

Discipline Authority File Number: VIC-2009- 060  
Police Complaint Commissioner File Number: 2009-4724

**REVIEW ON THE RECORD**  
**(Pursuant to Section 141(2) of the Police Act, R.S.B.C. 1996, c.267**  
In the matter of  
**Constable Jana Hardy and Constable Jason Ince**  
of the Victoria Police Department

**MEMBER'S SUBMISSION ON DISPOSITION FOR CONSTABLE INCE**

1. Further to the results of the review we wish to make submissions on the appropriate level of discipline and remedial measures. The Reviewing Authority has a duty to come to his own conclusions as to what is required s. 141(10)(b) and the range is outlined in s. 126 (subject to limitations of penalty as it existed under the old Act.
2. On the failure to provide medical care the decision as to discipline was Suspension from Duty without pay for a period of five (5) days, however the decision in relation to Cst. Hardy was three (3) days. Both officers observed Mr. Vigar from the cell door. Cst Hardy removed his shoes. We would submit that comity suggests their disciplinary measures should be equal or close to equal. We would submit that three days would be appropriate for Cst. Ince also.
3. The DA also said, "If not already done, Cst. Ince will also be required, under supervision, to review all appropriate jail policy relating to prisoners and medical treatment for persons in custody." By his proviso the DA was clearly recognizing the possibility that Constable Ince might have already reviewed the jail policies.
4. Constable Ince has in fact reviewed all appropriate jail policy relating to prisoners and medical treatment for persons in custody. In the course of dealing with this proceeding and even in preparing for his initial interview with Staff Sgt. Dukeshire, extensive reviews of these provisions were undertaken by Constable Ince. These reviews included the changes which were made in the fall of 2009, after the incident, but before Cst. Ince was interviewed, as he was not interviewed until the latter half of 2010. Substantial portions of these reviews were in the presence of and with the advice of counsel. We note the Chief in his original decision, by his language, took into account the fact that such a review might have already been done. It clearly has, and so we would suggest that such a remedial provision is now unnecessary.
5. In relation to the inadequate search we do not contest the written reprimand is appropriate to deal with the findings. The DA also specified, " there will be a requirement for additional training in terms of proper searching techniques of prisoners. This may be accomplished by a review by an immediate supervisor as to the officer's understanding in this area." We would point out that Constable Ince has

been very thoroughly reminded of proper search procedures throughout the course of this proceeding. However, although we submit that a review of Constable Ince's understanding by an immediate supervisor is unnecessary, Constable Ince would not object to it if it were imposed.

All of which is respectfully submitted.

David S. Mulrone

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Dated February 2, 2012