



September 20, 2013 mailed Sep 20

59320-20/11-057
2286

Mr. S. DiCatri, Warden
Fraser Regional Correctional Centre
PO Box 1500
Maple Ridge BC V2X 7G3

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) September 16, 2013.

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

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 inmate's record changed to reflect the review decision.

Please notify me via email 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

/gd

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



Memorandum

Ministry of Justice
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

June 20, 2013
Emailed J20 PG J21 KR
59320-20/12-090

Re: Inmat 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) June 9, 2013.

The hearing officer found the inmate guilty of breaching s. 21 (1) (z.2) (ii), CAR and imposed a penalty of ten days segregation. I reviewed the record of proceedings and found the hearing procedurally unfair.

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

L. Pineau
Inspector
Investigation & Standards Office

/dk

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



Memorandum

Ministry of Justice
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

February 25, 2013
Email F26 am
59320-20/12-149

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

The above inmate has requested a review of a hearing concluded at Fraser Regional Correctional Centre (FRCC) on February 21, 2013 and I am writing to inform you of my review decision.

The above inmate was found guilty of breaching Section 21(1)(z.1) of the Correction Act Regulation (CAR) which states that "an inmate must not create a disturbance." He was accused of incessantly kicking cell doors. He received a disposition of 3 days in segregation and 8 days loss of earned remission.

I reviewed the record of proceedings and concluded that this hearing was not conducted in an administratively fair manner.

During the hearing it emerged that the hearing officer had direct knowledge of the alleged disturbance. The hearing officer had been on duty at the time and stated at the hearing that he had heard the disturbance and had called segregation to find out who was making such a noise. He later attended segregation as part of his duties and spoke to the accused.

In these circumstances, it would have been prudent for the hearing officer to have declined to hear this case. As it stands, the fact that the hearing officer had direct knowledge of the incident and of the accused's alleged role in it automatically raises a reasonable apprehension of bias.

Therefore, 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 request that you change the inmate's record to reflect this rescission.

Lyall Boswell
Inspector
Investigation and Standards Office

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



Memorandum

Ministry of Justice
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

June 11, 2013
Email J11 pm
59320-20/13-046

**Re: Inmate S. 22
Appeal Allowed x 2 —Rescission of decisions made and penalties imposed –
Change the inmate's record to reflect the rescission**

I am writing regarding reviews that the above named inmate requested under section 29, Correction Act Regulation (CAR) for two disciplinary hearings concluded at Prince George Regional Correctional Centre (PGRCC) June 6, 2013.

The inmate received two charges under s. 21 (1) (w), CAR May 13 and he received a separate disciplinary hearing for each charge. Both hearings opened May 13 and concluded June 6.

The hearing officer presiding over the hearing for the first charge found the inmate guilty and she imposed a penalty of fifteen days segregation commencing June 6 and ending June 20.

A different hearing officer presided over the hearing for the second charge. He found the inmate guilty and imposed a penalty of ten days segregation consecutive to the previous penalty. He credited the inmate with nine days served under s. 24, CAR, which left one day to serve at the end of the previous penalty.

The centre was not able to provide ISO a complete audio recording for either hearing. As I was unable to review those hearings, I have exercised my authority under s. 29 (4) (c) (i), CAR to rescind the decision made and the penalty imposed under section 27 in each matter, and direct that the inmate's record be changed to reflect the rescissions.

Please notify me via email 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. B. Merchant, Assistant Deputy Minister, Corrections Branch
Mr. P. Coulson, Provincial Director, Corrections Branch



Memorandum

Ministry of Justice
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

October 1, 2013
Email Oct 2 am
59320-20/09-051

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) September 25, 2013.

The hearing officer found the inmate guilty of breaching s. 21 (1) (y), CAR and imposed a penalty of 100-hours intermittent cellular confinement. I reviewed the record of proceedings and found the hearing procedurally unfair.

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 inmate's record changed to reflect the review decision.

Please notify me via email 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, Corrections Branch
Mr. P. Coulson, Provincial Director, Corrections Branch



Memorandum

Ministry of Justice
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

November 13, 2013
Email N13am
59320-20/09-051

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) November 10, 2013.

The hearing officer found the inmate guilty of breaching s. 21 (1) (z.2) (ii), CAR. He imposed a penalty of 14 days segregation with credit for 6 days served in segregation-observation. I reviewed the record of proceedings and found the hearing procedurally unfair.

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 inmate's record be changed to reflect the review decision.

Please notify me via email 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, Corrections Branch
Mr. P. Coulson, Provincial Director, Corrections Branch



Memorandum

Ministry of Justice
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
North Fraser Pretrial Centre

March 4, 2013
Email M4am
59320-20/11-034

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

The above inmate requested a review of a hearing concluded at North Fraser Pretrial Centre (NFPC) on February 26, 2013. I am writing to inform you of my review decision.

The inmate was found guilty of breaching Section 21(1)(k) of the CAR which states that “an inmate must not physically fight with another person.” He received a disposition of 12 days in segregation with time served.

I reviewed the record of proceedings and found insufficient evidence, based on a balance of probabilities, to make a determination of guilt. I have therefore exercised my authority under s. 29 (4) (c) (i), CAR to rescind the decision made and the penalty imposed under s. 27, and request that you change the inmate's record to reflect this rescission.

Please do not hesitate to call me at 250-387-5911 if you have any questions.

L. Pineau
Inspector
Investigation and Standards Office

/dk

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



Memorandum

Ministry of Justice
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

May 15, 2013
Email M15am
59320-20/09-126

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

The above inmate has requested, through his legal counsel, Mr. David Donnelly, a review of a disciplinary hearing concluded at Prince George Regional Correctional Centre (PGRCC) on May 8, 2013.

The inmate was charged with violating Section 21(1)(z.2)(ii) of the Correction Act Regulation, 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. s.15

s.15

The inmate denied the charge but was found guilty and received a disposition of 15 days in segregation. This disposition concluded on May 14, 2013.

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

I concluded that this hearing was not conducted in a fair manner. In reaching this conclusion I noted the following:

- The charging officer mentioned during the hearing that he possessed incriminating evidence from phone calls that this inmate had made. This evidence was apparently uncovered after the charges had been laid and is not referred to on the Inmate Offence Report, which only mentions calls made by other inmates. This 'new' evidence was not disclosed prior to, or at the start of the hearing and was offered as a rebuttal to the defence being presented by the inmate's lawyer during the hearing. The sudden mention of such evidence in these circumstances is clearly procedurally unfair.
- Following the mention of this evidence the inmate's lawyer requested time to consult with the inmate and they both left the hearing room. During their absence the officers remaining in the room, which included the hearing officer, proceeded to whisper among themselves after noting that the microphone was still on. Little can be deciphered but the words "nailed him" along with an assertion that the required standard of proof is only on

the basis of probability can be heard clearly. I can see no good reason why there was a need to whisper and such behaviour can only give rise to a reasonable apprehension of bias.

- The charging officer presented evidence regarding the observations of a nurse and a supervisor in respect of the inmate's injuries and his behaviour. His lawyer challenged this evidence. While there is no prohibition against hearsay evidence per se at an administrative hearing of this nature, where such evidence is challenged corroboration should always be sought. In this case, either or both of the staff members mentioned or any other witnesses could have been called to testify. This option was not explored at the hearing.

In view of the above, pursuant to CAR, Section 29(4)(c), I am therefore rescinding the decision made and the penalty imposed. I am also requesting that the centre amend the inmate's record to reflect this rescission. Please notify me at lyall.boswell@gov.bc.ca when this is done.



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 Justice
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

mailed Apr 19

April 19, 2013
59320-20/09-126

Re: Inmate
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), in respect of the above named inmate's disciplinary hearing concluded at Prince George Regional Correctional Centre on April 15, 2013.

The hearing officer found the inmate guilty of breaching s. 21 (1)(w) of the CAR and imposed a penalty of 15 days segregation (time served). I reviewed the record of proceedings and determined that the audio record was too distorted to allow the hearing to be reviewed. Deputy Warden Laferdy is aware of this.

I am therefore exercising my authority under s. 29 (4)(c)(i) of the CAR to rescind the decision made and the penalty imposed under s. 27, and I am directing that the inmate's record be changed to reflect the rescission.

I would be grateful if you could notify me via email at lyall.boswell@gov.bc.ca 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
Mr. P. Coulson, Provincial Director, Adult Custody Division



Memorandum

Ministry of Justice
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

May 14, 2013
Emailed M14am
59320-20/09-126

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 Prince George Regional Correctional Centre on May 10, 2013.

The chairperson found the inmate guilty of breaching Section 21 (1) (g), CAR, and imposed a penalty of 10 days segregation commencing on May 14, 2013. 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 at joan.parkin@gov.bc.ca 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 Justice
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

March 13, 2013
Email M13am
59320-20/09-126

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 Prince George Regional Correctional Centre on March 9, 2013.

The hearing officer found the inmate guilty of breaching s. 21 (1)(g), 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 joan.parkin@gov.bc.ca 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 Justice
Investigation & Standards Office

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

Ms. S. Morgan
Warden
Vancouver Island Regional Correctional Centre

December 19, 2013
Email Dec 19pm
59320-20/12-007

Re: Disciplinary Hearing Appeal S. 22
Confirmation of decision made and substitution of 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 December 12, 2013. The chairperson found the inmate guilty of breaching s. 21 (1)(w), CAR and imposed a penalty of 20 days segregation commencing on December 16.

I reviewed the record of proceedings and found the hearing officer erred in determining the penalty to be imposed as he did not grant the inmate credit for two days time served pursuant to s. 27(3)(b), CAR.

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. The new penalty is 20 days segregation with two days time served. The disposition is consecutive to another disposition that was being served, therefore will commence on December 16, 2013 and conclude on January 2, 2014.

I am also directing that you have the inmate's record changed to reflect the substituted penalty.

Please notify me via email at joan.parkin@gov.bc.ca 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 Justice
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

January 16, 2013
Emailed J16pm
59320-20/11-143

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

The above inmate has requested a review of a hearing concluded at Prince George Regional Correctional Centre on January 12, 2013 and I am writing to inform you of my review decision.

The above inmate was found guilty of breaching Section 21(1)(z.2) (ii) of the 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." He was accused of damaging a cell door by kicking it. He received a disposition of 10 days in segregation.

I reviewed the record of proceedings and concluded that this hearing was not conducted in an administratively fair manner.

In view of this, 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 I am directing that the inmate's record is changed to reflect this rescission.

I'd be grateful if you could notify me via email at lyall.boswell@gov.bc.ca when the inmate's record has been amended.

Lyall Boswell
Inspector
Investigation and Standards Office

/dk

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



Memorandum

Ministry of Justice
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 4, 2013
Emailed N4pm
59320-20/13-049

Re: Inmate
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, which concluded at Fraser Regional Correctional Centre (FRCC) on October 25, 2013. The chairperson found the inmate guilty of breaching s. 21 (1)(z.1), CAR and imposed a penalty of 12 days segregation .

Under Section 29(2), CAR, the person in charge of the custody centre must provide the director of the Investigation and Standards Office with a record of the disciplinary hearing and information used in the hearing. The custody centre is unable to provide a complete record of the disciplinary hearing for review.

I am rescinding the decision made and the penalty imposed by the chairperson pursuant to Section 29(4)(c) CAR. I am also directing that the inmate's record be amended to reflect the rescission.

Please notify me via email at joan.parkin@gov.bc.ca 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 Justice
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 19, 2013
Email M19pm
59320-20/07-008

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 on March 15, 2013.

The chairperson found the inmate guilty of breaching Section 21 (1)(z.2)(ii), CAR, and imposed a penalty of 15 days segregation from March 14, 2013 to March 28, 2013. 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 joan.parkin@gov.bc.ca 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 Justice
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

May 7, 2013
Emailed M7pm
59320-20/12-090

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) May 1, 2013.

The hearing officer found the inmate guilty of breaching s. 21 (1) (z.2) (ii), CAR and imposed a penalty of twenty days segregation. I reviewed the record of proceedings and found the hearing procedurally unfair.

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 inmate's record changed to reflect the review decision. Please notify me via email 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, Corrections Branch
Mr. P. Coulson, Provincial Director, Corrections Branch



Memorandum

Ministry of Justice
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

January 28, 2013
Email J29am
59320-20/12-141

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

The above inmate has requested a review of a hearing concluded at Prince George Regional Correctional Centre (PGRCC) on January 25, 2013.

The inmate was found guilty of breaching Section 21(1)(w) of the Correction Act Regulation, which states that “an inmate must not threaten another person.” He was accused of threatening his cellmate, causing him to leave the unit. The inmate received a disposition of a reprimand.

I have reviewed the record of proceedings and concluded that the evidence presented at the hearing was insufficient to support the finding of guilt. The charging officer was the only person to provide evidence but I noted that he in fact had no direct knowledge of, or involvement in, the incident. As a result, his evidence was limited to reading out the contents of the Inmate Offence Report. S. 15 was identified as having investigated this incident and would have been able to testify as to what he ascertained. However, S. 15 did not attend the hearing.

In view of this, 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 I am directing that the inmate's record is changed to reflect this rescission.

I'd be grateful if you could notify me via email at lyall.boswell@gov.bc.ca when the inmate's record has been amended.

Lyall Boswell
Inspector
Investigation and Standards Office

/dk

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



Memorandum

Ministry of Justice
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 28, 2013
Email N28pm
59320-20/13-089

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 Correction Act Regulation (CAR), Section 29, , for the above named inmate's disciplinary hearing concluded at Prince George Regional Correctional Centre on November 20, 2013.

The chairperson found the inmate guilty of breaching CAR, Section 21 (1)(y), and imposed a penalty of 15 days segregation, (time served). 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, Section 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 joan.parkin@gov.bc.ca 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



October 15, 2013 [emailed Oct 17](#)

59320-20/FILE
2293

Mr. E. Vike
Warden
Kamloops Regional Correctional Centre

**Re: Inmate [S. 22](#)
Disciplinary Hearing Review —Decision confirmed and penalty substituted**

I am writing to inform you of the outcome of a review that I conducted under Section 29 of the Correction Act Regulation (CAR), in respect of the above named inmate's disciplinary hearing held at Kamloops Regional Correctional Centre (KRCC) on September 30, 2013.

The inmate pled guilty to assaulting a staff member by throwing water on him, thereby breaching CAR section 21 (1) (w).

The inmate was awarded the maximum disposition of 30 days segregation to be served consecutively to any other current disposition. At the time of the hearing he was serving a disposition of 10 days that ended on October 6, 2013 and the 30 day segregation sentence was to start from that date and run until November 4, 2013.

During my review I noted the following:

- The inmate pled guilty. He was very frank in his testimony about what he had done and why. He did not however express any remorse or acknowledge that his actions were in any way wrong.
- The inmate threw water and testified that although other inmates had asked him why he didn't throw feces he disavowed such an action. At the hearing he stated that he would not like feces to be thrown at him and therefore wouldn't throw them at anyone else. However, the act of throwing any liquid on another person is unsettling precisely because the victim cannot be sure what the liquid contains. The inmate accompanied his actions with the remark "you are lucky it's not piss."
- The inmate claims that he has [S. 22](#) certainly his logic for this action and his strong conviction that it was justified was unusual. I note that a CLOG entry from August 18, 2013 reads: "I am trying to exercise some extra patience with [this inmate] as I recognize that he does have [S. 22](#) and, as [S. 22](#) as noted, can be quick to anger."
- The charging officer was not present at the hearing. While this was not an issue regarding the determination as the inmate pled guilty, it did mean that it was not possible to hear the officer's views of this incident.
- The hearing officer did not provide any detailed reasons why this case merited a maximum segregation disposition, only noting that it was a serious assault and that the inmate history and the evidence in this matter support a maximum penalty.

- This is the inmate's first charge for assault. He had one previous charge for fighting (for which he was acquitted) and four others for insulting and abusive behaviour. The inmate's CLOG lists many outbursts from this inmate.
- The hearing officer did not address the inmate's claim to have S. 22

I am reluctant to intervene in a disposition where the hearing has been otherwise fair and reasonable. However, I am unable, based upon the information provided by the hearing officer, to understand why this case merited the most severe segregation disposition possible. The inmate has a record that speaks to frequent verbal outbursts but limited actual violence. His claim of a S. 22 has not been contradicted.

The imposition of the maximum penalty for any assault, on a staff member or otherwise, no matter what the circumstances, cannot be considered deterrence against future incidents. Indeed the reverse may be taken to be true; an inmate may calculate that he should escalate an assault if he feels that he will receive the maximum penalty in any event. Any awarded disposition should be reasonable, proportionate and based upon progressive discipline.

I have therefore determined that the disposition awarded in this case was excessive considering the circumstances presented at the hearing.


Therefore, I am exercising my authority under CAR s. 29 (4) (b) to confirm the decision made but substitute the penalty imposed under s. 27. The new disposition is to be 20 days segregation, to commence on October 6, 2013 upon the expiry of a previous disposition that was being served at the time of this hearing. By my calculation this segregation sentence will now end on October 25, 2013.

In reaching this decision I considered the following:

- The inmate's guilty plea
- His lack of remorse
- His S. 22 His log supports suggestions that he is prone to anger and outbursts
- His previous disciplinary convictions and dispositions. This is his first conviction for violence. His previous three charges (all for abusive and insulting behaviour) received dispositions of six days, six days and ten days respectively.
- The need to express strong disapproval of such behaviour towards staff and the indication that any future incidents will result in more severe penalties.

I would be grateful if you could change the inmate's record to reflect this disposition.

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



Lyall Boswell
Inspector
Investigation and Standards Office

/gd

- c. Mr. B. Merchant, Assistant Deputy Minister, Corrections Branch
Mr. P. Coulson, Provincial Director, Adult Custody Division, Corrections Branch
Ms. A. Kennedy, Hearing Officer, KRCC
- bc. Mr. A. D'Argis, Policy and Program Analyst, Adult Custody Division, Corrections Branch



Memorandum

Ministry of Justice
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

November 21, 2013
Email N21pm
59320-20/13-086

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 on November 18, 2013.

The hearing officer found the inmate guilty of breaching s. 21(1)(g), CAR and imposed a penalty of 25 hours intermittent cell confinement. The cell confinement was to be satisfied when the inmate returned to a regular living unit as he was subject to an enhanced supervision program at the time the disposition was made.

I reviewed the record of proceedings and found that penalty is not in accordance with s. 27(1)(c), CAR as there is no provision under this section for deferring a penalty to some later date. 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 disposition of two days segregation and request that you have the inmate's record changed to reflect the review decision.

Please notify me via email at joan.parkin@gov.bc.ca 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 Justice
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 9, 2013
Email 9am
59320-20/13-075

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 on August 22, 2013.

The chairperson found the inmate guilty of breaching s. 21 (1)(g), CAR, and imposed a penalty of 15 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 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 joan.parkin@gov.bc.ca 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 Justice
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

May 29, 2013
Email May 29pm
59320-20/08-084

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

The above inmate has requested a review of a disciplinary hearing held at Surrey Pretrial Services Centre (SPSC) on May 27, 2013.

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)(w) of the CAR which states that “an inmate must not assault another person.” He was accused of throwing a television at a correctional officer.

The inmate pled not guilty. After hearing evidence the hearing officer found him guilty and imposed a disposition of 15 days in segregation.

During my review I noted the following:

- The officer concerned was not hit by the television. He testified that he was able to close the cell door in time.
- The inmate insisted that he had no intention of hitting the officer with the television.
- The hearing officer accepted that the inmate did not intend to hit the officer and he noted this in his written comments on the inmate offence report.

The deliberate destruction of a television set is clearly a reckless and potentially dangerous act that cannot be condoned. However, in the absence of any actual assault and in view of the fact that the hearing officer accepted that the inmate had no intention of assaulting the officer, I have concluded that the determination of guilt in this matter cannot be upheld.

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 his institutional record is amended to reflect this decision. I would be grateful if you could advise me at lyall.boswell@gov.bc.ca when this is done.



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 Justice
Investigation & Standards Office

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

Ms. D. Hawboldt
Warden
Alouette Correctional Centre for Women

November 5, 2013
Email N5 pm
59320-20/13-082

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) October 26, 2013.

The hearing officer found the inmate guilty of breaching s. 21 (1) (k), CAR. She imposed a penalty of eight days segregation that she subsequently reduced to six days. I reviewed the record of proceedings and found the hearing procedurally unfair.

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 inmate's record changed to reflect the review decision.

Please notify me via email to confirm that the inmate's record has been changed. I will hold the file open for this matter pending receipt of that confirmation. I understand from reviewing the inmate's records that she has been released from custody.

S. Muldrew
Inspector
Investigation and Standards Office

/dk

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



Memorandum

Ministry of Justice
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

August 28, 2013
Email A28pm
59320-20/12-148

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) August 26, 2013.

The hearing officer found the inmate guilty of breaching s. 21 (1) (a), CAR and imposed a penalty of five days segregation effective the date of the breach. I reviewed the record of proceedings and found the hearing procedurally unfair.

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 inmate's record changed to reflect the review decision.

Please notify me via email 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, Corrections Branch
Mr. P. Coulson, Provincial Director, Corrections Branch



Memorandum

Ministry of Justice
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 8, 2013
Email N8pm
59320-20/10-012

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 Correction Act Regulation (CAR), section 29, for the above named inmate's disciplinary hearing concluded at Prince George Regional Correctional Centre on October 3, 2013.

The chairperson found the inmate guilty of breaching CAR, s. 21 (1)(g), and imposed a penalty of five days segregation (time served). 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 joan.parkin@gov.bc.ca 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 Justice
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
Ford Mountain Correctional Centre

September 4, 2013
Email 54pm
59320-20/13-074

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 Ford Mountain Correctional Centre (FMCC) August 30, 2013.

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

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 inmate's record changed to reflect the review decision.

Please notify me via email 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, Corrections Branch
Mr. P. Coulson, Provincial Director, Corrections Branch
Mr. D. Tosh, Deputy Warden, FMCC



Memorandum

Ministry of Justice
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

January 23, 2013
Emailed J24
59320-20/05-038

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

The above inmate requested a review of a hearing concluded at Fraser Regional Correctional Centre (FRCC) on January 20, 2013 and I am writing to inform you of my decision.

The inmate was found guilty of breaching Section 21(1)(w) of the CAR which states that "an inmate must not assault another person." He was charged with assaulting another inmate. He received a disposition of 15 days segregation time and 20 days loss of earned remission.

I reviewed the record of proceedings and concluded that this hearing was not conducted in an administratively fair manner.

In view of the above, 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 request a change the inmate's record to reflect this rescission.

Please do not hesitate to call me at 250-387-5911 if you have any questions.

L. Pineau
Inspector
Investigation and Standards Office

/dk

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



Memorandum

Ministry of Justice
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

October 3, 2013

59320-20/13-063

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 September 25, 2013.

The chairperson found the inmate guilty of breaching Section 21 (1)(y), CAR and imposed a penalty of 100 hours intermittent confinement. 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 joan.parkin@gov.bc.ca 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 Justice
Investigation & Standards Office

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

Ms. D. Hawboldt
Warden
Alouette Correctional Centre for Women

July 30, 2013
Email J31am
59320-20/02-246

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) July 23, 2013.

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

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 inmate's record changed to reflect the review decision.

Please notify me via email to confirm that the inmate's record has been changed. I will hold the file open for this matter pending receipt of that confirmation. I understand from reviewing the inmate's records that she has been released from custody.

S. Muldrew
Inspector
Investigation and Standards Office

/dk

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



January 10, 2013 mailed Jan 11

59320-20/10-036

Ms. J. Hawkins
Warden
Prince George Regional Correctional Centre

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) January 6, 2013.

The hearing officer found the inmate guilty of breaching s. 21 (1) (z.2) (ii), CAR and imposed a penalty of 12 days segregation effective the date of the offence. I reviewed the record of proceedings and found that penalty unreasonable.

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 7 days segregation effective January 5, 2013.

I request that you have the inmate's record changed to reflect the review decision. Please notify me via email 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

/gd

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



Memorandum

Ministry of Justice
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

June 10, 2013
Email J10pm
59320-20/12-054

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

The above inmate's lawyer, Kenneth Sommerfeld, has requested a review of a disciplinary hearing concluded at Kamloops Regional Correctional Centre (KRCC) on May 31, 2013.

The inmate was charged with breaching Section 21(1)(y) of the Correction Act Regulation which states that "an inmate must not possess contraband."

I have been informed that due to a technical error the complete audio recording from this hearing on May 31, 2013 was not saved.

As I am unable to review this hearing, I have no option but to allow the inmate's appeal.

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 his institutional record is amended to reflect this decision. I would be grateful if you could advise me at lyall.boswell@gov.bc.ca when this is done.

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



Mr. G. Davis [emailed Jan 02/14](#)
Warden
Surrey Pretrial Services Centre

December 30, 2013
59320-20/13-043
2319

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

The above inmate has requested a review of a disciplinary hearing concluded at Surrey Pretrial Services Centre (SPSC) on December 20, 2013 and I am writing to inform you of the decision of this review.

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

The inmate was charged with breaching CAR section 21(1) (w) which states that “an inmate must not assault another person.” He was accused of assaulting three correctional officers. This incident occurred when officers came to remove him from his cell.

The inmate denied the charge but was found guilty and received a maximum disposition of 30 days segregation.

During my review I noted the following:

- **Delay in concluding hearing:** The hearing was opened on December 7, 2013 and adjourned. The Inmate Offence Report records that this was at the inmate's request to allow “time to consult legal counsel.” This was incorrect. The audio recording shows clearly that the inmate only requested an adjournment as he wished to cross examine three officers who were not present at that time.

Centre staff acted on the belief that this hearing had been adjourned to allow the inmate time to seek legal advice and asked him on December 10, 14 and 16, 2013 if he was prepared to proceed. The inmate appeared to be content to delay the proceedings as long as possible. When the matter was restarted on December 20, 2013 he asked for another 15 day adjournment “for supreme court reasons” related to a bail application.

All hearings, and especially ones of a serious nature such as this, need to be concluded in a timely manner. When the inmate asked for an adjournment to allow him to cross examine staff witnesses, those witnesses should either have been made available at once or as soon as possible thereafter.

- **Insufficient Evidence:** The evidence presented at the hearing was inconclusive. The charging officer testified by reading out the written circumstances from the charge sheet and testified that the inmate had refused to follow repeated directions. Only one of the officers named on the charge sheet as having been assaulted testified. The centre's assertion was that the inmate assaulted staff. The inmate insisted that he had been attacked. Both sides agreed s.15 had been deployed prior to the violence occurring.

The video evidence is not conclusive. As staff are at the cell door the camera pans away to a default position and when it is directed back to the cell the physical encounter has already started. It shows the inmate being physically restrained by a number of officers. It does not show how the altercation began.

- **Policy Not followed:** Adult Custody Policy 2.4, *Cell Entry and Extractions*, provides a standardized approach for the removal of inmates who are violent or potentially violent from cells. This policy does not appear to have been followed in this case.

Following my review I concluded that:

- There was an unnecessary delay in concluding this hearing
- The evidence presented at the hearing was insufficient to support the determination of guilt
- Centre staff failed to follow Adult Custody Policy in dealing with this incident

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 I am directing that the inmate's record be changed to reflect the rescission.

I would be grateful if you could notify me via email at lyall.boswell@gov.bc.ca to confirm that the inmate's record has been amended.



Lyall Boswell
Inspector
Investigation and Standards Office

/gd

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



Memorandum

Ministry of Justice
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

November 21, 2013
Email N21pm
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) November 13, 2013.

The hearing officer found the inmate guilty of breaching s. 21 (1) (z.2) (ii), CAR. She imposed a penalty of 15 days segregation and deemed it satisfied through s. 24, CAR. I reviewed the record of proceedings and found the hearing procedurally unfair.

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 inmate's record be changed to reflect the review decision.

Please notify me via email 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, Corrections Branch
Mr. P. Coulson, Provincial Director, Corrections Branch



Mr. E. Vike
Warden
Kamloops Regional Correctional Centre

May 31, 2013
Mailed Jun 04

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

The above inmate's lawyer, Kenneth Sommerfeld, has requested a review of a disciplinary hearing held at Kamloops Regional Correctional Centre (KRCC) on May 29, 2013.

The inmate was charged with breaching section 21(1)(z.2) (i) of the Correction Act Regulation which states that "an inmate must not engage in an activity that jeopardizes or is likely to jeopardize the safety of another person."

I have been informed that due to a technical error the audio recording from this hearing on May 29, 2013 was not saved.

As I am unable to review this hearing I have no option but to allow the inmate's appeal.

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 his institutional record is amended to reflect this decision. I would be grateful if you could advise me at lyall.boswell@gov.bc.ca when this is done.

Yours sincerely,

Lyall Boswell
Inspector
Investigation and Standards Office

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



Memorandum

Ministry of Justice
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

July 22, 2013
Email J22 am
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

The above inmate has requested a review of a disciplinary hearing concluded at Kamloops Regional Correctional Centre (KRCC) on July 16, 2013.

The inmate was charged with violating Section 21(1)(w) of the Correction Act Regulation, which states that an inmate must not assault another person. He was accused of throwing a liquid on an officer.

The inmate denied the charge but was found guilty and received a disposition of 15 days in segregation (time served).

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

Following my review, I concluded that this hearing was not conducted in a fair manner. In reaching this conclusion I noted the following:

- When reaching her determination of guilt the hearing officer stated that she was finding the inmate guilty based on his poor behaviour over the past few months.

A hearing officer can only consider the evidence presented at a hearing and to do otherwise raises a reasonable apprehension of bias.

When challenged by the inmate on this the hearing officer did refer to the evidence at the hearing but her comments cannot be overlooked.

These comments are not included in the written reasons on the inmate offence report.

- There was an excessive delay in concluding this hearing. This hearing began on June 5 and was not restarted again until July 16, 2013. It was made clear at the hearing that this delay was solely due to the inmate's desire to seek legal advice. In the end the inmate

elected to proceed because after such a long time in segregation under CAR s. 24 he was keen to change his classification so that he could access canteen and cell effects.

The centre controls the hearing process, not the inmate, and an excessive delay of this nature prejudices a fair hearing. Proceedings must be conducted in a timely manner. The fact that the hearing officer was seized with this hearing may or may not have contributed to this delay but in any event it cannot excuse it. There was no indication at the hearing of the hearing officer being away or otherwise unable to restart proceedings and at least inquire of the inmate why they should not proceed.

In view of the above, it is clear to me that this hearing was not conducted in an administratively fair manner. Therefore, pursuant to CAR, Section 29(4)(c), I am rescinding the decision made and the penalty imposed.

I am also requesting that the inmate's record is amended to reflect this rescission. I would be grateful if you could advise me at lyall.boswell@gov.bc.ca when this is done.



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, BC Corrections Branch



Memorandum

Ministry of Justice
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

September 9, 2013
Email 59pm
59320-20/13-068

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) September 4, 2013.

The hearing officer found the inmate guilty of breaching s. 21 (1) (w), CAR and imposed a penalty of 15 days segregation (time served) and forfeiture of 3 days earned remission.

I was unable to conduct a thorough review because the audio record was incomplete. I am therefore exercising 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 inmate's record be changed to reflect the review decision.

Please notify me via email 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, Corrections Branch
Mr. P. Coulson, Provincial Director, Corrections Branch



Memorandum

Ministry of Justice
Investigation & Standards Office

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

Ms. S. Morgan
Warden
Vancouver Island Regional Correctional Centre

November 22, 2013
59320-20/13-087
2309

Re: 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 Island Regional Correctional Centre (VIRCC) November 15, 2013.

The hearing officer found the inmate guilty of breaching s. 21 (1) (g), CAR and imposed a penalty of 10 days segregation and 40 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 7 days segregation effective the date of the breach.

I request that you have the inmate's record changed to reflect the review decision. Please notify me via email 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

/gd

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



Memorandum

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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

June 26, 2013
Emailed J26pm
59320-20/01-012

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 Nanaimo Correctional Centre (NCC) June 21, 2013.

The hearing officer found the inmate guilty of breaching s. 21 (1)(l) CAR and imposed a penalty of 10 days segregation and 10 days loss of earned remission. I reviewed the record of proceedings and found the hearing procedurally unfair.

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

M. Marchenski
Deputy Director
Investigation and Standards Office

/dk

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



January 03, 2013 mailed Jan 03

59320-20/12-126

Mr. E. Vike
Warden
Kamloops Regional Correctional Centre

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) December 29, 2012.

The hearing officer found the inmate guilty of breaching s. 21 (1) (w), CAR and imposed a total penalty of two days segregation and ten days forfeiture of earned remission. Upon reviewing the inmate's institutional records, I found that the remission penalty was not imposed in accordance with CAR.

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 two days segregation and forfeiture of one day of earned remission. I consider the segregation portion of the penalty satisfied by time served.

I request that you have the inmate's record changed to reflect the review decision. My decision will also affect the inmate's sentence calculation. Please notify me via email 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

/gd

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



Memorandum

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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

February 26, 2013
email F26am
59320-20/12-098

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) February 17, 2013.

The hearing officer found the inmate guilty of breaching s. 21 (1) (l), CAR and imposed a penalty of seven days segregation.

I was unable to conduct a thorough review because the quality of the audio recording rendered it inaudible. I am therefore exercising 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 inmate's record changed to reflect the review decision.

Please notify me via email 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, Corrections Branch
Mr. P. Coulson, Provincial Director, Corrections Branch