and listened to the audio record of the disciplinary hearing.

The inmate was charged with breaching section 21(1)(g) of the CAR which states that “an inmate must not unless unreasonably provoked by that person, behave in an insulting or abusive manner towards a person.” He pled not guilty, but was found guilty and sentenced to five days in segregation.

During my review I noted the following:

- The charging officer was not present on either hearing date.
- This charge includes the proviso “unless unreasonably provoked by that person.”
- The inmate made a defence of provocation known when the hearing opened on September 12.
- Two different investigating officers appeared on September 12 and 15 respectively. Neither had anything to add to the proceedings beyond stating that they had both spoken to the charging officer and confirmed that he stood by the accuracy of the written charge. No consideration appears to have been given to seeking any corroborating evidence such as DVR.
- The inmate’s request for a witness was entertained. This was the other officer present at this incident. His evidence was brief, but did not support the inmate.
- At the hearing on September 15 the inmate requested DVR evidence.
- Considering the absence of the charging officer, noting that the witness cannot be considered a bystander at this incident and bearing in mind the wording of the charge, this request was clearly reasonable in these circumstances.
- The inmate’s request for DVR evidence was rejected by the hearing officer on the grounds that it was not listed as evidence on the inmate offence report and that a witness had been called.

The request for DVR evidence was reasonable and should have been considered. In view of this, I have concluded that this disciplinary hearing held on September 15, 2010 was administratively unfair.

Pursuant to section 29(4) (c) (i) of the CAR, I am rescinding the decision made and the penalty imposed under section 27.

I am also directing that the inmate's institutional record is amended to reflect this. I would be grateful if you could inform me at X when this is done.

Should you wish to discuss this matter please feel free to call me at s.15

X
Inspector
Investigation and Standards Office

/dk

c: Mr. B. Merchant, A/Assistant Deputy Minister
Mr. P. Coulson, A/Provincial Director, Adult Custody
Mr. X, Hearing Officer



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Emailed PDF Nov 19pm

Mr. G. Davis
A/Warden
Surrey Pretrial Services Centre

November 19, 2010

59320-20/09184

**Re: Request for review of Disciplinary Hearing - I/M
decision upheld and substitute penalty imposed**

s.22

The above inmate has requested a review of a disciplinary hearing held at Surrey Pretrial Services Centre (SPSC) on November 11, 2010.

Pursuant to Section 29(2) of the Correction Act Regulation (CAR), I have obtained and reviewed the documents listened to the audio record of the disciplinary hearing.

The inmate was charged with breaching section 21(1)(a) of the CAR which states that “an inmate must not disobey a direction of a staff member or the person in charge.” He was accused of covering his night light.

The inmate pled guilty and received a penalty of 10 hours of extra duties. These 10 hours were directed to be served for half an hour a day for 20 days between November 11 and 30.

In his letter requesting a review, the inmate asserts that this disposition is unfair as he currently only receives one hour a day out of his cell and these extra duties use up half of that available time, leaving him insufficient time to shower, make phone calls and so on.

I noted from the hearing record that the inmate is being held in segregation under separate confinement. A review of his client log confirms that that he is being held in separate confinement under CAR section 18 due to peer issues and contact concerns. His log also indicates that he receives only one hour out a day and that since his disposition he has been required to perform his extra duties during that one hour period.

Following my review, I have concluded that the disciplinary hearing held on November 11, 2010 was conducted in an administratively fair manner. However I have also concluded that the disposition awarded is not reasonable considering the inmate’s specific circumstances and the requirements of CAR section 2(1) *Inmate privileges*.

Pursuant to section 29(4)(b) of the CAR I am therefore confirming the decision made and am substituting another penalty under section 27.

Considering the nature of the violation, the inmate's plea of guilty and the fact that this is his first violation during this current sentence, I am imposing the penalty of a reprimand.

I am also directing that his institutional record is amended to reflect this change. Please advise me at s.15 when this is done.

Please feel free to contact me at s.15 should you wish to discuss this matter.



Lyall Boswell
Inspector
Investigation and Standards Office

c: B. Merchant, A/Assistant Deputy Minister, Corrections Branch
P. Coulson, A/Provincial Director
E. Webster, ADW, Hearing officer



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Mr. S. DiCatri
Warden
Fraser Regional Correctional Centre

September 20, 2010
Emailed Sept 20pm
59320-20/10-081

**Re: Inmate s.22
Appeal Allowed — Rescission of decision made and penalty imposed**

I am writing to confirm the outcome of the review that I conducted under section 29, Correction Act Regulation (CAR) for the above named inmate's disciplinary hearing concluded at Ford Mountain Correctional Centre (FMCC) September 16, 2010.

As discussed with Deputy Warden (DW) Tosh this date, I reviewed the record of proceedings and found the inmate's disciplinary hearing procedurally flawed.

Record of Proceedings

The record of proceedings indicated that the reporting officer filed a charge against the inmate September 15 under s. 21 (1) (w), CAR, which reads, "An inmate must not assault or threaten another person." The officer specified, "*Inmate s.22 was observed putting Inmate s.22 in a choke hold as well as stomping on him.*"

Assistant Deputy Warden (ADW) Onucki, presiding as hearing officer, opened the disciplinary hearing September 16. The inmate advised that he was ready to proceed and he entered a plea of not guilty. The charging officer read the written circumstances of the charge and then presented DVR evidence that the hearing officer viewed with the inmate. The hearing officer also heard the inmate's account of the circumstances.

Then inmate explained that he and the other inmate were involved in 'horseplay' and he submitted that the other inmate would have been injured if an assault had actually occurred. He further submitted that contrary to the officer's interpretation of the DVR, physical evidence would show that an assault did not occur.

The charging officer indicated that the first event appeared to be horseplay when the inmate placed the other inmate in a choke hold and pulled him off a seat, however he believed that the second event was an assault based on what he saw on camera.

The inmate suggested that someone check the alleged victim for injuries or marks indicative of assault, and he asked to see evidence of the same. The hearing officer advised that none was available.

The hearing officer found the inmate guilty based on the DVR evidence. He then reviewed the inmate's institutional records and offered him an opportunity to make submissions for consideration towards potential penalty. He subsequently imposed a penalty of 15 days segregation and forfeiture of 15 days earned remission.

The hearing officer advised the inmate of his rights under s. 27 (4) & (5) and s. 29 (1), CAR, before concluding the hearing.

Findings

I found the DVR evidence did not sufficiently support the allegation of assault and dismiss the inmate's account of the circumstances. The DVR evidence showed him standing on the other inmate while another inmate appeared to strike him. However, it also showed the inmate extending his hand and assisting the alleged victim to his feet following the event in question and it showed no apparent animosity between either of them as they walked away together.

The charging officer presented no evidence of injury or other physical evidence indicative of assault.

In the absence of additional evidence to support the allegation, I found that the DVR evidence supported the inmate's account of the circumstances on a balance of probabilities. I therefore found the decision of guilt unfair.

Review Decision

In light of my findings, I have exercised my authority under s. 29 (4) (c) (i), CAR to rescind the decision made and the penalty imposed under s. 27 and to direct that the person in charge change the inmate's records to reflect the rescission.

Please notify me via email at s.15 when staff have changed the inmate's records as directed. I will hold the file for this matter open pending receipt of that confirmation.

If you or your staff has any further questions or comments regarding this review, please call me at s.15

S. Muldrew
Inspector
Investigation and Standards Office

- c. Mr. B. Merchant, A/Assistant Deputy Minister, Corrections Branch
- Mr. P. Coulson, A/Provincial Director, Corrections Branch
- Mr. D. Tosh, Deputy Warden, FMCC
- Mr. D. Onucki, Assistant Deputy Warden – Hearing Officer



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PO Box 9279 Stn Prov Govt, Victoria, BC V8W 9J7 Phone: 250 387-5948 Fax: 250 356-9875

Mr. G. Davis
A/Warden
Surrey Pretrial Services Centre (SPSC)

October 18, 2010
Emailed Oct 18am
59320-20/10-098

Re: Request for review of Disciplinary Hearing - I/M s.22
Rescind decision made and penalty imposed – new hearing directed

The above inmate has requested a review of a disciplinary hearing held at Surrey Pretrial Services Centre (SPSC) on October 1, 7 and 9, 2010.

Pursuant to section 29(2) of the Correction Act Regulation (CAR), I have obtained and reviewed the documents and listened to the audio record of the disciplinary hearing. I also reviewed the DVR evidence.

The inmate was charged with breaching section 21(1)(w) of the CAR which states that “an inmate must not assault another person.” He pled not guilty, but after hearing evidence the hearing officer found him guilty. He was sentenced to 7 days in segregation.

At the hearing on October 9, 2010, the inmate was disruptive and was removed from the hearing temporarily while the hearing officer reviewed the evidence and reached a determination of guilt. Upon his return, he was informed of this determination, but the hearing then continued to examine evidence from the inmate and Corrections staff. This included the inmate watching the DVR and offering his explanation of events.

The continuing examination of evidence after a determination has been reached is a serious procedural error.

In the written record the hearing officer also recorded one of the reasons for her determination of guilt as “i/m admits to hitting victim through testimony.” However, the inmate’s defence was that he was engaging in horseplay. I do not consider it fair or reasonable to use his defence against him in this manner.

In view of this, I have concluded that the disciplinary hearing held on October 9, 2010 was fatally flawed.

Pursuant to section 29(4) (c) (ii) of the CAR, I am rescinding the decision made and the penalty imposed under section 27 and I am directing that a new disciplinary hearing be convened and presided over by a person appointed by the assistant deputy minister.

I am also directing that the inmate's institutional record is amended to reflect this. Please advise me at s.15 when this is done.



Lyall Boswell
Inspector
Investigation and Standards Office

/dk

c: Mr. B. Merchant, A/Assistant Deputy Minister
Mr. P. Coulson, A/Provincial Director
Ms. J. Ross, ADW, hearing officer



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PO Box 9279 Stn Prov Govt, Victoria, BC V8W 9J7 Phone: 250 387-5948 Fax: 250 356-9875

Mr. E. Vike
Warden
Kamloops Regional Correctional Centre

October 15, 2010
Emailed Oct 15 pm
59320-20/03-028

Re: Appeal Allowed – I/M s.22
Rescind decision made and penalty imposed

I am writing further to my email to Acting Deputy Warden S. McGrath concerning the abovementioned inmate's request for a review of a disciplinary hearing that was concluded at Kamloops Regional Correctional Centre (KRCC). Pursuant to s. 29(2), Correction Act Regulation (CAR), I obtained and reviewed a copy of the documents and listened to the audio record of the disciplinary hearing.

On October 10, the charging officer reported that the inmate had breached s. 21(1)(z.2)(i), CAR which states that an inmate must not engage in an activity that jeopardizes or is likely to jeopardize the safety of a person. The charging officer wrote on the Inmate Offense Report: *"Specifically: this inmate did test positive for medication he is not prescribed by healthcare or a doctor."* In the circumstances, the charging officer wrote: *"Circumstances: At approx 1300 hours Inmate s.22 was given a urinealysis test in which he did not pass. Hence the charge"*

On October 11, the hearing officer found him guilty and imposed five days segregation to be satisfied on October 15.

In reviewing the documents, I determined that the charging officer did not provide the inmate with sufficient information in the circumstances to know the case that was filed against him. Specifically, the circumstances lacked information identifying the name of the medication that he had tested positive for, and how or why, by either ingesting it or by having this particular medication in his system this is an activity that jeopardizes or is likely to jeopardize the safety of a person.

Accordingly, pursuant to s. 29(4)(c), CAR, I am rescinding the decision made and the penalty imposed. Pursuant to s. 29(4)(c)(i), I direct that the person in charge the inmate's record to reflect the rescission.

Should you require more information, you may call me at 250 387-5948.

Larry Chow
Inspector
Investigation & Standards Office

/dk

C: Mr. B. Merchant, A/Assistant Deputy Minister
Mr. P. Coulson, A/Provincial Director
Mr. E. Doucet, Assistant Deputy Warden (ADW), Hearing Officer



Memorandum

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PO Box 9279 Stn Prov Govt, Victoria, BC V8W 9J7 Phone: 250 387-5948 Fax: 250 356-9875

Mr. J. Pastorek
Warden
North Fraser Pretrial Centre

October 7, 2010
Emailed Oct 7 am
59320-20/00-228

Re: Inmate s.22
Appeals Allowed — Confirm decisions made and substitute penalties imposed

I am writing to confirm the outcome of the reviews that I conducted under section 29, Correction Act Regulation (CAR), for the above named inmate's disciplinary hearings held and concluded at North Fraser Pretrial Centre (NFPC) September 30, 2010.

As reported to Deputy Warden (DW) Lang this date, I reviewed the records of proceedings for two charges filed against the inmate and I found the hearings procedurally flawed.

Records of Proceedings

The records indicated that the reporting officer filed the first charge against the inmate September 29 under s. 21 (1) (z.2) (ii), CAR, which reads, "An inmate must not engage in an activity that jeopardizes or is likely to jeopardize the management, operation or security of the correctional centre." The officer specified: s.22 I s.15 , which is a safety and security device of this correctional centre.

The records indicated that the officer filed a second charge against the inmate September 30 under s. 21 (1) (w), CAR, which reads, "An inmate must not assault or threaten another person." The officer specified: Inmate s.22 threatened this officer, by shouting behind his secure door, " s.22 , you are dead!"

Acting/Assistant Deputy Warden (A/ADW) Uppal, presiding as hearing officer, opened the disciplinary hearings September 30 and heard each matter separately. In each case, the inmate confirmed that he received a copy of the charge and that he understood it. He also confirmed that he received notice of his right to seek legal counsel and he advised the hearing officer that he wished to proceed. In each case, he entered a plea of not guilty.

The hearing officer heard the charging officer's report for the first charge and viewed DVR evidence with the inmate. The inmate confirmed that the s.15 as alleged. He denied refusing to s.22 as reported and the charging officer presented no evidence to dismiss the inmate's claim.

The hearing officer heard additional testimony from the charging officer concerning events that followed the incident in question. He then found the inmate guilty based on the charging officer's testimony and DVR evidence. He deferred making a penalty decision pending hearing the second charge against the inmate and deciding guilt or innocence.

The hearing officer heard the charging officer's report for the second charge and the inmate consequently confirmed that he made the statement that the officer quoted in his report. He started to describe events that followed the incident in question and the hearing officer advised that the hearing only concerned the allegation of threatening another person. The inmate then stated that he was guilty. The hearing officer found the inmate guilty based on the officer's testimony and the inmate's admission.

The hearing officer then reviewed the inmate's institutional records and offered him an opportunity to make submissions for consideration towards potential penalties. The inmate made no submissions.

The hearing officer noted that the inmate had been transferred to the centre approximately one month earlier and that his behaviour was satisfactory prior to the officer charging him for

s.15

In reaching his penalty decision for the first charge, the hearing officer noted that the inmate had started with s.15 and then became non-complaint, which led to the emergency response team assembling and extracting him from the cell. He subsequently imposed a penalty of 15 days segregation for that breach. His written reasons for the penalty included non-compliance and the involvement of the emergency response team.

The hearing officer then considered the second breach. He advised the inmate that the centre takes threats against staff very seriously and that there are other ways to resolve issues. He stated that the inmate had had a chance but made no apology and the inmate confirmed that he had not made an apology. The hearing officer subsequently imposed a penalty of 20 days segregation consecutive to the first penalty. His written reasons for the penalty included stating that inmate refused to apologize.

The hearing officer advised the inmate of his rights under s. 27 (4) & (5) and s. 29 (1), CAR, and concluded the hearing.

Review Findings

In review, I found sufficient evidence to support each charge and the subsequent findings of guilt. I therefore found those decisions reasonable. However, I found both penalties unreasonable.

I found that the hearing officer considered irrelevant information in reaching his penalty decision for the first charge. The inmate's records indicated that the events involving non-compliance and the emergency response team occurred hours later. In addition, they did not form part of the circumstances that the charging officer reported when he filed the charge against the inmate.

I found that the hearing officer considered unproven information in reaching his penalty decision for the second charge. In his written reasons supporting the penalty, he wrote: *...you were given the opportunity to apologize but you refused.* I found the statement biased and unfair. During the hearing, the inmate had simply responded, “*No apology,*” when the hearing officer raised that issue. No-one had reported or testified that (a) they offered the inmate an opportunity to apologize to the charging officer and (b) he had refused to do so.

Review Decision – Charge #1 – s. 21 (1) (z.2) (ii), CAR

In light of my findings, I have allowed the inmate’s appeal for the first charge. I have exercised my authority under s. 29 (4) (b), CAR to confirm the decision made and substitute another penalty imposed under s. 27.

I am substituting a penalty of seven (7) days segregation effective September 29, the date of the breach and application of s. 24, for the following reasons:

- s.15 is a high security area;
- Closed circuit cameras enhance safety and security for all persons in the areas monitored;
- The inmate wilfully s.15
- He is an experienced inmate and therefore it is reasonable to conclude that he knew that s.15 was unacceptable; and,
- His satisfactory behaviour since arriving at NFPC mitigated the potential for a greater penalty.

Review Decision – Charge #2 – s. 21 (w), CAR

In light of my findings, I have allowed the inmate’s appeal for the second charge. I have exercised my authority under s. 29 (4) (b), CAR to confirm the decision made and substitute another penalty imposed under s. 27.

I am substituting a penalty of fifteen (15) days segregation effective September 29, the date of the breach and application of s. 24. I am making that penalty concurrent to the first penalty imposed. The following are my reasons for the substituted penalty:

- The seriousness of the charge;
- Correctional centres cannot tolerate threats against any person;
- The inmate admitted to threatening the officer after the hearing officer clarified the circumstances under consideration, thereby mitigating the potential for a greater penalty; and,
- He wilfully escalated his unsatisfactory behaviour after the officer charged him for s.15 earlier.

Summary

I have allowed the inmate's appeals for hearings concerning charges filed under s. 21 (1) (z.2) (ii) and 21 (1) (w). I have confirmed the decisions of guilt and I have substituted another penalty in each case. The aggregate substituted penalty of 15 days segregation concludes October 13. Upon its conclusion, classification staff will need to review the inmate's status to determine a suitable placement for him.

If you or your staff has any further questions or comments regarding this appeal, please call me at s.15.

S. Muldrew
Inspector
Investigation and Standards Office

/dk

C: Mr. B. Merchant, A/Assistant Deputy Minister, Corrections Branch
Mr. P. Coulson, A/Provincial Director, Corrections Branch
Mr. K. Uppal, A/Assistant Deputy Warden (ADW) – Hearing Officer



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Ms. J. Hawkins
Warden
Prince George Regional Correctional Centre

October 25, 2010
Emailed Oct 25am
59320-20/09-185

**Re: Request for review of Disciplinary Hearing - I/M
Rescind decision made and penalty imposed**

s.22

The above inmate has requested a review of a disciplinary hearing held at Prince George Regional Correctional Centre (PGRCC) on October 9 and 18, 2010.

Pursuant to section 29(2) of the Correction Act Regulation (CAR), I have obtained and reviewed the documents and listened to the audio record of the disciplinary hearing. I have also reviewed the DVR and photographic evidence.

The inmate was charged with breaching section 21(1)(w) of the CAR, which states that “an inmate must not assault another person.” He was accused of head butting a sheriff at KRCC. He pled not guilty, but after hearing evidence the hearing officer found him guilty. He was sentenced to 25 days in segregation.

Following my review, I determined that the evidence presented against the inmate was insufficient to support that charge. Specifically I noted the following:

- There was no direct witness testimony. The only verbal evidence came from an investigating officer who had spoken to the charging officer at KRCC. This evidence was not included on part III of the Inmate Offence Report.
- Evidence was presented that two of the three sheriffs present at this incident came from Prince George. It is not known why they were not called as witnesses.
- No written reports from the victim or other witnesses were tabled.
- Hearsay evidence is admissible at disciplinary hearings, but it is not sufficient in itself to support a charge of this nature.
- The DVR evidence, as noted by the hearing officer, “does not clearly show a head butt.”
- The inmate asked for an adjournment for witnesses to be called, but this was denied.

I have therefore concluded that the disciplinary hearing held on October 18, 2010 was fatally flawed.

The allegation against the inmate is a serious one. However, I believe the evidentiary failings preclude my directing a rehearing in this case.

Finally, I note that this hearing was opened on October 9, 2010 and was adjourned to allow the inmate to prepare legal arguments following his submission that PGRCC did not have the jurisdiction to hear an allegation that occurred at another centre. The hearing was not restarted until October 18, 2010. The inmate was on CAR section 24 status from October 6 to 18 (except while serving a disposition from October 8 to 12). This delay in restarting the hearing was excessive for an inmate being held under CAR section 24.

Pursuant to section 29(4) (c) (i) of the CAR, I am rescinding the decision made and the penalty imposed under section 27. I am also directing that the inmate's institutional record is amended to reflect this. Please advise me at s.15 when this is done.

Should you wish to discuss this matter, please feel free to call me at s.15

Yours sincerely,



Lyall Boswell
Inspector
Investigation & Standards Office

/dk

c: Ms. M. Cameron, A/Assistant Deputy Minister, Corrections Branch
Mr. P. Coulson, A/Provincial Director
Mr. R. Allison, ADW, Hearing Officer



Memorandum

Ministry of Attorney General
Ministry of Public Safety & Solicitor General
Investigation & Standards Office

PO Box 9279 Stn Prov Govt, Victoria, BC V8W 9J7 Phone: 250 387-5948 Fax: 250 356-9875

Mr. S. DiCatri
Warden
Fraser Regional Correctional Centre

December 15, 2010
Emailed Dec 15pm
59320-20/09-129

Re: s.22 **Disciplinary Hearing Review**

I am writing to advise you that the Inmate requested a review of his disciplinary hearing which concluded on November 23, 2010 at Fraser Regional Correctional Centre (FRCC). Inmate was charged and plead not guilty to violating Correction Act Regulation (CAR), Section 21(1)(g). The record of proceedings indicated that the Inmate was found guilty as charged. The Hearing Officer imposed a disposition of 10 days segregation.

Pursuant to CAR, Section 29(2), I reviewed the available documents and audio recordings of the disciplinary hearing. Digital video recording evidence relied upon in the hearing was not provided by the custody centre, as I am advised it was not retained.

Upon review of the disciplinary hearing, I found the hearing was not conducted in an administratively and procedurally fair manner. Pursuant to CAR, Section 29(4)(c), I am rescinding the decision made and the penalty imposed. I am directing that the inmate's record be amended to reflect the rescission. Please notify me by email at s.15 when the inmate's record has been amended.

If you have any questions or comments regarding this appeal, please call me at s.15

J. Parkin
Inspector
Investigation & Standards Office

/dk

c: Mr. B. Merchant, Assistant Deputy Minister, Corrections Branch
Mr. P. Coulson, A/Provincial Director, Adult Custody Division
Mr. B. Racette, Hearing Officer



Memorandum

Ministry of Attorney General
Ministry of Public Safety & Solicitor General
Investigation & Standards Office

PO Box 9279 Stn Prov Govt, Victoria, BC V8W 9J7 Phone: 250 387-5948 Fax: 250 356-9875

Mr. R. Hodgson
Acting Warden
Nanaimo Correctional Centre (NCC)

October 8, 2010
Emailed Oct 12am
59320-20/10-094

Re: I/M s.22 - Rescinding decision made and penalty imposed

I am writing further to my conversation with Acting Deputy Warden (ADW) M. Copeland regarding the above-mentioned inmate's request for a review of a disciplinary hearing that was conducted on October 1 at Nanaimo Correctional Centre (NCC). Pursuant to s. 29(2), Correction Act Regulation (CAR), I obtained and reviewed a copy of the documents and listened to the audio record of the inmate's hearing.

According to the documents, the charging officer reported that the inmate was attempting to obtain contraband tobacco while working at an off-site work location. During the proceedings, the inmate pleaded guilty and then there was some discussion about listening to some of the telephone recordings that the charging officer had reviewed. When the hearing officer attempted to access the files to play the telephone conversation, the audio record of the proceedings abruptly stopped at that point.

The documents indicate that the hearing officer found him guilty and imposed 10 days of segregation from October 1 and forfeited 10 days of earned remission.

In review, as the centre was not able to provide me a complete audio record for review, I determined that the centre was not in compliance with s. 26(4), CAR which states that a disciplinary hearing must be recorded.

Pursuant to s. 29(4)(c), CAR, I am rescinding the decision made and the penalty imposed for this particular matter. Pursuant to s. 29(4)(c)(i), CAR, I direct that the person in charge change the inmate's record to reflect the rescission. In addition, I request that the person in charge or his delegate notify me by email at s.15 once the inmate's record has been changed.

Should you require any further information, you may call me at 250 387-5948.

Larry Chow
Inspector
Investigation & Standards Office

C: Mr. B. Merchant, A/Assistant Deputy Minister
Mr. P. Coulson, A/Provincial Director
Mr. D. Russell, ADW, Hearing Officer



Memorandum

Ministry of Attorney General
Ministry of Public Safety & Solicitor General
Investigation & Standards Office

PO Box 9279 Stn Prov Govt, Victoria, BC V8W 9J7 Phone: 250 387-5948 Fax: 250 356-9875

Mr. E. Vike
Warden
Kamloops Regional Correctional Centre

September 17, 2010
Emailed Sept 20am
59320-20/04-028

**Re: Inmate s.22
Rescind decision and penalty**

The above inmate has requested a review of a disciplinary hearing held at Kamloops Regional Correctional Centre (KRCC) on September 12 and 15, 2010.

Pursuant to section 29(2) of the Correction Act Regulation (CAR), I have obtained and reviewed the documents and listened to the audio record of the disciplinary hearing.

The inmate was charged with breaching section 21(1)(g) of the CAR which states that “an inmate must not unless unreasonably provoked by that person, behave in an insulting or abusive manner towards a person.” He pled not guilty, but was found guilty and sentenced to five days in segregation.

During my review I noted the following:

- The charging officer was not present on either hearing date.
- This charge includes the proviso “unless unreasonably provoked by that person.”
- The inmate made a defence of provocation known when the hearing opened on September 12.
- Two different investigating officers appeared on September 12 and 15 respectively. Neither had anything to add to the proceedings beyond stating that they had both spoken to the charging officer and confirmed that he stood by the accuracy of the written charge. No consideration appears to have been given to seeking any corroborating evidence such as DVR.
- The inmate’s request for a witness was entertained. This was the other officer present at this incident. His evidence was brief, but did not support the inmate.
- At the hearing on September 15 the inmate requested DVR evidence.
- Considering the absence of the charging officer, noting that the witness cannot be considered a bystander at this incident and bearing in mind the wording of the charge, this request was clearly reasonable in these circumstances.
- The inmate’s request for DVR evidence was rejected by the hearing officer on the grounds that it was not listed as evidence on the inmate offence report and that a witness had been called.

The request for DVR evidence was reasonable and should have been considered. In view of this, I have concluded that this disciplinary hearing held on September 15, 2010 was administratively unfair.

Pursuant to section 29(4) (c) (i) of the CAR, I am rescinding the decision made and the penalty imposed under section 27.

I am also directing that the inmate's institutional record is amended to reflect this. I would be grateful if you could inform me at s.15 when this is done.

Should you wish to discuss this matter please feel free to call me at s.15

Lyall Boswell
Inspector
Investigation and Standards Office

/dk

c: Mr. B. Merchant, A/Assistant Deputy Minister
Mr. P. Coulson, A/Provincial Director, Adult Custody
Mr. A. McRae, Hearing Officer



Memorandum

Ministry of Attorney General
Ministry of Public Safety & Solicitor General
Investigation & Standards Office

PO Box 9279 Stn Prov Govt, Victoria, BC V8W 9J7 Phone: 250 387-5948 Fax: 250 356-9875

Ms. D. Green
Warden
Vancouver Island Regional Correctional Centre

December 16, 2010
Emailed Dec 16pm
59320-20/10-095

Re: Inmate s.22
Request for a review of a disciplinary hearing — New hearing directed.

The above inmate has requested a review of a disciplinary hearing held at Vancouver Island Regional Correctional Centre (VIRCC) on December 13, 2010.

Pursuant to Section 29(2) of the Correction Act Regulation (CAR), I have obtained and reviewed the documents and listened to the audio record of the disciplinary hearing.

The inmate was charged with breaching Section 21(1)(y) of the CAR, which states that “an inmate must not possess contraband.” He was accused of possessing s.15. He pled not guilty, but was found guilty and sentenced to 20 days in segregation (to be served consecutively to another disposition, and to run from December 20 to January 9, 2010).

I identified the following concerns regarding this hearing:

- I noted that the inmate was not given the opportunity to present his own defence to the charge. While the inmate was able to make comments and rebuttals to the charging officer’s testimony and was asked once if he had any questions regarding that officer’s evidence, at no time did the hearing officer turn to the inmate and ask him for his evidence, submissions or defence. What emerges from the hearing record is a conversation about an incident where the inmate is the junior or subordinate party. Administrative fairness demands that the defendant has a right to be heard. I do not believe he was properly afforded that right.
- During the evidence phase of the hearing the hearing officer looked at the inmate’s client log. This was done openly and in good faith as part III of the Inmate Offence Report lists ‘coronet client log’ as an item of evidence. If this entry was a necessary piece of evidence it should ideally have been presented verbally by the officer who wrote it. The hearing officer should not be looking at the inmate’s client log prior to reaching a determination of guilt. To do so can easily lead to a reasonable apprehension of bias.
- The hearing officer omitted a number of procedural steps. He failed to ascertain that the inmate had received and understood his copy of the inmate offence report and he failed to properly explain how Sections 27(4) and 29(1) of the regulation function and apply.

- The hearing officer failed to provide any written reasons for his disposition. When he imposed the disposition he made reference to what he called a s.15 but otherwise did not speak to his reasons for the disposition.

In view of the above, I have concluded that this disciplinary hearing held on November 26, 2010 was not conducted in an administratively fair manner.

Pursuant to Section 29(4)(c)(ii) of the CAR, I am rescinding the decision made and the penalty imposed under Section 27. I am directing that a new disciplinary hearing be convened and presided over by a person appointed by the assistant deputy minister.

I am also directing that the inmate's institutional record is amended to reflect this. Please advise me at s.15 when this is done.

Should you wish to discuss any of the above, please feel free to contact me at s.15



Lyall Boswell
Inspector
Investigation and Standards Office

C: Mr. B. Merchant, Assistant Deputy Minister, Corrections Branch
Mr. P. Coulson, A/Provincial Director, Corrections Branch
Mr. S. Davis, Assistant Deputy Warden – Hearing Officer
Ms. L. Kristofferson, Policy and Program Analyst



Memorandum

Ministry of Attorney General
Ministry of Public Safety & Solicitor General
Investigation & Standards Office

PO Box 9279 Stn Prov Govt, Victoria, BC V8W 9J7 Phone: 250 387-5948 Fax: 250 356-9875

Ms. D. Green
Warden
Vancouver Island Regional Correctional Centre

December 15, 2010
Emailed Dec 15pm
59320-20/10-095

Re: Inmate s.22
Appeal Allowed — Rescission of decision made and penalty imposed

I am writing to confirm the outcome of the review that I conducted under section 29, Correction Act Regulation (CAR), for the above named inmate's disciplinary hearing concluded at Vancouver Island Regional Correctional Centre (VIRCC) December 13, 2010.

As reported to Deputy Warden (DW) P. Doherty this date, I reviewed the record of proceedings and found the inmate's disciplinary hearing procedurally flawed.

Record of Proceedings

The record of proceedings indicated that an officer filed a charge against the inmate December 13 under s. 21 (1) (k), CAR, which states, "An inmate must not fight with another person." The charging officer specified: *I/M s.22 did physically fight with inmate s.22*
s.22

ADW S. Davis, presiding as hearing officer, opened the hearing December 13. He reminded the inmate of his right to legal counsel and the inmate advised him that he was prepared to proceed. The inmate entered a plea of not guilty.

The hearing officer heard accounts from the charging officer and the inmate concerning the circumstances surrounding the charge, and he reviewed DVR evidence. He subsequently found the inmate guilty based on the officer's account and the DVR evidence.

The inmate declined the opportunity to speak towards penalty. The hearing officer reviewed the inmate's client log and advised the inmate that he noted a recent release from the centre's Enhanced Supervision Program (ESP), numerous negative file comments and two institutional charges during this term in custody. He did not provide any details about any of those matters or discuss them with the inmate.

The hearing officer imposed a penalty of eight days segregation effective December 13. He made brief references to s. 27 (4) & (5), CAR and s. 29 (1), CAR and closed the hearing after determining that the inmate did not wish to say anything further.

Review Findings

In review, I found the inmate's disciplinary hearing procedurally unfair.

The hearing officer imposed a penalty without providing the inmate any reasons at the hearing for his penalty decision or in writing afterwards. Hearing officers have a statutory requirement under s. 28, CAR to provide written reasons to the affected inmate for the decision and the penalty imposed. This requirement indicates that a failure to provide reasons breaches the duty to act fairly.

Reasons enable the affected inmate to understand how the hearing officer reached his/her penalty decision, and demonstrate a reasonable application of procedures; reduce arbitrary decisions; reinforce confidence in the decision made as well as the fairness of disciplinary hearings; and, uphold the credibility of the hearing officer.

The hearing officer also omitted several other procedural steps that are detailed in Adult Custody Division policy for disciplinary hearings. He did not confirm that the inmate received a copy of the inmate offence report and he did not ensure that the inmate understood the charge. Although he reported in the 'Disposition and Reasons' section of Part IV of the IOR, "*27(4) and 29(1) read and understood,*" the hearing officer only made brief references to those sections and s. 27 (5), CAR. He did not advise the inmate of their provisions or ensure that the inmate understood their meaning.

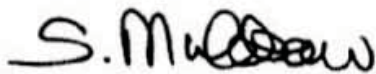
Collectively, the omissions in this hearing created an apprehension of disregard for procedural fairness.

Review Decision

In light of my findings, I have exercised my authority under s. 29 (4) (c) (i), CAR to rescind the decision made and the penalty imposed under s. 27 and to direct that the person in charge change the inmate's records to reflect the rescission.

Please notify me via email at s.15 when staff have changed the inmate's records as directed. I will hold the file open for this matter pending receipt of that confirmation.

If you or your staff has any questions or comments regarding this review, please call me at s.15



S. Muldrew
Inspector
Investigation and Standards Office

C: Mr. B. Merchant, Assistant Deputy Minister, Corrections Branch
Mr. P. Coulson, A/Provincial Director, Corrections Branch
Mr. S. Davis, Assistant Deputy Warden – Hearing Officer



Memorandum

Ministry of Attorney General
Ministry of Public Safety & Solicitor General
Investigation & Standards Office

PO Box 9279 Stn Prov Govt, Victoria, BC V8W 9J7 Phone: 250 387-5948 Fax: 250 356-9875

Ms. D. Green
Warden
Vancouver Island Regional Correctional Centre

October 14, 2010
Emailed Oct 14pm
59320-20/10-095

Re: Inmate s.22
Appeal Allowed — Rescission of decision made and penalty imposed

I am writing to confirm the outcome of the review that I conducted under section 29, Correction Act Regulation (CAR) for the above named inmate's disciplinary hearing concluded at Vancouver Island Regional Correctional Centre (VIRCC) October 9, 2010.

As reported to Deputy Warden (DW) P. Doherty October 13, I reviewed the record of proceedings and found the inmate's disciplinary hearing procedurally flawed.

Record of Proceedings

The record of proceedings indicated that an officer filed a charge against the inmate October 5 under s. 21 (1) (z.1), CAR, which states, "An inmate must not create or participate in a disturbance." The charging officer specified: *I/M s.22 did create a disturbance by s.15*

Assistant Deputy Warden (ADW) S. Trudgian, presiding as hearing officer, opened the disciplinary hearing October 6 at 1512 hours. He confirmed that the inmate had received a copy of the IOR. He ensured that the inmate had read and understood it, and that the inmate was aware of his right to seek legal counsel. The inmate advised him that he wished to seek legal counsel and ADW Trudgian adjourned the hearing to allow the inmate to do so.

ADW S. Davis, presiding as hearing officer ("the hearing officer"), reconvened the hearing October 9 at 1916 hours. He confirmed the reason for adjournment and advised that it was his understanding that the inmate was prepared to proceed. The inmate confirmed that he was ready to proceed and he entered a plea of guilty. The hearing officer read the written circumstances of the charge into the record. He then asked the inmate if he had anything to add. The inmate stated that he did not break

s.22

Based on the inmate's plea and the inmate offence report, the hearing officer found him guilty and immediately imposed a penalty of eight days segregation effective October 5. He asked the inmate if he had anything to say. The inmate responded, "No," and the hearing officer subsequently closed the hearing at 1918 hours.

Review Findings

In review, I found the inmate's disciplinary hearing procedurally unfair.

Penalty

The hearing officer imposed a penalty without reviewing the inmate's records and without providing him an opportunity to speak to potential penalty. As such, and given its immediacy following the decision of guilt, the penalty decision appeared predetermined thereby creating an apprehension of bias. Furthermore, the hearing officer did not provide the inmate any reasons at the hearing for his penalty decision or in writing afterwards.

a) Decision Making

When making decisions, hearing officers must follow appropriate procedures. BC Corrections Branch – Adult Custody Division policy includes procedures for conducting disciplinary hearings. Branch training for hearing officers addresses those procedures.

For penalty decisions, policy directs that hearing officers:

- Review relevant information in the inmate's institutional records; and
- Ask if the inmate has anything to say before penalty is imposed

The second point for consideration when imposing a penalty is particularly important as the right to be heard is a key principal of administrative fairness. Those principles require that a person who may be affected by a decision is given active participation in the decision making process.

Policy further directs that hearing officers also consider:

- The seriousness of the breach; and
- The effect the penalty may have on the inmate and inmate population

Hearing officers must act in good faith and without bias in imposing a penalty. They must impose a penalty that appropriately reflects all the circumstances of the breach and that demonstrates reasonable application of penalty decision-making guidelines.

b) Reasons for Decision

Two categories exist when addressing the purpose of providing reasons – legal and practical.

First and foremost, hearing officers have a statutory requirement under s. 28, CAR to provide written reasons to the inmate for the decision and the penalty imposed. This requirement indicates that a failure to provide reasons breaches the duty to act fairly.

The practical considerations for giving reasons are equally important. Reasons enable the inmate to understand how the hearing officer reached his/her penalty decision, and demonstrate a reasonable application of procedures; reduce arbitrary decisions; reinforce confidence in the decision made as well as the fairness of disciplinary hearings; and, uphold the credibility of the hearing officer.

Disciplinary Hearing Procedure

In addition to those identified above, the hearing officer omitted several other procedural steps detailed in policy. He did not confirm that the inmate received a copy of the inmate offence report and he did not ensure that the inmate understood the charge. He also did not advise the inmate of his rights under s. 27 (4) and 29 (1), CAR, and ensure that the inmate understood those rights.

I attributed the omissions to the hearing officer rushing the disciplinary hearing. He reconvened and concluded it in approximately 2 minutes. By comparison, opening and subsequently adjourning the hearing October 6 took approximately one and one-half minutes.

In addition to the risk of omitting important procedural steps, rushing a hearing creates an apprehension of disregard for procedural fairness. As such, it erodes confidence in the decisions made as well as the fairness of disciplinary hearings. It also undermines the credibility of the hearing officer.

Inmate Offence Report

The audio record contradicts information that the hearing officer provided in the 'Disposition and Reasons' section of Part IV of the IOR, specifically: *27(4) and 29(1) read and understood*. Given the aforementioned omissions, this discrepancy creates further apprehension of disregard for procedural fairness.

Review Decision

In light of my findings, I have exercised my authority under s. 29 (4) (c) (i), CAR to rescind the decision made and the penalty imposed under s. 27 and to direct that the person in charge change the inmate's records to reflect the rescission.

Please notify me via email at s.15 when staff have changed the inmate's records as directed. I will hold the file for this matter open pending receipt of that confirmation.

If you or your staff has any questions or comments regarding this review, please call me at s.15
s.15

S. Muldrew
Inspector
Investigation and Standards Office

/dk

- c. Mr. B. Merchant, A/Assistant Deputy Minister, Corrections Branch
- Mr. P. Coulson, A/Provincial Director, Corrections Branch
- Mr. S. Davis, Assistant Deputy Warden – Hearing Officer



Memorandum

Ministry of Attorney General
Ministry of Public Safety & Solicitor General
Investigation & Standards Office

PO Box 9279 Stn Prov Govt, Victoria, BC V8W 9J7 Phone: 250 387-5948 Fax: 250 356-9875

Ms. D. Green [Emailed PDF Oct 08 4:06pm](#)
Warden
Vancouver Island Regional Correctional Centre

October 8, 2010

**Re: Inmate s.22 - Request for a review of disciplinary hearing
Rescind Decision and Penalty**

The above inmate has requested a review of a disciplinary hearing held at Vancouver Island Regional Correctional Centre (VIRCC) on October 4, 2010.

Pursuant to Section 29(2) of the Correction Act Regulation (CAR), I have obtained and reviewed the documents and listened to the audio record of the disciplinary hearing.

The inmate was charged with breaching section 21(1)(z.1) of the CAR which states that “an inmate must not participate in a disturbance.” The charge against him was worded as follows:

SPECIFICALLY: Inmate s.22 did participate in a disturbance in s.22 by s.15.

The inmate pled not guilty but after hearing evidence the hearing officer found him guilty. He was sentenced to 10 days in segregation.

At this hearing the hearing officer agreed that there was no evidence to support the charge that the inmate had s.15 but noted that his behaviour afterwards, when he was taken out of his cell, did constitute participating in a disturbance.

However the inmate was not charged with that behaviour and therefore cannot be found guilty of it at this hearing. Having concluded that there was no evidence to support the allegation of s.15 the hearing officer should have dismissed the charge.

I have therefore concluded that this disciplinary hearing held on October 4, 2010 was fatally flawed.

Pursuant to section 29(4) (c) (i) of the CAR I am rescinding the decision made and the penalty imposed under section 27. I am not directing a rehearing.

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I am also directing that the inmate's institutional record is amended to reflect this. Please advise me at s.15 when this is done.

Please feel free to call me at s.15 should you wish to discuss any of the above.



Lyall Boswell
Inspector
Investigation and Standards Office

/gd

c: Mr. B. Merchant, A/Assistant Deputy Minister
Mr. P. Coulson, A/Provincial Director
Ms. V. Davis, ADW, Hearing Officer



Memorandum

Ministry of Attorney General
Ministry of Public Safety & Solicitor General
Investigation & Standards Office

PO Box 9279 Stn Prov Govt, Victoria, BC V8W 9J7 Phone: 250 387-5948 Fax: 250 356-9875

Mr. S. DiCatri
Warden
Fraser Regional Correctional Centre

September 20, 2010
Emailed Sept 20pm
59320-20/10-082

**Re: Inmate s.22
Appeal Allowed — Rescission of decision made and penalty imposed**

I am writing to confirm the outcome of the review that I conducted under section 29, Correction Act Regulation (CAR) for the above named inmate's disciplinary hearing concluded at Ford Mountain Correctional Centre (FMCC) September 16, 2010.

As discussed with Deputy Warden (DW) Tosh this date, I reviewed the record of proceedings and found the inmate's disciplinary hearing procedurally flawed.

Record of Proceedings

The record of proceedings indicated that the reporting officer filed a charge against the inmate September 15 under s. 21 (1) (w), CAR, which reads, "An inmate must not assault or threaten another person." The officer specified, "*Inmate s.22 was observed assaulting Inmate s.22*"

Assistant Deputy Warden (ADW) Onucki, presiding as hearing officer, opened the disciplinary hearing September 16. The inmate advised that he was ready to proceed and he entered a plea of not guilty. The charging officer read the written circumstances of the charge and then presented DVR evidence that the hearing officer viewed with the inmate. The hearing officer also heard the inmate's account of the circumstances.

The inmate denied assaulting the other inmate. He explained that they were involved in 'horseplay' and submitted that the other inmate would have been injured if an assault had actually occurred. He advised that the DVR would also show him and the alleged victim walking away together, which he submitted was further evidence that an assault did not occur.

The hearing officer found the inmate guilty based on the DVR evidence. The inmate then requested to call the alleged victim as a witness and the hearing officer advised that it was too late to do so. He further advised that even if that inmate stated that the event in question was horseplay, he would not believe him based on the DVR.

The hearing officer reviewed the inmate's institutional records and offered him an opportunity to make submissions for consideration towards potential penalty. He subsequently imposed a penalty of 15 days segregation and forfeiture of four days earned remission.

The hearing officer advised the inmate of his rights under s. 27 (4) & (5) and s. 29 (1), CAR, before concluding the hearing.

Findings

I found the DVR evidence did not sufficiently support the allegation of assault and dismiss the inmate's account of the circumstances. While it showed the inmate striking the other inmate on the ground, it appeared that both were engaged in horseplay immediately before that occurred. It also showed no apparent animosity between either inmate or effort to separate them from each other following the event in question. The charging officer presented no evidence of injury or other physical evidence indicative of assault.

In the absence of additional evidence to support the allegation, I found that the DVR evidence supported the inmate's account of the circumstances on a balance of probabilities. I therefore found the decision of guilt unfair.

Review Decision

In light of my findings, I have exercised my authority under s. 29 (4) (c) (i), CAR to rescind the decision made and the penalty imposed under s. 27 and to direct that the person in charge change the inmate's records to reflect the rescission.

Please notify me via email at s.15 when staff have changed the inmate's records as directed. I will hold the file for this matter open pending receipt of that confirmation.

If you or your staff has any further questions or comments regarding this review, please call me at s.15.

S. Muldrew
Inspector
Investigation and Standards Office

/dk

- c. Mr. B. Merchant, A/Assistant Deputy Minister, Corrections Branch
- Mr. P. Coulson, A/Provincial Director, Corrections Branch
- Mr. D. Tosh, Deputy Warden, FMCC
- Mr. D. Onucki, Assistant Deputy Warden – Hearing Officer



Memorandum

Ministry of Attorney General
Ministry of Public Safety & Solicitor General
Investigation & Standards Office

PO Box 9279 Stn Prov Govt, Victoria, BC V8W 9J7 Phone: 250 387-5948 Fax: 250 356-9875

Mr. John Pastorek
Warden
North Fraser Pretrial Centre

December 6, 2010
Emailed Dec 6am
59320-20/10-122

**Re: Inmate s.22 – Possession of contraband
Appeal Allowed - Rehearing directed**

I am writing further to my conversation with Deputy Warden Matt Lang regarding the above inmate's request for a review of his disciplinary hearing held on November 26, 2010 at North Fraser Pretrial Centre (NFPC).

Pursuant to Section 29(2) of the Correction Act Regulation (CAR), I have obtained and reviewed the documents and listened to the audio record of the disciplinary hearing.

The inmate was charged with breaching Section 21(1)(y) of the CAR, which states that "an inmate must not possess contraband." He was accused of possessing a cell phone. He pled not guilty, but was found guilty and sentenced to 15 days in segregation.

During this hearing his counsel s.22 sought to question the charging officer but was denied by the hearing officer, who wanted to hear the inmate's account of events first. There was an exchange between s.22 and the hearing officer, during which the latter suggested that a legal representative's role at a hearing was limited to providing an inmate with advice.

I note that the bottom of page 2 of the Inmate Offence Report in this case clearly states: "You have the right to contact and be represented by Legal Counsel."

It is clear to me that the hearing officer erred in this matter.

I have therefore concluded that this disciplinary hearing held on November 26, 2010 was not conducted in an administratively fair manner

Pursuant to Section 29(4)(c)(ii) of the CAR, I am rescinding the decision made and the penalty imposed under Section 27. I am directing that a new disciplinary hearing be convened and presided over by a person appointed by the assistant deputy minister.

I am also directing that the inmate's institutional record is amended to reflect this. Please advise me at s.15 when this is done.

Should you wish to discuss any of the above, please feel free to contact me at s.15



Lyall Boswell
Inspector
Investigation and Standards Office

/dk

c: Mr. B. Merchant, Assistant Deputy Minister, Corrections Branch
Mr. P. Coulson, A/Provincial Director
Mr. B. Penner, Hearing Officer
Ms. L. Kristofferson, Program and Policy Analyst



Memorandum

Ministry of Attorney General
Ministry of Public Safety & Solicitor General
Investigation & Standards Office

PO Box 9279 Stn Prov Govt, Victoria, BC V8W 9J7 Phone: 250 387-5948 Fax: 250 356-9875

Mr. G. Davis
Acting Warden
Surrey Pretrial Services Centre (SPSC)

October 4, 2010
Emailed Oct 4 pm
59320-20/08-203

**Re: I/M s.22
Rescind decision made and penalty imposed**

I am writing further to my conversation with Mr. F. Stratton, A/Deputy Warden, regarding a request for a review of a disciplinary hearing that was filed by the inmate's lawyer of a disciplinary hearing that was concluded on September 20, 2010, at Surrey Pretrial Services Centre (SPSC). Pursuant to s. 29(2), Correction Act Regulation (CAR), I obtained and reviewed a copy of the documents and listened to the audio record of the hearing. I also reviewed digital video recordings of the incident as well.

On September 10, 2010, the charging officer reported that the inmate had breached s. 21(1)(k), CAR, which states that an inmate must not physically fight with another person. On September 20, 2010, the hearing officer found him guilty of the breach and imposed a reprimand as the penalty.

I attempted to review the audio record, but I determined that it was of such poor quality that I was unable to hear all of the information being presented in the hearing room. Therefore, I was unable to appropriately assess all of the evidence that was presented or determine if the hearing was administratively fair. I concluded that the hearing was flawed for this reason. s.22 was contacted on October 4, 2010 and advised of my finding; she has advised our office that we may proceed without her submissions.

Pursuant to s. 29(4)(c), CAR, I am rescinding the decision made and the penalty imposed. Pursuant to s. 29(4)(c)(i), CAR, I direct that the person in charge change the inmate's record to reflect the rescission. I would appreciate if the person in charge or his delegate would advise me by email s.15 once the records have been changed.

Should you require further information, you may call me at 250 387-5948.

Larry Chow
Inspector
Investigation and Standards Office

C: Mr. B. Merchant, A/Assistant Deputy Minister
Mr. P. Coulson, A/Provincial Director
Mr. B. Palmer, ADW, Hearing Officer



Memorandum

Ministry of Attorney General
Ministry of Public Safety & Solicitor General
Investigation & Standards Office

PO Box 9279 Stn Prov Govt, Victoria, BC V8W 9J7 Phone: 250 387-5948 Fax: 250 356-9875

Mr. R. Hodgson
A/Warden
Nanaimo Correctional Centre

October 20, 2010
Emailed Oct 20 pm
59320-20/97-281

Re: Inmate s.22
Appeal Allowed — Rescission of decision made and penalty imposed

I am writing to confirm the outcome of the review that I conducted under section 29, Correction Act Regulation (CAR) for the above named inmate's disciplinary hearing concluded at Nanaimo Correctional Centre (NCC) October 19, 2010.

As reported to you this date, I reviewed the record of proceedings and found the inmate's disciplinary hearing procedurally flawed.

Record of Proceedings

The record of proceedings indicated that the reporting officer filed a charge against the inmate under s. 29 (1) (j), CAR, which states, "An inmate must not engage in horseplay or roughhousing." The officer specified: *Inmate s.22 was horse-playing in Dorm 5.*

Assistant Deputy Warden (ADW) T. Mackey, presiding as hearing officer, opened the disciplinary hearing October 13. He confirmed that the inmate had received a copy of the IOR. He ensured that the inmate had read and understood it, and he reminded the inmate of his right to seek legal counsel. The inmate advised that he wished to exercise that right and the hearing officer adjourned the hearing to allow him an opportunity to do so.

ADW Mackey reconvened the hearing October 19. He confirmed the reason for adjournment and the inmate advised that he was not ready to proceed. The inmate explained that he needed to contact legal counsel that date as directed October 14. The hearing officer adjourned the hearing to allow him to do so.

The hearing officer reconvened the hearing approximately 30 minutes later and advised that it would proceed as the inmate had been given sufficient time to seek legal counsel. The inmate advised that he did not wish to participate because Prisoners' Legal Services told him not to proceed until it arranged legal representation for him. The hearing officer advised that he would proceed without the inmate present because he had no guarantee that someone would attend to represent the inmate before his release from custody Thursday (October 21) morning.

The inmate left the hearing room and the hearing officer proceeded with the hearing. He heard evidence from the charging officer and viewed DVR evidence, and subsequently found the inmate guilty. He reviewed the inmate's records and subsequently imposed a penalty of three days forfeiture

of earned remission. The hearing officer concluded the hearing and he provided the inmate with written reasons for the decision made and the penalty imposed.

Review Findings

The inmate's legal advocate submitted that the hearing officer unreasonably denied the inmate an opportunity to retain legal representation.

In review, I found that the hearing officer did not reasonably uphold the inmate's right to counsel thus rendering the hearing procedurally unfair.

When he adjourned the hearing October 13, the hearing officer did not set a deadline for the inmate to retain legal representation. The hearing officer adjourned the hearing "indefinitely" despite the proximity of the inmate's release date.

Upon reconvening the hearing October 19 and learning that Prisoners' Legal Services would provide the inmate with legal representation, the hearing officer should have set a deadline for proceeding, with or without legal representation present, before the inmate's release date and adjourned to allow the inmate an opportunity to communicate that deadline to his legal advocate.


In my opinion, establishing a reasonable deadline for proceeding with the hearing and adhering to that deadline would have demonstrated reasonable consideration of the inmate's request for legal representation and his pending release date.

Review Decision

In light of my findings, I have exercised my authority under s. 29 (4) (c) (i), CAR to rescind the decision made and the penalty imposed under s. 27 and to direct that the person in charge change the inmate's records to reflect the rescission.

Please notify me via email at s.15 when staff have changed the inmate's records as directed. I will hold the file for this matter open pending receipt of that confirmation.

If you or your staff has any questions or comments regarding this review, please call me at s.15 s.15.



S. Muldrew
Inspector
Investigation and Standards Office

/dk

C: Ms. M. Cameron, A/Assistant Deputy Minister, Corrections Branch
Mr. P. Coulson, A/Provincial Director, Corrections Branch
Mr. T. Mackey, Assistant Deputy Warden – Hearing Officer



Memorandum

Ministry of Attorney General
Ministry of Public Safety & Solicitor General
Investigation & Standards Office

PO Box 9279 Stn Prov Govt, Victoria, BC V8W 9J7 Phone: 250 387-5948 Fax: 250 356-9875

Mr. E. Vike
Warden
Kamloops Regional Correctional Centre

December 10, 2010

**Re: Inmate s.22 – request for a review of a disciplinary hearing
Appeal Allowed - Rehearing directed**

I am writing regarding the above inmate's request for a review of his disciplinary hearing held on December 7, 2010 at Kamloops Regional Correctional Centre (KRCC).

Pursuant to Section 29(2) of the Correction Act Regulation (CAR), I have obtained and reviewed the documents and listened to the audio record of the disciplinary hearing.

The inmate was charged with breaching Section 21(1)(g) of the CAR, which states that "an inmate must not unless unreasonably provoked by that person behave in an insulting or abusive manner toward a person." He pled not guilty, but was found guilty and sentenced to 4 days loss of earned remission.

At this hearing the charging officer was not present. An investigating officer attended instead.

During the hearing, before the hearing officer had reached a determination of guilt, the inmate asked for legal counsel. He also asked for the charging officer to attend so that he could cross-examine him in respect of his defense of unreasonable provocation.

These requests were denied by the hearing officer.

I believe that the refusal by the hearing officer to allow the inmate the opportunity to contact counsel and the failure to require direct testimony from charging officer constitute fatal errors. Due process requires that these requests be given the most serious consideration and the fact that the hearing officer may suspect that the motive behind such requests is spurious is not sufficient grounds to deny them.

The absence of the charging officer in respect of a charge of this nature is also deeply problematic. An investigating officer can never replace the direct testimony of a witness and in this case the investigating officer provided no additional evidence. The case presented against the inmate amounted to nothing more than a recitation of the written charge and circumstances. Repeating an allegation does not equate to presenting a proper case in support of a charge.

I have therefore concluded that this disciplinary hearing held on December 7, 2010 was not conducted in an administratively fair manner.

Pursuant to Section 29(4)(c)(ii) of the CAR, I am rescinding the decision made and the penalty imposed under Section 27. I am directing that a new disciplinary hearing be convened and presided over by a person appointed by the assistant deputy minister.

I am also directing that the inmate's institutional record is amended to reflect this. Please advise me at s.15 when this is done.

Should you wish to discuss any of the above, please feel free to contact me at s.15

Lyall Boswell
Inspector
Investigation and Standards Office

c: Mr. B. Merchant, Assistant Deputy Minister, Corrections Branch
Mr. P. Coulson, A/Provincial Director
Mr. E. Doucet, Hearing Officer
Ms. L. Kristofferson, Program and Policy Analyst



Memorandum

Ministry of Attorney General
Ministry of Public Safety & Solicitor General
Investigation & Standards Office

PO Box 9279 Stn Prov Govt, Victoria, BC V8W 9J7 Phone: 250 387-5948 Fax: 250 356-9875

Mr. John Pastorek
Warden
North Fraser Pretrial Centre (NFPC)

November 25, 2010
Emailed Nov 25pm
59320-20/10-116

Re: I/M s.22 – Possession of contraband (brew)
Appeal Allowed

I am writing further to my conversation with Deputy Warden Matt Lang this date regarding my decision to allow the abovementioned inmate's appeal of his disciplinary hearing which concluded on November 10, 2010 at North Fraser Pretrial Centre (NFPC). Pursuant to s. 29(2), Correction Act Regulation (CAR), I obtained and reviewed a copy of the documents and listened to the audio record of the hearing.

According to the documents, the charging officer reported that the inmate breached s. 21(1)(y), CAR, which states that an inmate must not attempt to obtain, or possess contraband. Specifically, the charging officer reported that the inmate was in possession of contraband, which was described as a brew that was found in his cell.

The inmate pled not guilty to the breach. The inmate and his lawyer made submissions that he did not know that the contraband brew was in the plastic bags which also contained the mop heads. The hearing officer did not find the inmate's explanation credible and found him guilty of the breach. After listening to submissions, the hearing officer imposed eight days of segregation for this matter. As the inmate had been held in segregation pending the outcome, s. 27(3)(b), CAR applied, time served was the result.

In review, while the hearing officer did not find the inmate's explanation credible, he failed to establish and state in his reasons that, on a balance of probabilities, he was satisfied that the inmate had knowledge of the contraband brew that he was charged with possessing. In summarizing the evidence and in citing reasons, it is essential that the hearing officer establish that some form of knowledge must be proven for a possession of contraband charge.

Accordingly, pursuant to s. 29(4)(c) CAR, I am rescinding the decision made and the penalty imposed for this matter. Pursuant to s. 29(4)(c)(i), CAR, I am directing that you change the inmate's record to reflect the rescission.

By copy of this letter, I request that you or your delegate advise me by email at
s.15 once the inmate's record has been changed.

Should you require any further information, you may call me at 250 387-5958.

Larry Chow
Inspector
Investigation & Standards Office

/dk

C: Mr. B. Merchant, Assistant Deputy Minister
Mr. P. Coulson, A/Provincial Director
Mr. M. Jonas, ADW



Memorandum

Ministry of Attorney General
Ministry of Public Safety & Solicitor General
Investigation & Standards Office

PO Box 9279 Stn Prov Govt, Victoria, BC V8W 9J7 Phone: 250 387-5948 Fax: 250 356-9875

Mr. S. DiCatri
Warden
Fraser Regional Correctional Centre

September 27, 2010
Emailed Sept 27pm
59320-20/10-085

Re: Inmate s.22
Appeal Allowed — Rescission of decision made and penalty imposed
Direction to change inmate's records

I am writing to confirm the outcome of the review that I conducted under Section 29, Correction Act Regulation (CAR) for the above named inmate's disciplinary hearing concluded at Fraser Regional Correctional Centre (FRCC) September 17, 2010.

As reported to Deputy Warden H. Draaisma this date, I reviewed the record of proceedings and found the inmate's disciplinary hearing procedurally flawed.

Record of Proceedings

The record of proceedings indicated that the reporting officer filed a charge against the inmate September 15 under s. 21 (1) (w), CAR, which reads, "An inmate must not assault or threaten another person." The officer specified, "*After review of DVR, I, s.22*
recognized Inmate s.22) assault Inmate s.22

Assistant Deputy Warden (ADW) Weistra, presiding as hearing officer, opened the disciplinary hearing September 17. He confirmed that the inmate had received a copy of the IOR. He ensured that the inmate had read and understood it, and he reminded the inmate of his right to seek legal counsel. The inmate indicated that he was ready to proceed, however he refused to enter a plea.

The hearing officer treated the refusal as a not guilty plea and proceeded on that basis. The charging officer read the written circumstances of the charge and answered questions from the hearing officer. Another officer appeared as a witness and provided testimony supporting the charge. The hearing officer provided the inmate an opportunity to speak to the charge and cross-examine the charging officer and the witness. The inmate responded, "No comment."

After considering the evidence presented, the hearing officer found the inmate guilty and then advised him of his right to request a review. The audio record of the hearing abruptly ended when the hearing officer began to review the inmate's institutional records. The completed IOR indicated that the hearing officer imposed a penalty of 15 days segregation and that he provided the inmate written reasons for the decision and the penalty imposed.

I contacted ADW Weistra. He was unaware that he had stopped recording the hearing and advised me that there was no other audio record to review.

Review Decision

In review, I am allowing the inmate's appeal because the audio record is incomplete. Section 26 (4), CAR states, "A disciplinary hearing must be recorded." Without the audio record, I am unable to reach a conclusion regarding procedural fairness during the penalty phase. Consequently, I have exercised my authority under s. 29 (4) (c) (i), CAR to rescind the decision made and the penalty imposed under s. 27 and to direct that the person in charge change the inmate's records to reflect the rescission.

I have closed this file as I have received confirmation that staff have changed the inmate's records as directed.

If you or your staff has any questions or comments regarding this review, please call me at s.15

S. Muldrew
Inspector
Investigation and Standards Office

/dk

- c. Mr. B. Merchant, A/Assistant Deputy Minister, Corrections Branch
- Mr. P. Coulson, A/Provincial Director, Corrections Branch
- Mr. M. Weistra, Assistant Deputy Warden – Hearing Officer



Memorandum

Ministry of Attorney General
Ministry of Public Safety & Solicitor General
Investigation & Standards Office

PO Box 9279 Stn Prov Govt, Victoria, BC V8W 9J7 Phone: 250 387-5948 Fax: 250 356-9875

Mr. J. Pastorek
Warden
North Fraser Pretrial Centre

August 22, 2011
Emailed A22pm
59320-20/05-001

Re: Inmate s.22
Appeal Allowed — Confirmation of decision made and substitution of another penalty

I am writing to report the outcome of the review that I conducted under section 29, Correction Act Regulation (CAR), for the above named inmate's disciplinary hearing concluded at North Fraser Pretrial Centre (NFPC) August 14, 2011.

The hearing officer found the inmate guilty of breaching s. 21 (1) (w), CAR and imposed a penalty of 30 days segregation consecutive to an earlier segregation penalty. I reviewed the record of proceedings and found that penalty unfair.

In light of my findings, I am exercising my authority under s. 29 (4) (b), CAR to confirm the decision made and substitute another penalty under s. 27. I am substituting 20 days segregation and am making it consecutive to the earlier segregation penalty. I request that you have the inmate's record changed to reflect the review decision.

Please notify me via email at s.15 to confirm that the inmate's record has been changed. I will hold the file open for this matter pending receipt of that confirmation.

S. Muldrew
Inspector
Investigation and Standards Office

/dk

C: Mr. B. Merchant, Assistant Deputy Minister, BC Corrections Branch
Mr. P. Coulson, Provincial Director – Adult Custody Division



Memorandum

Ministry of Attorney General
Ministry of Public Safety & Solicitor General
Investigation & Standards Office

PO Box 9279 Stn Prov Govt, Victoria, BC V8W 9J7 Phone: 250 387-5948 Fax: 250 356-9875

Emailed Apr29

Ms. J. Hawkins
Warden

April 28, 2011

Prince George Regional Correctional Centre (PGRCC)

File: 59328-20/11-012

Re: Inmate s.22
Appeal Allowed — Rescission of decision made and penalty imposed – Change the inmate's record to reflect the rescission

I am writing to report the outcome of the review that I conducted under section 29, Correction Act Regulation (CAR), for the above named inmate's disciplinary hearing concluded at Prince George Regional Correctional Centre (PGRCC) April 24, 2011.

The hearing officer found the inmate guilty of breaching s. 21 (1) (y), CAR and imposed a penalty of three days forfeiture of earned remission and six days segregation. I reviewed the record of proceedings and found the inmate's disciplinary hearing substantially flawed.

In light of my findings, I am exercising my authority under s. 29 (4) (c) (i), CAR to rescind the decision made and the penalty imposed under s. 27, and direct that you have the inmate's record changed to reflect the rescission.

Please notify me via email at s.15 to confirm that the inmate's record has been changed. I will hold the file open for this matter pending receipt of that confirmation.

S. Muldrew
Inspector
Investigation and Standards Office

C: Mr. P. Coulson, Acting Assistant Deputy Minister, BC Corrections Branch
Ms. D. Hawboldt, Acting Provincial Director, Adult Custody Division



Memorandum

Ministry of Attorney General
Ministry of Public Safety & Solicitor General
Investigation & Standards Office

PO Box 9279 Stn Prov Govt, Victoria, BC V8W 9J7 Phone: 250 387-5948 Fax: 250 356-9875

Mr. E. Vike
Warden
Kamloops Regional Correctional Centre

December 12, 2011
Emailed Dec 12pm
59320-20/11-102

Re: Inmate s.22
Appeal Allowed — Rescission of decision made and penalty imposed –
Change the inmate's record to reflect the rescission

I am writing to report the outcome of the review that the above named inmate requested under section 29 (1), Correction Act Regulation (CAR) for a disciplinary hearing concluded at Kamloops Regional Correctional Centre (KRCC) December 7, 2011.

The inmate advised that a hearing officer found him guilty of breaching s. 21 (1) (k), CAR and imposed a penalty of three days segregation.

The centre was unable to provide me with the record of proceedings in accordance with s. 29(2), CAR. Consequently, my review could not reach conclusions regarding the decision of guilt, the penalty imposed and overall procedural fairness. Therefore, I have exercised my authority under s. 29 (4) (c) (i), CAR to rescind the decision made and the penalty imposed under s. 27, and to direct that the person in charge change the inmate's record to reflect the rescission.

Please notify me via email at s.15 to confirm that the inmate's record has been changed. I will hold the file open for this matter pending receipt of that confirmation.

S. Muldrew
Inspector
Investigation and Standards Office

/dk

C: Mr. B. Merchant, Assistant Deputy Minister, BC Corrections Branch
Ms. D. Hawboldt, A/Provincial Director – Adult Custody Division



Memorandum

Ministry of Attorney General
Ministry of Public Safety & Solicitor General
Investigation & Standards Office

PO Box 9279 Stn Prov Govt, Victoria, BC V8W 9J7 Phone: 250 387-5948 Fax: 250 356-9875

Mr. J. Pastorek
Warden
North Fraser Pretrial Centre

March 9, 2011
Emailed March 10am
59320-20/99-055

Re: Inmate s.22
Appeal Allowed —Rescind decision made and penalty imposed –
Change the inmate's record to reflect the rescission

I am writing to report the outcome of the review that I conducted under section 29, Correction Act Regulation (CAR), for the above named inmate's disciplinary hearing concluded at North Fraser Pretrial Centre (NFPC) on February 25, 2011.

The hearing officer found the inmate guilty of breaching s. 21(1)(g), CAR and imposed a penalty of seven days segregation. I reviewed the record of proceedings and found the inmate's disciplinary hearing flawed.

In light of my findings, I am exercising my authority under s. 29 (4) (c) (i), CAR to rescind the decision made and the penalty imposed under s. 27, and direct that you have the inmate's record changed to reflect the rescission.

Please notify me via email at s.15 to confirm that the inmate's record has been changed. I will hold the file open for this matter pending receipt of that confirmation.

J. Parkin
Inspector
Investigation and Standards Office

/dk

C: Mr. B. Merchant, Assistant Deputy Minister, BC Corrections Branch
Mr. P. Coulson, Provincial Director – Adult Custody Division



Memorandum

Ministry of Attorney General
Ministry of Public Safety & Solicitor General
Investigation & Standards Office

PO Box 9279 Stn Prov Govt, Victoria, BC V8W 9J7 Phone: 250 387-5948 Fax: 250 356-9875

Mr. S. DiCatri
Warden
Fraser Regional Correctional Centre

October 14, 2011
Emailed Oct 17am
59320-20/11-076

Re: Inmate s.22
Appeal Allowed — Rescission of decision made and penalty imposed
Change the inmate's record to reflect the rescission

I am writing to report the outcome of the review that I conducted under section 29, Correction Act Regulation (CAR), for the above named inmate's disciplinary hearing concluded at Fraser Regional Correctional Centre (FRCC) on October 10, 2011

The hearing officer found the inmate guilty of breaching s. 21 (1) (y), CAR and imposed a penalty of 10 days segregation (October 12 to October 21). I reviewed the record of proceedings and found the inmate's disciplinary hearing substantially flawed.

In light of my findings, I am exercising my authority under s. 29 (4) (c) (i), CAR to rescind the decision made and the penalty imposed under s. 27, and direct that you have the inmate's record changed to reflect the rescission.

Please notify me via email at s.15 to confirm that the inmate's record has been changed. I will hold the file open for this matter pending receipt of that confirmation.

Larry Chow
Inspector
Investigation and Standards Office

/dk

C: Mr. B. Merchant, Assistant Deputy Minister, BC Corrections Branch
Mr. P. Coulson, Provincial Director – Adult Custody Division
Mr. J. Meskas, ADW, hearing officer



Memorandum

Ministry of Attorney General
Ministry of Public Safety & Solicitor General
Investigation & Standards Office

PO Box 9279 Stn Prov Govt, Victoria, BC V8W 9J7 Phone: 250 387-5948 Fax: 250 356-9875

Mr. E. Vike
Warden
Kamloops Regional Correctional Centre

December 13, 2011
Emailed Dec 14am
59320-20/07-066

Re: Inmate s.22
Appeal Allowed —Rescission of decision made and penalty imposed

I am writing to report the outcome of the review that I conducted under section 29, Correction Act Regulation (CAR), for the above named inmate's disciplinary hearing concluded at Kamloops Regional Correctional Centre on December 6, 2011.

The hearing officer found the inmate guilty of breaching CAR s. 21 (1)(a) and imposed a penalty of six days segregation. I reviewed the record of proceedings and found that the charge against the inmate was incorrectly worded.

In light of my findings, I am exercising my authority under s. 29 (4) (c) (i), CAR to rescind the decision made and the penalty imposed under s. 27, and direct that you have the inmate's record changed to reflect the rescission.

Please notify me via email at s.15 when the inmate's record has been changed.

Lyall Boswell
Inspector
Investigation and Standards Office

/dk

c: Mr. B. Merchant, Assistant Deputy Minister, Corrections Branch
Ms. D. Hawboldt, A/Provincial Director, Corrections Branch



Memorandum

Ministry of Attorney General
Ministry of Public Safety & Solicitor General
Investigation & Standards Office

PO Box 9279 Stn Prov Govt, Victoria, BC V8W 9J7 Phone: 250 387-5948 Fax: 250 356-9875

Mr. J. Pastorek (by email PDF Mar 30am)
Warden
North Fraser Pretrial Centre

March 29, 2011

File: 59320-20/09-018

Re: Inmate s.22
Appeal Allowed, Rescission of Decision Made and Penalty Imposed
Change the Inmate's Record to Reflect the Rescission

I am writing to report the outcome of the review that I conducted under Section 29, Correction Act Regulation (CAR), for the above named inmate's disciplinary hearing concluded at North Fraser Pretrial Centre (NFPC) on March 26, 2011

The hearing officer found the inmate guilty of breaching Section 21(1)(y), CAR and imposed a penalty of 20 days segregation. I reviewed the record of proceedings and found the inmate's disciplinary hearing substantially flawed.

In light of my findings, I am exercising my authority under Section 29(4)(c)(i), CAR to rescind the decision made and the penalty imposed under Section 27, and direct that you have the inmate's record changed to reflect the rescission.

Please notify me via email s.15 to confirm that the inmate's record has been changed. I will hold the file open for this matter, pending receipt of that confirmation.

Larry Chow
Inspector
Investigation & Standards Office

/gd

c: Mr. B. Merchant, Assistant Deputy Minister, BC Corrections Branch
Mr. P. Coulson, Provincial Director – Adult Custody Division

DH Appeal Allowed Inmate s.22



Memorandum

Ministry of Attorney General
Ministry of Public Safety & Solicitor General
Investigation & Standards Office

PO Box 9279 Stn Prov Govt, Victoria, BC V8W 9J7 Phone: 250 387-5948 Fax: 250 356-9875

Emailed May 26 a.m.
Mr. J. Pastorek
Warden
North Fraser Pretrial Centre

May 26, 2011

Re: Inmate s.22
Disciplinary hearing review —Rescission of decision made and penalty imposed –
Change the inmate's record to reflect the rescission

The above inmate has requested a review of his Disciplinary Hearing held at North Fraser Pretrial Centre on May 20, 2011.

The inmate was charged with violating Section 21(1)(y) of the Correctional Act Regulation (CAR) which states that, "An inmate must not possess contraband." The inmate was accused of having music files on his e-disclosure laptop.

The hearing officer found the inmate guilty of breaching CAR s. 21(1)(y) and imposed a penalty of 5 days intermittent cell confinement.

I have reviewed the record of proceedings and found the inmate's disciplinary hearing substantially flawed. I have written to the Provincial Director outlining my reasons for this decision.

In light of my findings, I am exercising my authority under s. 29 (4) (c) (i), CAR to rescind the decision made and the penalty imposed under s. 27, and direct that you have the inmate's record changed to reflect the rescission.

I would be grateful if you could notify me at s.15 when the inmate's record has been changed.

Lyall Boswell
Inspector
Investigation and Standards Office

cc: Mr. B. Merchant, Assistant Deputy Minister, BC Corrections Branch
Ms. D. Hawboldt, A/Provincial Director – Adult Custody Division



Memorandum

Ministry of Attorney General
Ministry of Public Safety & Solicitor General
Investigation & Standards Office

PO Box 9279 Stn Prov Govt, Victoria, BC V8W 9J7 Phone: 250 387-5948 Fax: 250 356-9875

Mr. S. DiCatri
Warden
Fraser Regional Correctional Centre

March 8, 2011
Emailed March 8pm
59320-20/08-127

Re: Inmate s.22
Appeal Allowed — Confirmation of decision made and substitution of another penalty

I am writing to report the outcome of the review that I conducted under section 29, Correction Act Regulation (CAR), for the above named inmate's disciplinary hearing concluded at Fraser Regional Correctional Centre (FRCC) March 5, 2011.

The hearing officer found the inmate guilty of breaching s. 21 (1) (c), CAR and imposed a penalty of 15 (fifteen) days segregation and five (five) days forfeiture of earned remission. I reviewed the record of proceedings and found that penalty unfair.

In light of my findings, I am exercising my authority under s. 29 (4) (b), CAR to confirm the decision made and substitute another penalty under s. 27. I am substituting a penalty of 15 (fifteen) days segregation and request that you have the inmate's record changed to reflect the review decision.

Please notify me via email at s.15 to confirm that the inmate's record has been changed. I will hold the file open for this matter pending receipt of that confirmation.

Shane Muldrew
Inspector
Investigation and Standards Office

/dk

C: Mr. B. Merchant, Assistant Deputy Minister, BC Corrections Branch
Mr. P. Coulson, Provincial Director – Adult Custody Division



Memorandum

Ministry of Attorney General
Ministry of Public Safety & Solicitor General
Investigation & Standards Office

PO Box 9279 Stn Prov Govt, Victoria, BC V8W 9J7 Phone: 250 387-5948 Fax: 250 356-9875

Mr. J. Pastorek
Warden
North Fraser Pretrial Centre

January 26, 2011
Mailed Jan 26pm
59320-20/03-179

Re: s.22 - Disciplinary Hearing Review
Decision made confirmed, substituted another penalty

I am writing to advise that the Inmate requested a review of his disciplinary hearing which concluded on January 22, 2011 at North Fraser Pretrial Centre (NFPC). Pursuant to Correction Act Regulation (CAR), Section 29(2), I reviewed the documents and audio recordings of the disciplinary hearing.

The Inmate was charged and found guilty of violating:

1. CAR, Section 21(1)(w) which states; An inmate must not assault another person.
2. CAR, Section 21(1)(z.2)(ii) which states; An inmate must not engage in an activity that jeopardizes or is likely to jeopardize the management, operation or security of the correctional centre.

He pled not guilty to the charge under CAR, Section 21(1)(w) and pled guilty to CAR, Section 21(1)(z.2)(ii). The hearing officer heard evidence from the charging officer and from the Inmate concerning both charges. He also viewed digital video recordings regarding the charge under CAR, Section 21(1)(w).

The hearing officer imposed a disposition of 30 days segregation for the CAR, Section 21(1)(w) assault. This disposition was imposed consecutively to a segregation disposition the Inmate was already serving which expired on January 25, 2011. A further disposition of 15 days segregation concurrent was imposed for the charge under CAR, Section 21(1)(z.2)(ii), also to commence on January 25, 2011.

In reviewing the proceedings, I have determined that the finding of guilt regarding the two charges was conducted in an administratively and procedurally fair manner. It is apparent the Inmate understood the charges and was able to defend himself in a reasonable manner. However, the preponderance of evidence presented confirms his guilt for the two breaches.

The hearing officer's review of the Inmate's institutional record and imposition of the dispositions for these offences was not done in accordance with Correction Act Regulation corrections branch policy and administrative law.

1. In reviewing the Inmate's records for disposition the hearing officer used information of events that occurred after these incidents in determining disposition.
2. The hearing officer did not consider that the Inmate had been placed on segregation pursuant to CAR, Section 24(1)(a) on January 16, 2011. He must be credited with time served pursuant to CAR, Section 27(3)(b).
3. The dispositions imposed are consecutive to a previous segregation disposition being served until January 25, 2011. The disposition of 30 days imposed for the assault charge results in the Inmate being in segregation for a period of 50 days. Under CAR, Section 27(3)(a) the total period of segregation imposed must not exceed 45 days.
4. The hearing officer did not consider the Inmate's mental health condition in determining disposition. Although the original dispositions imposed may be appropriate for an inmate that does not have mental health issues which impair his ability to carry out the normal functions required by an inmate, an inmate with such a condition should not be held to the same standard due to the involuntary nature of his mental illness. The person administering discipline must have regard to the special circumstances of the Inmate and consider appropriate discipline in light of that disability.

An inmate's mental health condition should be considered a mitigating factor in determining sanctions if the behaviour is likely to have been a factor in the commission of the breaches. Upon review of the Inmate's client log, staff comments indicate that the Inmate's unstable mental health condition is well known and that it has been exacerbated by his unwillingness to take the medications prescribed for him to manage his mental health problems. This appears to have been a factor in his breaches of CAR, Section 21(1)(w) and CAR, Section 21(1)(z.2)(ii).

Based on the reasons noted above, I am confirming the decisions made regarding guilt on both charges. However, I am substituting the penalties imposed by the hearing officer pursuant to CAR, Section 29(4)(b). On the charge under CAR, Section 21(1)(w) the new disposition is 15 days segregation, which commenced on January 16, 2011 and will expire on January 30, 2011. On the charge under CAR Section 21(1)(z.2)(ii), the disposition is 10 days segregation concurrent to the assault breach.

 If you have any questions or comments regarding this appeal, please call me at

s.15

J. Parkin
Inspector
Investigation & Standards Office

c: Mr. B. Merchant, Assistant Deputy Minister, Corrections Branch
Mr. P. Coulson, Provincial Director, Adult Custody Division
Mr. M. Jonas, Hearing Officer



Memorandum

Ministry of Attorney General
Ministry of Public Safety & Solicitor General
Investigation & Standards Office

PO Box 9279 Stn Prov Govt, Victoria, BC V8W 9J7 Phone: 250 387-5948 Fax: 250 356-9875

Mr. H. Draaisma
Deputy Warden
Fraser Regional Correctional Centre

February 18, 2011
Emailed Feb 18pm
59320-20/10-158

Re: Inmate s.22
Disciplinary Hearing Review — Error in Authority –
Reinstate Decision and Penalties Imposed, and Change Inmate's Record

I am writing to report the outcome of the review that I conducted under section 29, Correction Act Regulation (CAR), for the above named inmate's disciplinary hearing concluded at Fraser Regional Correctional Centre (FRCC) February 7, 2011.

The hearing officer found the inmate guilty of breaching s. 21 (1) (a), CAR and imposed penalties of 10 days segregation and five days forfeiture of earned remission. The hearing officer immediately suspended the latter penalty.

I reviewed the record of proceedings and found the inmate's disciplinary hearing procedurally fair. However, upon reviewing his institutional records available on CORNET, it came to my attention that an assistant deputy warden erred February 10 in his decision to rescind the finding of guilt and the penalties imposed. CAR only extends that authority to the director of the Investigation & Standards Office (ISO).

In light of my findings regarding the hearing, I am exercising my authority under s. 29 (4) (c) (a), CAR to confirm the decision made and the penalties imposed under s. 27. As discussed, the centre needs to reinstate the original penalties imposed and change the inmate's record to reflect the outcome of the hearing.

Please notify me via email at s.15 to confirm that the penalties have been reinstated and that the inmate's record has been changed. I will hold the file open for this matter pending receipt of those confirmations.

S. Muldrew
Inspector
Investigation and Standards Office

C: Mr. B. Merchant, Assistant Deputy Minister, BC Corrections Branch
Mr. P. Coulson, Provincial Director – Adult Custody Division
Mr. S. DiCastri, Warden



Memorandum

Ministry of Attorney General
Ministry of Public Safety & Solicitor General
Investigation & Standards Office

PO Box 9279 Stn Prov Govt, Victoria, BC V8W 9J7 Phone: 250 387-5948 Fax: 250 356-9875

Mr. G. Davis
Warden
Surrey Pretrial Services Centre (SPSC)

October 4, 2011
Emailed Oct 5am
59320-20/11-072

Re: Inmate s.22
Appeal Allowed —Rescission of decision made and penalty imposed –
Change the inmate's record to reflect the rescission - (Document control # s.22

I am writing to report the outcome of the review that I conducted under section 29, Correction Act Regulation (CAR), for the above named inmate's disciplinary hearing concluded at Surrey Pretrial Services Centre (SPSC) on September 28, 2011.

The hearing officer found the inmate guilty of breaching s. 21 (1) (g), CAR and imposed a penalty of 10 days segregation. I reviewed the record of proceedings and found the inmate's disciplinary hearing substantially flawed.

In light of my findings, I am exercising my authority under s. 29 (4) (c) (i), CAR to rescind the decision made and the penalty imposed under s. 27, and direct that you have the inmate's record changed to reflect the rescission.

Please notify me via email at s.15 to confirm that the inmate's record has been changed. I will hold the file open for this matter pending receipt of that confirmation.

Larry Chow
Inspector
Investigation and Standards Office

/dk

C: Mr. B. Merchant, Assistant Deputy Minister, BC Corrections Branch
Mr. P. Coulson, Provincial Director – Adult Custody Division



Memorandum

Ministry of Attorney General
Ministry of Public Safety & Solicitor General
Investigation & Standards Office

PO Box 9279 Stn Prov Govt, Victoria, BC V8W 9J7 Phone: 250 387-5948 Fax: 250 356-9875

Mr. J. Pastorek
Warden
North Fraser Pretrial Centre (NFPC)

June 14, 2011
Emailed J14am
59320-20/09-133

Re: Inmate s.22
Appeal Allowed —Rescission of decision made and penalty imposed –
Change the inmate's record to reflect the rescission

I am writing to report the outcome of the review that I conducted under section 29, Correction Act Regulation (CAR), for the above named inmate's disciplinary hearing concluded at North Fraser Pre-Trial Centre (NFPC) June 3, 2011.

The hearing officer found the inmate guilty of breaching s. 21 (1) (a), CAR and imposed a penalty of twelve days segregation – time served under s. 24, CAR. I reviewed the record of proceedings and found the inmate's disciplinary hearing substantially flawed.

In light of my findings, I am exercising my authority under s. 29 (4) (c) (i), CAR to rescind the decision made and the penalty imposed under s. 27, and direct that you have the inmate's record changed to reflect the rescission.

Please notify me via email at s.15 to confirm that the inmate's record has been changed. I will hold the file open for this matter pending receipt of that confirmation.

S. Muldrew
Inspector
Investigation and Standards Office

/dk

C: Mr. B. Merchant, Assistant Deputy Minister, BC Corrections Branch
Mr. P. Coulson, Provincial Director, Adult Custody Division



Memorandum

Ministry of Attorney General
Ministry of Public Safety & Solicitor General
Investigation & Standards Office

PO Box 9279 Stn Prov Govt, Victoria, BC V8W 9J7 Phone: 250 387-5948 Fax: 250 356-9875

Mr. G. Davis
A/Warden
Surrey Pretrial Services Centre

September 13, 2011
Emailed 5:13pm
59320-20/005-210

Re: Inmate s.22
Appeal Allowed — Rescission of decision made and penalty imposed –
Change the inmate's record to reflect the rescission

I am writing to report the outcome of the review that I conducted under section 29, Correction Act Regulation (CAR), for the above named inmate's disciplinary hearing concluded at Surrey Pretrial Services Centre (SPSC) on August 23, 2011.

The hearing officer found the inmate guilty of breaching s. 21 (1) (y), CAR and imposed a penalty of six days segregation. I reviewed the record of proceedings and found the inmate's disciplinary hearing substantially flawed.

In light of my findings, I am exercising my authority under s. 29 (4) (c) (i), CAR to rescind the decision made and the penalty imposed under s. 27, and direct that you have the inmate's record changed to reflect the rescission.

Please notify me via email at s.15 to confirm that the inmate's record has been changed. I will hold the file open for this matter pending receipt of that confirmation.

Larry Chow
Inspector
Investigation & Standards Office

/dk

C: Mr. B. Merchant, Assistant Deputy Minister, BC Corrections Branch
Mr. P. Coulson, Provincial Director – Adult Custody Division
Ms. M. Zabel, Assistant Deputy Warden (ADW), hearing officer



Memorandum

Ministry of Attorney General
Ministry of Public Safety & Solicitor General
Investigation & Standards Office

PO Box 9279 Stn Prov Govt, Victoria, BC V8W 9J7 Phone: 250 387-5948 Fax: 250 356-9875

Ms. L. Anderson
Warden
Alouette Correctional Centre for Women

September 14, 2011
Emailed 5:14pm
59320-20/07-078

Re: Inmate s.22
Appeal Allowed — Rescission of decision made and penalty imposed –
Change the inmate's record to reflect the rescission

I am writing to report the outcome of the review that I conducted under section 29, Correction Act Regulation (CAR), for the above named inmate's disciplinary hearing concluded at Alouette Correctional Centre for Women (ACCW) on September 11, 2011.

The hearing officer found the inmate guilty of breaching s. 21 (1)(w), CAR and imposed a penalty of four hours intermittent confinement and a written apology. I reviewed the record of proceedings and found the inmate's disciplinary hearing substantially flawed.

In light of my findings, I am exercising my authority under s. 29 (4) (c) (i), CAR to rescind the decision made and the penalty imposed under s. 27, and direct that you have the inmate's record changed to reflect the rescission.

Please notify me via email at s.15 to confirm that the inmate's record has been changed. I will hold the file open pending receipt of that confirmation.

J. Parkin
Inspector
Investigation and Standards Office

/dk

C: Mr. B. Merchant, Assistant Deputy Minister, BC Corrections Branch
Mr. P. Coulson, Provincial Director – Adult Custody Division



Memorandum

Ministry of Attorney General
Ministry of Public Safety & Solicitor General
Investigation & Standards Office

PO Box 9279 Stn Prov Govt, Victoria, BC V8W 9J7 Phone: 250 387-5948 Fax: 250 356-9875

Mr. S. DiCatri
Warden
Fraser Regional Correctional Centre

April 19, 2011
Emailed A19pm
59320-20/11-007

Re: FMCC Inmate s.22 —
Rescission of decision made and penalty imposed
Change required to inmate's record to reflect the rescission

The above inmate has requested a review of a disciplinary hearing held at Ford Mountain Correctional Centre (FMCC) on April 13, 2011.

Pursuant to Section 29(2) of the Correction Act Regulation (CAR), I have obtained and reviewed the documents and listened to the audio record of the disciplinary hearing.

The inmate was charged with breaching Section 21(1)(g) of the CAR which states that "an inmate must not unless unreasonably provoked by that person, behave in an insulting or abusive manner towards a person."

The inmate pled not guilty and, after hearing evidence the hearing officer found him guilty. He was sentenced to one day's loss of remission and one hour of extra chores.

Following my review I concluded that the inmate's disciplinary hearing was substantially flawed.

In light of my findings, I am exercising my authority under s. 29 (4) (c) (i), CAR to rescind the decision made and the penalty imposed under s. 27.

I am also directing that the inmate's institutional record is amended to reflect this. Please inform me at s.15 when this is done.

Please feel free to contact me at s.15 should you wish to discuss this matter.

Lyall Boswell
Inspector
Investigation & Standards Office

c: Mr. P. Coulson, A/Assistant Deputy Minister, Corrections Branch
Ms. D. Hawboldt, A/Provincial Director



Memorandum

Ministry of Attorney General
Ministry of Public Safety & Solicitor General
Investigation & Standards Office

PO Box 9279 Stn Prov Govt, Victoria, BC V8W 9J7 Phone: 250 387-5948 Fax: 250 356-9875

Ms. J. Hawkins
Warden
Prince George Regional Correctional Centre

November 1, 2011
emailed Nov 1pm
59320-20/10-005

Re: Inmate s.22
Appeal Allowed — Confirmation of decision made and substitution of another penalty

I am writing to report the outcome of the review that I conducted under section 29, Correction Act Regulation (CAR), for the above named inmate's disciplinary hearing concluded at Prince George Regional Correctional Centre (PGRCC) October 20, 2011.

The hearing officer found the inmate guilty of breaching s. 21 (1) (w), CAR and imposed a penalty of 20 days segregation. I reviewed the record of proceedings and found that penalty unfair.

In light of my findings, I am exercising my authority under s. 29 (4) (b), CAR to confirm the decision made and substitute another penalty under s. 27. I am substituting 15 days segregation and I request that you have the inmate's record changed to reflect the review decision.

Please notify me via email at s.15 to confirm that the inmate's record has been changed. I will hold the file open for this matter pending receipt of that confirmation.

S. Muldrew
Inspector
Investigation and Standards Office

/dk

C: Mr. B. Merchant, Assistant Deputy Minister, BC Corrections Branch
Mr. P. Coulson, Provincial Director – Adult Custody Division



Memorandum

Ministry of Attorney General
Ministry of Public Safety & Solicitor General
Investigation & Standards Office

PO Box 9279 Stn Prov Govt, Victoria, BC V8W 9J7 Phone: 250 387-5948 Fax: 250 356-9875

Evan Vike
Warden
Kamloops Regional Correctional Centre

November 8, 2011
Emailed Nov 9am
59320-20/08-127

Re: Inmate s.22
Appeal Allowed — Confirmation of decision made and substitution of another penalty

I am writing to report the outcome of the review that I conducted under section 29, Correction Act Regulation (CAR), for the above named inmate's disciplinary hearing concluded at Kamloops Regional Correctional Centre (KRCC) on November 4, 2011.

The hearing officer found the inmate guilty of breaching s. 21(1)(w), CAR and imposed a penalty of 15 days segregation, consecutive to any other sentence. I reviewed the record of proceedings and found that penalty unfair.

In light of my findings, I am exercising my authority under s. 29 (4) (b), CAR to confirm the decision made and substitute another penalty under s. 27. I am substituting 15 days segregation, concurrent, and request that you have the inmate's record changed to reflect the review decision.

Please notify me via email at s.15 to confirm that the inmate's record has been changed. I will hold the file open for this matter pending receipt of that confirmation.

Larry Chow
Inspector
Investigation & Standards Office

/dk

C: Brent Merchant, Assistant Deputy Minister, BC Corrections Branch
Pete Coulson, Provincial Director – Adult Custody Division



Memorandum

Ministry of Attorney General
Ministry of Public Safety & Solicitor General
Investigation & Standards Office

PO Box 9279 Stn Prov Govt, Victoria, BC V8W 9J7 Phone: 250 387-5948 Fax: 250 356-9875

Mr. S. DiCatri
Warden
Fraser Regional Correctional Centre

October 19, 2011
Emailed Oct 19pm
59320-20/08-126

Re: Inmate s.22
Appeal Allowed — Rescission of decision made and penalty imposed –
Change the inmate's record to reflect the rescission

I am writing to report the outcome of the review that I conducted under section 29, Correction Act Regulation (CAR), for the above named inmate's disciplinary hearing concluded at Fraser Regional Correctional Centre (FRCC) October 16, 2011.

The hearing officer found the inmate guilty of breaching s. 21 (1) (y), CAR and imposed a penalty of seven days segregation. He credited two days of time served under s. 24, CAR towards that penalty. I reviewed the record of proceedings and found the inmate's disciplinary hearing substantially flawed.

In light of my findings, I have exercised my authority under s. 29 (4) (c) (i), CAR to rescind the decision made and the penalty imposed under s. 27.

North Fraser Pretrial Centre (NFPC) currently has custody of the inmate and I have directed that it have the inmate's record changed to reflect the rescission. I have also requested that it notify me via email to confirm completion of that action.

S. Muldrew
Inspector
Investigation and Standards Office

/dk

C: Mr. B. Merchant, Assistant Deputy Minister, BC Corrections Branch
Mr. P. Coulson, Provincial Director, Adult Custody Division
Mr. J. Pastorek, Warden, NFPC



Memorandum

Ministry of Attorney General
Ministry of Public Safety & Solicitor General
Investigation & Standards Office

PO Box 9279 Stn Prov Govt, Victoria, BC V8W 9J7 Phone: 250 387-5948 Fax: 250 356-9875

Mr. E. Vike
Warden
Kamloops Regional Correctional Centre (KRCC)

June 6, 2011
Emailed J7am
59320-20/07-031

Re: Inmate s.22
Appeal Allowed —Rescission of decision made and penalty imposed – Change the inmate's record to reflect the rescission

I am writing to report the outcome of the review that I conducted under section 29, Correction Act Regulation (CAR), for the above named inmate's disciplinary hearing concluded at Kamloops Regional Correctional Centre (KRCC) on May 25, 2011.

The hearing officer found the inmate guilty of breaching s. 21 (1)(z.2)(i), CAR and imposed a penalty of five days segregation. I reviewed the record of proceedings and found the inmate's disciplinary hearing substantially flawed.

In light of my findings, I am exercising my authority under s. 29 (4) (c) (i), CAR to rescind the decision made and the penalty imposed under s. 27, and direct that you have the inmate's record changed to reflect the rescission.

Please notify me via email at s.15 to confirm that the inmate's record has been changed. I will hold the file open for this matter pending receipt of that confirmation.

J. Parkin
Inspector
Investigation and Standards Office

/dk

C: Mr. B. Merchant, Assistant Deputy Minister, BC Corrections Branch
Mr. P. Coulson, Provincial Director – Adult Custody Division



Memorandum

Ministry of Attorney General
Ministry of Public Safety & Solicitor General
Investigation & Standards Office

PO Box 9279 Stn Prov Govt, Victoria, BC V8W 9J7 Phone: 250 387-5948 Fax: 250 356-9875

Mr. Evan Vike
Warden
Kamloops Regional Correctional Centre

May 16, 2011]
Emailed May 18 a.m.
File # 07-031

Re: Inmate s.22
Appeal Allowed —Rescission of decision made and penalty imposed – Change the inmate's record to reflect the rescission

I am writing to report the outcome of the review that I conducted under section 29, Correction Act Regulation (CAR), for the above named inmate's disciplinary hearing concluded at Kamloops Regional Correctional Centre on April 30, 2011.

The hearing officer found the inmate guilty of breaching s. 21 (1)(p), CAR and imposed a penalty of 15 days segregation. I reviewed the record of proceedings and found the inmate's disciplinary hearing substantially flawed. I have detailed my reasons for the decision in a letter to the inmate which I have copied to you.

In light of my findings, I am exercising my authority under s. 29 (4) (c) (i), CAR to rescind the decision made and the penalty imposed under s. 27, and direct that you have the inmate's record changed to reflect the rescission.

Please notify me via email at s.15 to confirm that the inmate's record has been changed. I will hold the file open for this matter pending receipt of that confirmation.

J. Parkin
Inspector
Investigation and Standards Office

/aa

C: Mr. B. Merchant, Assistant Deputy Minister, Corrections Branch
Ms. D. Hawboldt, A/Provincial Director



Memorandum

Ministry of Attorney General
Ministry of Public Safety & Solicitor General
Investigation & Standards Office

PO Box 9279 Stn Prov Govt, Victoria, BC V8W 9J7 Phone: 250 387-5948 Fax: 250 356-9875

Emailed June 3 pm

June 3, 2011

Mr. E. Vike, Warden
Kamloops Regional Correctional Centre (KRCC)

**Re: Inmate s.22
Disciplinary hearing review-Rescission of decision made and penalty imposed-
Change the inmate's record to reflect the rescission**

I am writing to report the outcome of the review that I conducted under section 29, Correction Act Regulation (CAR), for the above named inmate's disciplinary hearing concluded at KRCC on May 23, 2011.

The hearing officer found the inmate guilty of breaching s. 21(1)(y), CAR and imposed a penalty of two days Segregation. I reviewed the record of proceedings and found the inmate's disciplinary hearing procedurally flawed.

In light of my findings, I am exercising my authority under s. 29(4)(c)(i), CAR to rescind the decision made and the penalty imposed under s. 27, and direct that you have the inmate's record changed to reflect the rescission.

Please notify me via email at s.15 to confirm that the inmate's record has been changed. I will hold the file open for this matter pending receipt of that confirmation.

Larry Chow
Inspector
Investigation and Standards Office

cc: Mr. B. Merchant, Assistant Deputy Minister, BC Corrections Branch
Mr. P. Coulson, Provincial Director – Adult Custody Division



Memorandum

Ministry of Attorney General
Ministry of Public Safety & Solicitor General
Investigation & Standards Office

PO Box 9279 Stn Prov Govt, Victoria, BC V8W 9J7 Phone: 250 387-5948 Fax: 250 356-9875

Mr. J. Pastorek
Warden
North Fraser Pretrial Centre

November 28, 2011
Emailed Nov 29am
59320-20/02-282

Re: Inmate s.22
Appeal Allowed — Rescission of decision made and penalty imposed –
Change the inmate's record to reflect the rescission

I am writing to report the outcome of the review that I conducted under section 29, Correction Act Regulation (CAR), for the above named inmate's disciplinary hearing concluded at North Fraser Pretrial Centre.

The hearing officer found the inmate guilty of breaching s. 21 (1) (y), CAR and imposed a penalty of 20 days segregation. I reviewed the record of proceedings and found the inmate's disciplinary hearing substantially flawed.

In light of my findings, I am exercising my authority under s. 29 (4) (c) (i), CAR to rescind the decision made and the penalty imposed under s. 27, and direct that you have the inmate's record changed to reflect the rescission.

Please notify me via email at s.15 to confirm that the inmate's record has been changed. I will hold the file open for this matter pending receipt of that confirmation.

Larry Chow
Inspector
Investigation and Standards Office

/dk

C: Mr. B. Merchant, Assistant Deputy Minister, BC Corrections Branch
Mr. P. Coulson, Provincial Director – Adult Custody Division



Memorandum

Ministry of Attorney General
Ministry of Public Safety & Solicitor General
Investigation & Standards Office

PO Box 9279 Stn Prov Govt, Victoria, BC V8W 9J7 Phone: 250 387-5948 Fax: 250 356-9875

Mr. R. Hodgson
Warden
Nanaimo Correctional Centre

August 18, 2011
Emailed A18am
59320-20/11-045

Re: Inmate s.22
Appeal Allowed — Rescission of decision made and penalty imposed –
Change the inmate's record to reflect the rescission

I am writing to report the outcome of the review that I conducted under section 29, Correction Act Regulation (CAR), for the above named inmate's disciplinary hearing concluded at Nanaimo Correctional Centre on August 12, 2011.

The hearing officer found the inmate guilty of breaching CAR, Section 21(1)(y), and imposed a penalty of 10 days segregation, with 4 days time served, and 10 days loss of earned remission. I reviewed the record of proceedings and found the inmate's disciplinary hearing substantially flawed.

In light of my findings, I am exercising my authority under CAR, s. 29 (4) (c) (i), to rescind the decision made and the penalty imposed under s. 27, and direct that you have the inmate's record changed to reflect the rescission.

Please notify me via email at s.15 to confirm that the inmate's record has been changed. I will hold the file open for this matter pending receipt of that confirmation.

J. Parkin
Inspector
Investigation and Standards Office

/dk

C: Mr. B. Merchant, Assistant Deputy Minister, BC Corrections Branch
Mr. P. Coulson, Provincial Director – Adult Custody Division



Memorandum

Ministry of Attorney General
Ministry of Public Safety & Solicitor General
Investigation & Standards Office

PO Box 9279 Stn Prov Govt, Victoria, BC V8W 9J7 Phone: 250 387-5948 Fax: 250 356-9875

Ms. Dina Green
Warden
Vancouver Island Regional Correctional Centre

August 9, 2011
Email Aug 9pm
59320-20/09-015

Re: s.22 - Appeal Allowed
Rescission of decision made and penalty imposed –
Change the inmate's record to reflect the rescission

I am writing to report the outcome of the review that I conducted under section 29, Correction Act Regulation (CAR), for the above named inmate's disciplinary hearing concluded at Vancouver Island Regional Correctional Centre on August 2, 2011.

The hearing officer found the inmate guilty of breaching s. 21(1)(a), CAR and imposed a penalty of 15 days segregation. I reviewed the record of proceedings and found the inmate's disciplinary hearing substantially flawed.

In light of my findings, I am exercising my authority under s. 29 (4) (c) (i), CAR to rescind the decision made and the penalty imposed under s. 27, and direct that you have the inmate's record changed to reflect the rescission.

Please notify me via email at s.15 to confirm that the inmate's record has been changed. I will hold the file open for this matter pending receipt of that confirmation.

J. Parkin
Inspector
Investigation and Standards Office

/dk

C: Mr. B. Merchant, Assistant Deputy Minister, BC Corrections Branch
Mr. P. Coulson, Provincial Director – Adult Custody Division



Memorandum

Ministry of Attorney General
Ministry of Public Safety & Solicitor General
Investigation & Standards Office

PO Box 9279 Stn Prov Govt, Victoria, BC V8W 9J7 Phone: 250 387-5948 Fax: 250 356-9875

Mr. J. Pastorek
Warden
North Fraser Pretrial Centre

January 18, 2011
Emailed Jan19pm
59320-20/10-144

Re: I/M s.22
Rescind decision and penalty imposed

I am writing further to my conversation with Deputy Warden M. Lang this date regarding a request for a review of a disciplinary hearing filed by s.22, Barrister and Solicitor, of a matter that was concluded on January 9, 2011 at North Fraser Pretrial Centre (NFPC). Pursuant to s. 29(2), Correction Act Regulation (CAR), I obtained and reviewed a copy of the documents and listened to the audio record of the hearing. I also reviewed two DVR footages saved for this particular matter.

According to the documents, the charging officer reported that the inmate breached s. 21(1)(z.2)(ii), CAR, which states that an inmate must not engage in an activity that jeopardizes or is likely to jeopardize the management, operation or security of the correctional centre. Specifically, the officer reported that the inmate wilfully brought contraband from the s.15 to the s.15 room.

According to the proceedings, the inmate pleaded not guilty to the allegation.

The charging officer testified that the inmate moved s.15 one of which contained s.15. The charging officer further described that once the inmate was in the s.15 room, he and the other inmate were observed s.15. The DVR footage indicated that once the inmate s.15 into the s.15 he appeared to be examining some of the contents from that bag. The charging officer wrote that while he can be seen picking through the effects, it did not appear that he took anything. The charging officer reported that the s.15 along with other personal items.

After listening to the charging officer's evidence, the lawyer's submissions, the inmate's explanation and reviewing the DVR evidence, the hearing officer found the inmate guilty of engaging in an activity that jeopardizes the safety and security of the centre because centre's staff don't know what is in those bags.

After reviewing the inmate's institutional record and discussing it with the inmate, the hearing officer imposed a penalty of 'time served' for this matter.

In this case, the charge specified that the inmate wilfully brought contraband from s.15
s.15

The inmate's lawyer stated that the inmate had been assigned to the s.22 and had been assigned a job of s.22 that particular morning. After lunch, the inmate reported to his assigned work detail and the officer apparently directed the inmate and other of the s.22 to report to s.22 s instead, where the 'senior inmate' in s.22 would direct or assign him new tasks. The inmate's lawyer states that upon arriving at the inmate followed the other inmate's direction and acknowledges that he s.15 s.22 The inmate also admitted to s.15 but denied s.15 s.15 The inmate stated that he only s.15

In review, I am not satisfied that the hearing officer established that the inmate intended to or wilfully, as specified, engaged in an activity to bring contraband into the s.15 .

There was no information or evidence from the charging officer to dispute or challenge the inmate's lawyer's submissions in denying that the inmate knew he was going to be re-assigned from the s.22 that afternoon to work in s.22 or he knew that the s.15 s.15 were in one of the s.15 ; therefore, the inmate did not plan to do this. The lawyer stated that the inmate was merely following the instructions of the other inmate, apparently as directed by the gang officer.

Therefore, pursuant to s. 29(4)(c), CAR, I am rescinding the decision made and the penalty imposed. Pursuant to s. 29(4)(c)(i), CAR, I direct that the person in charge change the inmate's record to reflect the rescission. I also request that the person in charge or his delegate, advise me in writing by email at s.15 , once the inmate's record has been changed.

Should you require any further information, do not hesitate to call me at 250 387-5948.



Larry Chow
Inspector
Investigation & Standards Office

/dk

C: Mr. B. Merchant, Assistant Deputy Minister
Mr. P. Coulson, Provincial Director
Mr. N. Risbey, Hearing Officer



Memorandum

Ministry of Attorney General
Ministry of Public Safety & Solicitor General
Investigation & Standards Office

PO Box 9279 Stn Prov Govt, Victoria, BC V8W 9J7 Phone: 250 387-5948 Fax: 250 356-9875

Mr. S. DiCatri
Warden
Fraser Regional Correctional Centre

March 8, 2011
59320-20/08-127

Re: Inmate s.22
Appeal Allowed — Confirmation of decision made and substitution of another penalty

Mr. P. Coulson
Provincial Director
Adult Custody Division
BC Corrections Branch

August 30, 2011

Re: Inmate s.22 - Review of a disciplinary hearing; rescission of decision and penalty

The above inmate, via s.22 of Prisoner legal Services (PLS), has requested a review of a disciplinary hearing held at North Fraser Pretrial Centre (NFPC) on August 22, 2011.

Pursuant to Section 29(2) of the Correction Act Regulation (CAR), I have obtained and reviewed the documents and listened to the audio record of the disciplinary hearing.

The inmate was charged with breaching section 21(1)(a) of the CAR which states that “an inmate must not disobey a direction of a staff member or the person in charge.” He had refused a direction to move from segregation to an ESP placement on another unit. The inmate was represented by s.22 at the hearing and pled not guilty. However he was found guilty and sentenced to 5 days in segregation (time served).

It was the inmate’s defence that he had legitimate concerns for his safety if he was to return to the unit concerned and he contended that he had informed a supervisor of his fears when he was first moved off that unit.

During my review I noted the following:

- The inmate testified that he had been on the unit concerned previously and had been moved out to segregation a week before under CAR section 17 for his own safety. He had told a supervisor of his concerns at that time.
- The evidence offered against the inmate was limited to that of the charging officer who acknowledged that he had no knowledge of the inmate’s concerns and did not seek to

look into them beyond speaking with classification “who indicated that there was no reason why this inmate could not go” to the unit concerned on ESP.

- During the evidence phase of the hearing it was erroneously assumed by all parties that the inmate’s safety concerns had not been logged in Cornet and that staff therefore had no way of corroborating them. The hearing officer even asserted that had the supervisor concerned done this then the charge “would have been stayed.”
- The supervisor concerned was identified but was on vacation and was not available.
- A review of the inmate’s log revealed that the supervisor had in fact made an entry detailing the inmate’s concerns.
- The client log also showed that a classification officer had spoken to the inmate in segregation after this and had informed him that he would be moved back to that unit on ESP later. This information was not presented at the hearing as evidence.

I have concluded that the evidence offered against the inmate was insufficient to support the finding of guilt.

I also noted the following regarding the hearing officer’s determination of guilt:

- The hearing officer’s written reasons were short and consisted of : “Evidence, as presented by the charging officer and the inmate, support the charge.”
- However, the hearing officer provided different, and longer, reasons verbally at the hearing. These verbal reasons addressed the role of classification and the need for the inmate to inform staff of his concerns. However, no evidence from classification was presented at the hearing and the inmate’s client log shows that he did in fact inform staff.

I have concluded that the hearing officer’s reasons are inconsistent and do not support the guilty finding.

In view of this and pursuant to section 29(4) (c) (i) of the CAR I am rescinding the decision made and the penalty imposed under section 27. I am also directing that the inmate’s institutional record is amended to reflect this.

Please contact me at s.15 should you wish to discuss this.

Lyall Boswell
Inspector
Investigation and Standards Office

C: Mr. B. Merchant, Assistant Deputy Minister, BC Corrections Branch



Memorandum

Ministry of Attorney General
Ministry of Public Safety & Solicitor General
Investigation & Standards Office

PO Box 9279 Stn Prov Govt, Victoria, BC V8W 9J7 Phone: 250 387-5948 Fax: 250 356-9875

Mr. S. DiCatri
Warden
Fraser Regional Correctional Centre

November 1, 2011
Emailed Nov 2am
59320-20/10-172

Re: Inmate s.22
Appeal Allowed —Rescission of decision made and penalty imposed –
New hearing ordered

Further to my telephone conversation with DW Draaisma, I am writing to advise you of the outcome of a review that I conducted under section 29, Correction Act Regulation (CAR), in respect of the above named inmate's disciplinary hearing concluded at FRCC on October 27, 2011.

The hearing officer found the inmate guilty of breaching s. 21(1)(y) of the CAR and imposed a penalty of 10 days segregation. I reviewed the record of proceedings and found the inmate's disciplinary hearing substantially flawed.

In light of my findings, I have exercised my authority under s. 29 (4) (c) (ii), CAR to rescind the decision made and the penalty imposed under s. 27, and I am directing that a new disciplinary hearing be convened and presided over by a person appointed by the assistant deputy minister.

A memo has been sent to the Provincial Director advising him of this so that the appropriate arrangements can be made for the rehearing.

Please ensure that that the inmate is removed from this disposition forthwith and that his institutional record is changed to reflect this review decision.

Lyall Boswell
Inspector
Investigation and Standards Office

/dk

C: Mr. B. Merchant, Assistant Deputy Minister, BC Corrections Branch
Mr. P. Coulson, Provincial Director – Adult Custody Division



Memorandum

Ministry of Attorney General
Ministry of Public Safety & Solicitor General
Investigation & Standards Office

PO Box 9279 Stn Prov Govt, Victoria, BC V8W 9J7 Phone: 250 387-5948 Fax: 250 356-9875

Mr. J. Pastorek
Warden
North Fraser Pretrial Centre

May 19, 2011
EMAILED MAY 20 PM
59320-20/10-172

Re: Inmate s.22
Appeal Allowed — Decision and Penalty Rescinded

I am writing to report the outcome of the review that I conducted under s. 29, Correction Act Regulation (CAR), for the above named inmate's disciplinary hearing concluded at North Fraser Pretrial Centre (NFPC) on May 13, 2011.

The hearing officer found the inmate guilty of breaching s. 21 (1) (y), CAR and imposed a penalty of 10 days segregation. I reviewed the record of proceedings and found the hearing to be procedurally and administratively flawed.

In light of my findings, I have exercised my authority under s. 29 (4) (b), CAR to rescind the decision made and penalty imposed under s. 27. I have contacted the centre to request the inmate's record be changed to reflect the rescission.

L. Pineau
Inspector
Investigation and Standards Office

/dk

C: Mr. B. Merchant, Assistant Deputy Minister, Corrections Branch
Ms. D. Hawboldt, A/Provincial Director – Adult Custody Division



Memorandum

Ministry of Attorney General
Ministry of Public Safety & Solicitor General
Investigation & Standards Office

PO Box 9279 Stn Prov Govt, Victoria, BC V8W 9J7 Phone: 250 387-5948 Fax: 250 356-9875

Mr. S. DiCatri
Warden
Fraser Regional Correctional Centre

October 3, 2011
Emailed Oct 4am
59320-20/11-070

Re: Request for a review of a disciplinary hearing - Inmate
Confirmation of decision made and substitution of penalty imposed

s.22

The above inmate has requested a review of a disciplinary hearing at Fraser Regional Correctional Centre (FRCC) on September 26, 2011.

The inmate was charged with breaching section 21(1)(z.2) (i) of the CAR which states that “an inmate must not engage in an activity that jeopardizes or is likely to jeopardize the safety of a person.” He pled not guilty but was found guilty and sentenced to 20 days in segregation and 18 days loss of earned remission.

Following my review, I can see no grounds to interfere with the hearing officer’s determination of guilt in this matter.

However, I believe that the hearing officer erred in the disposition he awarded. At the time of the hearing the inmate had not earned 18 days remission. By my calculation, he had only earned 17 days remission at that time.

I am therefore setting aside the disposition awarded by the hearing officer and substituting it with a new disposition of 20 days in segregation and 17 days loss of earned remission. Please ensure that the inmate’s record is changed to reflect this new disposition. I have advised the hearing officer, ADW J. Meskas, of this decision.

I would be grateful if you could notify me via email at
inmate’s record is changed.

s.15

when the

Lyall Boswell
Inspector
Investigation and Standards Office

- c. Mr. B. Merchant, Assistant Deputy Minister, Corrections Branch
Mr. P. Coulson, Provincial Director, Corrections Branch
Mr. J. Meskas, ADW FRCC



Memorandum

Ministry of Attorney General
Ministry of Public Safety & Solicitor General
Investigation & Standards Office

PO Box 9279 Stn Prov Govt, Victoria, BC V8W 9J7 Phone: 250 387-5948 Fax: 250 356-9875

Mr. S. DiCatri
Warden
Fraser Regional Correctional Centre

May 16, 2011
Emailed May 18am
59320-20/11-018

Re: Inmate s.22
Appeal Allowed — Confirmation of decision made and substitution of another penalty

I am writing to report the outcome of the review that I conducted under section 29, Correction Act Regulation (CAR), for the above named inmate's disciplinary hearing concluded at Fraser Regional Correctional Centre (FRCC) May 6, 2011.

The hearing officer found the inmate guilty of breaching s. 21 (1) (x), CAR and imposed a penalty of 25 days segregation and three days forfeiture of earned remission. I reviewed the record of proceedings and found that penalty unfair.

In light of my findings, I am exercising my authority under s. 29 (4) (b), CAR to confirm the decision made and substitute another penalty under s. 27. I am substituting a penalty of 25 days segregation and requesting that you have the inmate's record changed to reflect the review decision.

Please notify me via email at s.15 to confirm that the centre has changed the inmate's record.

S. Muldrew
Inspector
Investigation and Standards Office

/dk

C: Mr. B. Merchant, Assistant Deputy Minister, Corrections Branch
Ms. D. Hawboldt, A/Provincial Director – Adult Custody Division



Memorandum

Ministry of Attorney General
Ministry of Public Safety & Solicitor General
Investigation & Standards Office

PO Box 9279 Stn Prov Govt, Victoria, BC V8W 9J7 Phone: 250 387-5948 Fax: 250 356-9875

Mr. J. Pastorek
Warden
North Fraser Pretrial Centre

August 30, 2011
Emailed A31am
59320-20/11-055

**Re: Inmate s.22 Appeal Allowed —Rescission of decision made
and penalty imposed – Change the inmate’s record to reflect the rescission**

I am writing to report the outcome of the review that I conducted under section 29, Correction Act Regulation (CAR), for the above named inmate’s disciplinary hearing concluded at North Fraser Pretrial Centre on August 22, 2011.

The inmate was charged with breaching s. 21(1)(a) of the CAR which states that “an inmate must not disobey a direction of a staff member or the person in charge.” The inmate pled not guilty. However, he was found guilty and sentenced to 5 days in segregation (time served).

Pursuant to s. 29 (4) (c) (i), CAR, I have rescinded the decision made and the penalty imposed under s. 27, and I am directing that the inmate’s record is changed to reflect the rescission.

Please notify me via email at s.15 to confirm that the inmate’s record has been changed.

Lyall Boswell
Inspector
Investigation and Standards Office

/dk

C: Mr. B. Merchant, Assistant Deputy Minister, BC Corrections Branch
Mr. P. Coulson, Provincial Director – Adult Custody Division



Memorandum

Ministry of Attorney General
Ministry of Public Safety & Solicitor General
Investigation & Standards Office

PO Box 9279 Stn Prov Govt, Victoria, BC V8W 9J7 Phone: 250 387-5948 Fax: 250 356-9875

Ms. S. Morgan
A/Warden
Vancouver Island Regional Correctional Centre

May 26, 2011

Re: Inmate s.22
Appeal Allowed —Rescission of decision made and penalty imposed – New hearing ordered

I am writing to report the outcome of the review that I conducted under section 29, Correction Act Regulation (CAR), for the above named inmate's disciplinary hearing concluded at Vancouver Island Regional Correctional Centre (VIRCC) on May 17th and 18th, 2011.

The hearing officer found the inmate guilty of breaching s. 21 (1)(w), CAR and imposed a penalty of 30 days segregation. I reviewed the record of proceedings and found the inmate's disciplinary hearing substantially flawed.

In light of my findings, I am exercising my authority under s. 29 (4) (c) (ii), CAR to rescind the decision made and the penalty imposed under s. 27, and direct that a new disciplinary hearing be convened and presided over by a person appointed by the assistant deputy minister.

Please notify me via email at s.15 to confirm that the inmate's record has been changed to reflect the review decision, and to confirm the appointment and proposed hearing date. I will hold the file open for this matter pending receipt of those confirmations.

J. Parkin
Inspector
Investigation and Standards Office

C: Mr. B. Merchant, Assistant Deputy Minister, BC Corrections Branch
Ms. D. Hawboldt, A/Provincial Director – Adult Custody Division



Memorandum

Ministry of Attorney General
Ministry of Public Safety & Solicitor General
Investigation & Standards Office

PO Box 9279 Stn Prov Govt, Victoria, BC V8W 9J7 Phone: 250 387-5948 Fax: 250 356-9875

Mr. G. Davis [emailed Mar 16 11:19am](#)

March 16, 2011

A/Warden
Surrey Pretrial Services Centre

Mr. S. DiCatri
Warden
Fraser Regional Correctional Centre (FRCC)

Re: Inmate [s.22](#)
Appeal Allowed —Rescission of decision made and penalty imposed – New hearing ordered

I am writing to report the outcome of the review that I conducted under section 29, Correction Act Regulation (CAR), for the above named inmate's disciplinary hearing concluded at Surrey Pretrial Services Centre on March 8, 2011.

The hearing officer found the inmate guilty of breaching s. 21(1)(z.2)(ii), CAR and imposed a penalty of 15 days segregation. I reviewed the record of proceedings and found the inmate's disciplinary hearing substantially flawed.

In light of my findings, I am exercising my authority under s. 29(4)(c)(ii), CAR to rescind the decision made and the penalty imposed under s. 27, and direct that a new disciplinary hearing be convened and presided over by a person appointed by the assistant deputy minister.

Please notify me via email at [s.15](#) to confirm that the inmate's record has been changed to reflect the review decision, and to confirm the appointment and proposed hearing date. I will hold the file open for this matter pending receipt of those confirmations.

Larry Chow
Inspector
Investigation and Standards Office

/gd

c: Mr. B. Merchant, Assistant Deputy Minister, BC Corrections Branch
Mr. P. Coulson, Provincial Director – Adult Custody Division
bcc: M. Luknowsky, Policy & Program Analyst



Memorandum

Ministry of Attorney General
Ministry of Public Safety & Solicitor General
Investigation & Standards Office

PO Box 9279 Stn Prov Govt, Victoria, BC V8W 9J7 Phone: 250 387-5948 Fax: 250 356-9875

Ms. D. Green
Warden
Vancouver Island Regional Correctional Centre

October 24, 2011
emailed Oct 25am
59320-20/11-082

Re: Inmate s.22
Appeal Allowed — Confirmation of decision made and substitution of another penalty

I am writing to report the outcome of the review that I conducted under section 29, Correction Act Regulation (CAR), for the above named inmate's disciplinary hearing concluded at Vancouver Regional Correctional Centre (VIRCC) October 17, 2011.

The hearing officer found the inmate guilty of breaching s. 21 (1) (w), CAR and imposed a penalty of 30 days segregation. I reviewed the record of proceedings and found that penalty unfair.

In light of my findings, I am exercising my authority under s. 29 (4) (b), CAR to confirm the decision made and substitute another penalty under s. 27. I am substituting 15 days segregation and I request that you have the inmate's record changed to reflect the review decision.

Please notify me via email at s.15 to confirm that the inmate's record has been changed. I will hold the file open for this matter pending receipt of that confirmation.

S. Muldrew
Inspector
Investigation and Standards Office

/dk

C: Mr. B. Merchant, Assistant Deputy Minister, BC Corrections Branch
Mr. P. Coulson, Provincial Director – Adult Custody Division



Memorandum

Ministry of Attorney General
Ministry of Public Safety & Solicitor General
Investigation & Standards Office

PO Box 9279 Stn Prov Govt, Victoria, BC V8W 9J7 Phone: 250 387-5948 Fax: 250 356-9875

Mr. E. Vike
Warden
Kamloops Regional Correctional Centre (KRCC)

August 8, 2011
Emailed Aug 8pm
59320-20/10-120

Re: Inmate s.22
Appeal Allowed — Rescission of decision made and penalty imposed –
Change the inmate's record to reflect the rescission

I am writing to report the outcome of the review that I conducted under section 29, Correction Act Regulation (CAR), for the above named inmate's disciplinary hearing concluded at Kamloops Regional Correctional Centre (KRCC) July 30, 2011.

The hearing officer found the inmate guilty of breaching s. 21 (1) (z.2) (ii), CAR and imposed a penalty of 25 days segregation effective July 30. I reviewed the record of proceedings and found the inmate's disciplinary hearing substantially flawed.

In light of my findings, I am exercising my authority under s. 29 (4) (c) (i), CAR to rescind the decision made and the penalty imposed under s. 27, and direct that you have the inmate's record changed to reflect the rescission.

Please notify me via email at s.15 to confirm that the inmate's record has been changed. I will hold the file open for this matter pending receipt of that confirmation.

S. Muldrew
Inspector
Investigation and Standards Office

/dk

C: Mr. B. Merchant, Assistant Deputy Minister, BC Corrections Branch
Mr. P. Coulson, Provincial Director, Adult Custody Division



Memorandum

Ministry of Attorney General
Ministry of Public Safety & Solicitor General
Investigation & Standards Office

PO Box 9279 Stn Prov Govt, Victoria, BC V8W 9J7 Phone: 250 387-5948 Fax: 250 356-9875

Mr. J. Pastorek
Warden
North Fraser Pretrial Centre (NFPC)

June 15, 2011
Emailed J15pm
59320-20/11-027

Re: Inmate s.22
Appeal Allowed —Rescission of decision made and penalty imposed –
Change the inmate's record to reflect the rescission

I am writing to report the outcome of the review that I conducted under section 29, Correction Act Regulation (CAR), for the above named inmate's disciplinary hearing concluded at North Fraser Pretrial Centre (NFPC) on June 10, 2011.

The hearing officer found the inmate guilty of breaching CAR, Section 21(1)(g), which states that "an inmate must not unless unreasonably provoked by that person, behave in an insulting or abusive manner toward a person." A penalty of 9 days segregation was imposed. I reviewed the record of proceedings and found the inmate's disciplinary hearing flawed.

In light of my findings, I am exercising my authority under s. 29 (4) (c) (i), CAR to rescind the decision made and the penalty imposed under s. 27, and direct that you have the inmate's record changed to reflect the rescission.

Please notify me via email at s.15 to confirm that the inmate's record has been changed. I will hold the file open for this matter pending receipt of that confirmation.

J. Parkin
Inspector
Investigation and Standards Office

c: Mr. B. Merchant, Assistant Deputy Minister, BC Corrections Branch
Mr. P. Coulson, Provincial Director – Adult Custody Division



Memorandum

Ministry of Attorney General
Ministry of Public Safety & Solicitor General
Investigation & Standards Office

PO Box 9279 Stn Prov Govt, Victoria, BC V8W 9J7 Phone: 250 387-5948 Fax: 250 356-9875

Ms. D. Green
Warden
Vancouver Island Regional Correctional Centre

September 28, 2011
Emailed S28am
59320-20/09-095

Re: Inmate s.22
Appeal Allowed —Rescission of decision made and penalty imposed
New hearing ordered

I am writing to report the outcome of the review that I conducted under section 29, Correction Act Regulation (CAR), for the above named inmate's disciplinary hearing concluded at Vancouver Island Regional Correctional Centre on September 18, 2011.

The hearing officer found the inmate guilty of breaching s. 21 (1)(g), CAR and imposed a penalty of 10 days segregation. I reviewed the record of proceedings and found the inmate's disciplinary hearing substantially flawed.

In light of my findings, I am exercising my authority under s. 29 (4) (c) (ii), CAR to rescind the decision made and the penalty imposed under s. 27, and direct that a new disciplinary hearing be convened and presided over by a person appointed by the assistant deputy minister.

Please notify me via email at s.15 to confirm that the inmate's record has been changed to reflect the review decision, and to confirm the appointment and proposed hearing date. I will hold the file open for this matter pending receipt of those confirmations.

J. Parkin
Inspector
Investigation and Standards Office

/dk

C: Mr. B. Merchant, Assistant Deputy Minister, BC Corrections Branch
Mr. P. Coulson, Provincial Director – Adult Custody Division