

**Ministry of the
Attorney General**

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**Ministère du
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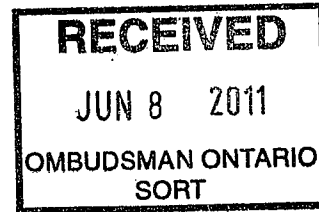
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June 8, 2011

Mr. André Marin
Ombudsman of Ontario
Bell Trinity Square
483 Bay Street, 10th floor, South Tower
Toronto, ON
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Dear Mr. Marin:

Re: Investigation into the Special Investigation Unit's operational effectiveness and credibility – Draft Follow-up Report

Thank you for the opportunity to review the draft follow-up report on the operational effectiveness and credibility of the Special Investigations Unit (SIU). The Ministry of the Attorney General remains committed to ensuring a system of oversight that is effective, fair, independent, and has the confidence of the public it serves. The Ministry appreciates the recommendations that have been put forward in your initial and subsequent reports. Please accept this letter with the Ministry's responses.

As reported to you previously, the Ministry has moved forward to address each of the recommendations in your initial report. This includes:

- Providing one-time funding for a Mobile Investigate Centre that will allow SIU investigators to establish an independent presence at the scene of major incidents, and conduct instant, thorough, secure and video-taped interviews with witnesses (Recommendation 27);
- Providing an additional \$700,000 to fund eight new SIU staff, including civilian investigators and community outreach staff (Recommendation 28);
- Supporting and working with Information Technology partners and the SIU in developing a case management system (Recommendation 26);
- Amending the Memorandum of Understanding to clarify the accountability and independence of the Director of the SIU (Recommendation 29);
- Working with Ministry of Community Safety and Correctional Services to develop a protocol to bring issues of concern identified by the SIU to its attention (Recommendation 30);

- Providing for the appointment of the new SIU Director to a five-year term (Recommendation 40);
- Amending section 113 of the *Police Services Act* to provide for the appointment of a Deputy Director of the SIU (Recommendation 41);
- Amending the definition of “member of a police force” in s. 2 of the *Police Services Act* to respond to the recommendation that civilian members of the Ontario Provincial Police should be subject to the requirement to co-operate with SIU investigations (Recommendation 43);
- Consulting with the Law Society of Upper Canada regarding whether there should be a legislative prohibition against legal counsel representing more than one police officer involved in the same incident under investigation by the SIU (Recommendation 42);
- Consulting with the Ministry of Transportation regarding whether the SIU should have emergency vehicle status under the *Highway Traffic Act* (Recommendation 45).

Following your report in 2008, the Ministry also began consultation on your recommendations involving legislative and regulatory initiatives. Those consultations involved reaching out to the public and police stakeholders for feedback and suggestions on implementation. While the Ministry received the specific comments from each group on a confidential basis, in summary, it became clear that there was strong disagreement amongst those consulted on the appropriate way to proceed with certain initiatives. At the same time, it also became clear that the professional working relationship between the police and SIU had deteriorated. All of the Ministry's efforts have been dedicated to supporting and improving this professional working relationship.

The Ministry is mindful of the vital importance of each of the participants in our system of police oversight: the Director and the investigators, the police, the lawyers and the public. Both the SIU and police perform difficult and valuable jobs. Tensions are inherent in any system of police oversight. This is no less the case in Ontario, where the province has led the way in developing a fully independent system of civilian oversight. However, as with any institution of fundamental importance, the challenges must be addressed and overcome on an ongoing basis. Serious issues and concerns have been identified, and the Ministry has been committed to finding fair, effective, and sustainable solutions.

In order to continue moving forward, the Attorney General retained the Honourable Patrick LeSage, a highly regarded former Chief Justice of the Superior Court, in December 2009. Mr. LeSage was asked to meet with the SIU and police and find ways to help strengthen their professional working relationship as a first step to ensuring an effective system of oversight. In October 2010, Mr. LeSage advised the Attorney General that specific operational issues were functioning as barriers to an effective working relationship. In many cases, these issues had been around for many years, but had not been addressed effectively. The Attorney subsequently asked Mr. LeSage to provide his best advice on the specific operational issues he identified. Mr. LeSage provided his report to the Attorney in April 2011, including specific recommendations for legislative and regulatory change. The Attorney has publicly committed to moving forward on all of these recommendations at the earliest opportunity.

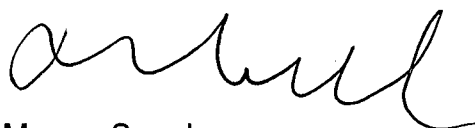
As you state in your report, the subject of police oversight is a "fiercely divisive" one. In his report, Mr. LeSage also notes that "the relationship between the various participants in this process is inherently challenging. Nevertheless it is important that they each continue to work to improve their relations. The following recommendations I hope will be the beginning of this process of moving forward in a cooperative spirit."

The Ministry believes that implementing Mr. LeSage's recommendations as soon as possible is an important and appropriate first step to help strengthen the professional working relationship that is essential to a well-functioning system that best serves the public. As recommended by Mr. LeSage, to ensure that progress continues forward as intended, the Attorney has committed to undertake a review of these and other SIU/police related issues - including important opportunities for legislative reform - within the next two years. This will ensure that we build upon and strengthen the various initiatives that have been taken over the years to develop our strong system of police oversight.

We are returning the copy of the draft report to you, as well as a list of the names of individuals at the Ministry who have reviewed the draft report.

Thank you again for the opportunity to review your draft report and for your commitment to improving civilian oversight of police in Ontario.

Yours sincerely,



Murray Segal
Deputy Attorney General

Encl. Draft Report and List of Names

- c: The Hon. Chris Bentley, Attorney General
- Mr. Ian Scott, Director, Special Investigations Unit
- Mr. Mark Leach, Assistant Deputy Attorney General, Social Justice Programs & Policy Division

**List of Ministry of the Attorney General officials who have read the Ombudsman's
Draft Follow-up Report (Investigation into the Special Investigation Unit's
operational effectiveness and credibility)**

1.	Marie Irvine
2.	Kathleen Murphy
3.	Meredith Brown
4.	Sunny Kwon
5.	John Twohig
6.	Mark Leach
7.	Andrea Strom
8.	Marianne Summers
9.	Chris Cheung
10.	Graham Boswell
11.	Sandra Di Ciano