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Message from the Director

I am very pleased to present the Annual Report for the Special Investigations Unit (SIU) for the fiscal year ending March 31, 2002. This is the second Annual Report of the SIU and highlights the continued progress of the renewal of the Unit, a process that was initiated in 1999. Throughout the year, the members of the SIU focused their efforts on improving the capacity of the Unit to fulfill its mandate and moving the SIU much closer to its goal of being a *centre of excellence* for the conduct of criminal investigations in the context of police oversight. It is by these efforts that the SIU aims to maintain the community's confidence in the men and women of Ontario's police services.



Beyond the commitment made last year to continue to develop investigative excellence, more specific commitments were made with respect to:

- continued staffing and individual training;
- improving public understanding of the SIU thereby enhancing its credibility in the community and amongst police services; and
- a continued refinement of the business processes needed to support operations and to demonstrate responsible resource management.

I believe this year's Annual Report reflects the significant progress being made toward our operational goals and the implementation of a sound business plan for continuous improvement.

The 162 incidents reported to the SIU in the past year were relatively consistent with the recent historical annual average of 164 incidents. 59% of the investigations related to custody injuries and deaths as compared to 26% vehicular incidents, 5% involved firearms and 9% involved allegations of sexual assault. Also historically consistent was the fact that in approximately 97.5% of the incidents investigated by the SIU in 2001-02, charges were not laid. In each of these incidents the community was assured that, following comprehensive independent SIU investigations, there was no basis for the laying of a criminal charge. This assurance is the fulfillment of the SIU's mandate.

While a great deal of work has been done, there is still room for progress. This is true with respect to communication between the SIU and the police community. While cooperation

continues to grow amongst frontline policing personnel who become involved in SIU investigations, others who are not directly involved do not always receive information that is complete or accurate. To avoid the undesirable consequences of the circulation of erroneous information, the SIU continues to accept all invitations to speak directly to members of the police community about our role in maintaining public confidence in policing. As well, the SIU communicates regularly with the large police associations such as the Ontario Association of Chiefs of Police (OACP), the Police Association of Ontario (PAO), as well as individual police services, in an effort to address specific issues of concern. For example, we continue to meet with representatives of the OACP Executive in order to create a better understanding of the nature of the materials that must be examined by the SIU in the course of an investigation. The mandate of the SIU cannot be effectively discharged without the cooperation of the police. The efforts at communication and dialogue are aimed at enhancing the working relationship between the SIU and the police community, particularly police management.

In the context of a worldwide movement to civilian oversight, it is encouraging that the SIU model and the role of the Unit as a mechanism for building community confidence in policing are being recognized beyond Ontario. During the past year a variety of government representatives, including those from Alberta, the Federation of Saskatchewan Indian Nations, the province of Gauteng, South Africa and Britain have visited our Mississauga facility to learn about the SIU. While some of the visitors were clearly in the early stages of examining oversight mechanisms, Britain, like Northern Ireland, is in the process of implementing a much more all-encompassing model for police oversight, from which we in Ontario have much to learn.

Any achievements or successes experienced during the last fiscal year are clearly attributable to the SIU's exceptional staff. I commend them for their dedication and professional approach to their work. I would also like to extend my sincere appreciation to the many people outside of the Unit who provided advice and guidance throughout the course of this year. Many of those individuals are specifically mentioned in the body of this Report including the Chief and senior staff of the Chatham-Kent Police Service, who assisted the SIU in developing a case debriefing process involving police services, and the members of the recently formed Director's Resource Committee, who will provide a community based perspective for consideration. We at the SIU look forward to working with all interested parties in the pursuit of excellence as an agency for civilian oversight of the police.

Peter A. Tinsley
Director

About the Special Investigations Unit

Civilian Oversight of Policing

“...every official, from the Prime Minister down to a constable or collector of taxes, is under the same responsibility for every act done without legal justification as any other citizen” – Roncarelli v. Duplessis, per Abbott J., citing Dicey’s “Law of the Constitution” in the Supreme Court of Canada (1959)

Police officers have extraordinary powers, including the power to detain citizens and, when necessary to prevent death or serious injury to the public or to the police themselves, to use lethal force. In some circumstances police officers have no choice but to use such force in order to save their own lives or the lives of those they are sworn to protect. In a democratic society the granting of such powers leads directly and inevitably to a discussion of accountability.

Civilian oversight of police services has become an important accountability mechanism for the exercise of these police powers. Over the past several decades, new civilian agencies for oversight of the police have been created throughout North America and around the world. Approximately 125 such agencies are currently represented in organizations such as the Canadian Association of Civilian Oversight of Law Enforcement and the International Association of Civilian Oversight of Law Enforcement.

In Ontario, the Ontario Police Commission and local police boards historically had responsibility for civilian oversight of policing. This system relied upon the police to investigate police conduct. During the 1970’s and 1980’s there were a number of high profile incidents that raised public concern about police accountability, and in 1990, the Special Investigations Unit was created to investigate deaths and serious injury involving police officers.

Creation of the SIU

Mission of the SIU

The Special Investigations Unit (SIU or the Unit) is a civilian agency that operates independently from the Ministry of the Attorney General. The mission of the SIU is to increase the confidence of all of the citizens of Ontario in their police services. Its role is to investigate incidents involving the police, which have resulted in serious injury, including sexual assault, or death. The jurisdiction of the Unit includes all municipal, regional and provincial police services across Ontario, which together comprise 68 services and about 21,600 officers, as well as approximately a third that many civilian members of police services. The jurisdiction of the SIU does not include First Nations constables, who are not included in the definition of police officer under the *Police Services Act*. Nor is the RCMP included in the SIU's jurisdiction; however, a protocol with the RCMP is currently under consideration.

Independence

Ontario is the only Canadian province with an independent civilian agency that has the power and authority both to investigate, and where the evidence warrants, charge police officers with a criminal offence. In the vast majority of investigations, evidence of criminal activity is not found and no charges are laid. The role of the SIU is not necessarily to lay charges but to investigate and to assure the broader community that the conduct of the police is subject to rigorous independent scrutiny.

The independence of the SIU is reinforced in several ways. For example, the Director of the Unit can be neither a police officer nor a former police officer. Police officers cannot be appointed as investigators. Former police officers may be hired by the Unit but cannot work on cases relating to the police services in which they previously worked. The Unit operates at arms-length from the government, reporting to the Attorney General only after an investigation is closed or charges are laid.

SIU Complaints

Scrutiny part of the job

Take heart from regional police complaints that the province's Special Investigations Unit (SIU) is too tough on them.

It suggests the SIU is actually doing the job we expect of it.

Constable Todd Loveday, acting head of the Waterloo Regional Police Association, added his voice this week to a chorus of police booing the performance of SIU director Peter Tinsley.

Although the SIU has yet to charge a local police officer with an offence, it has investigated five incidents over the past two years involving regional officers.

Loveday suggests at least one of those investigations was unwarranted. It involved a 53-year-old man who reportedly shot himself during a standoff in Kitchener in February.

Seven officers - members of the Tactical Rescue Unit - were questioned by SIU investigators, who treated the suicide as a custodial death, Loveday said.

Loveday worries that the need for an investigation diminishes police in the eyes of the public and harms departmental morale.

He, along with other Ontario police associations, want

Tinsley replaced by someone who is more circumspect about ordering investigations into police conduct.

In criticizing the SIU, the police association is advancing its interests above those of the public. Particularly in cases where loss of life is involved, the police watchdog agency should be encouraged - not castigated - for investigating whether police acted responsibly and took all reasonable precautions.

This is an age of racial tension, where the death of a suspect, no matter how deserved, can trigger endless recriminations and innuendos that can seriously damage a police department's reputation. The appearance of government indifference to such deaths could result in far worse damage to police reputations than the mere announcement that a case is under investigation. Investigations should be automatic whenever a gun is discharged or a person ends up dead.

Instead of fighting the SIU for doing the job that the public expects of it, the police association should accept civilian scrutiny as a necessary part of their job.

The Cambridge Reporter
August 25, 2001 A4

SIU Occurrence Chart

Historical Overview

By Fiscal Year - April 1 to March 31

Type of Occurrences	to 1991 1992	to 1992 1993	to 1993 1994	to 1994 1995	to 1995 1996	to 1996 1997	to 1997 1998	to 1998 1999	to 1999 2000	to 2000 2001	to 2001 2002
Firearm Deaths	8	6	2	2	4	9	4	1	3	5	4
Firearm Injuries	13	12	14	11	16	12	10	9	8	8	5
Custody Deaths	7	15	12	14	24	24	12	18	21	18	20
Custody Injuries	12	32	84	93	54	42	52	65	60	85	75
Other Injuries/Deaths	-	-	-	-	-	-	-	-	1	2	1
Vehicle Deaths	5	3	12	11	6	8	5	12	10	8	12
Vehicle Injuries	23	16	86	80	55	57	56	64	43	36	30
Sexual Assaults	0	11	9	11	9	8	9	11	10	15	15
Totals	68	95	219	222	168	160	148	180	156	177	162
# of cases in which charges laid (number of officers charged in brackets)	14	8	1	3	4	3	2	3 (6)	6 (6)	5 (9)	4 (5)

From its beginning in 1990, the SIU was a lightning rod for controversy. High expectations were not met early on – because of the lack of rules about the SIU, police co-operation, limited resources at the Unit’s disposal, and high turnover at the Director level – all of which contributed to concerns about the SIU’s effectiveness and credibility.

Renewal of SIU

The Adams Process

In 1997 the Honourable George W. Adams, Q.C., was appointed to consult with community and police organizations on ways to improve the relationship between the SIU and the police. As a result of his report, the Government of Ontario undertook new measures. It enacted a Regulation that imposed responsibilities and obligations on police services and officers involved in an SIU investigation. Regulation 673/98 presented the SIU and police services with a blueprint for their relations in the future. The government also allocated additional resources for more staff, training and technical support for the SIU and appointed a new Director for a five-year term to provide leadership continuity.

The increased resources created the foundation to improve the SIU’s ability to do its job professionally and effectively. The SIU strengthened its investigative capacity by hiring new staff, putting in place a training program under the direction of a training co-ordinator, and acquiring new state-of-the-art equipment to support investigators and forensic identification technicians.

Improved Relationships

The regulatory changes were intended to clarify the relationship between the SIU and police services. The legal reform of that relationship was, and continues to be, accompanied by special efforts on the part of the SIU to communicate with police organizations. The Unit also renewed its outreach program by meeting with representatives of different community stakeholders. As well, the SIU meets with national and international organizations and government representatives working in the field of civilian police oversight to ensure that learning experiences in this critical social context are shared.

The improved clarity provided by the Regulation, combined with the outreach efforts of the SIU has made a difference; there has been a measurable increase in the understanding and acceptance of the role of the SIU by police services and others. This change was evident in 2001-02 when senior representatives of a variety of police services, justice sector agencies, and members of the public attended a retirement event for two senior members of the SIU. At that time, many of those in attendance remarked upon the significant gains made by the Unit in the renewal process.

While great strides have been taken, there remains matters of legislative and regulatory interpretation that are the focus of ongoing discussion between the SIU and the OACP; for example, the nature and extent of the obligation of involved police services to share information with the SIU during an investigation is one such issue.

Police chiefs warming up to SIU

Talks help defrost relations with civilian watchdog

By Jennifer Quinn
POLICE ISSUES REPORTER

The once fractious relationship between Ontario's police chiefs and its civilian overseers has thawed, and it seems all it took were a few phone calls and a couple of visits.

While relations between the Ontario Association of Chiefs of Police and the Special Investigations Unit aren't exactly cozy, they're no longer frigid, said Glen Stannard, president of the chiefs' group and head of Windsor police.

"How did it become less chilly? I think some pretty simple things — simple phone calls, visits to the office," Stannard said. "Face-to-face meetings instead of butting heads."

"Maybe we're doing some of the things we should have been doing several years ago," he said, as the chiefs' association wrapped up its three-day annual conference yesterday. "And that's where you

make headway. You don't make headway by not talking to people."

This is a far different tune than the one heard at last year's conference. At that gathering, it was revealed the group had a plan that included replacing the SIU's civilian investigators — who investigate all serious injury or death involving police — with seconded police officers, a suggestion that had civil liberties groups howling.

In the past, the chiefs have said the unit is underfunded, has sub-par investigators on important cases, and that the law forced it to treat officers being investigated as criminals.

But South Simcoe police's Bruce Davis, past-president of the chiefs' group, said "we had made many suggestions on improvement to the SIU, and I think a lot of those improvements have been made ... They've had increased funding, they've had a better quality of investigators hired there."

"There has been a willingness to reach a consensus where we can. We're certainly not partners or chums."

Toronto Star June 21, 2001



L-R: OCCOPS Chair Murray Chitra, Deputy Chief Coroner Dr. Bonita Porter, OPP Deputy Commissioner Maurice Pilon, former SIU Executive Officer Maurice Pearson, and Toronto Police Chief Julian Fantino

The Investigative Process

In other Canadian police oversight agencies, the impetus for an investigation comes primarily from the public, in the form of public complaints. In Ontario it is the responsibility of the police themselves to report any incident that may warrant investigation by the SIU; however, any other authority or member of the public, including coroners, members of the media, the medical profession and lawyers may also advise the Unit of situations they believe may require investigation.



Subject officers and witness officers are terms defined in Regulation 673/98:

A subject officer

means a police officer whose conduct appears, in the opinion of the SIU Director, to have caused the death or serious injury under investigation.”
(A subject officer is not necessarily a “suspect” and does not become an accused unless a charge has been laid.)

A witness officer

means a police officer who, in the opinion of the SIU Director, is involved in the incident under investigation but is not a subject officer.”

Analogous Treatment

Under the *Police Services Act*, civilian members of police services are required to cooperate in SIU investigations. These individuals cannot however, be designated as subject or witness officers under Regulation 673/98 because they are not police officers and therefore, do not have the same legal protections. In order to relieve this disparity during an investigation, civilian members are treated in a way that is equivalent, or “analogous”, to the treatment of a subject or witness officer, as the case may be. This means that when they are fulfilling their statutory duty to cooperate they effectively have the same protections as a police officer.

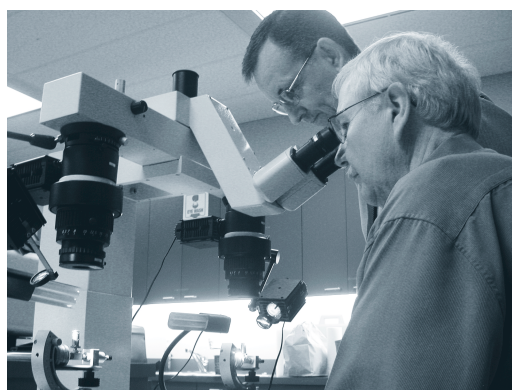
Off Duty Officers

The SIU will not normally investigate incidents involving off duty police officers acting in the course of their private lives. If, however, an officer is off duty and police equipment or property is involved, or the officer identifies him/herself as a police officer in the course of the occurrence, the SIU will investigate the incident if it involves serious injury or death.

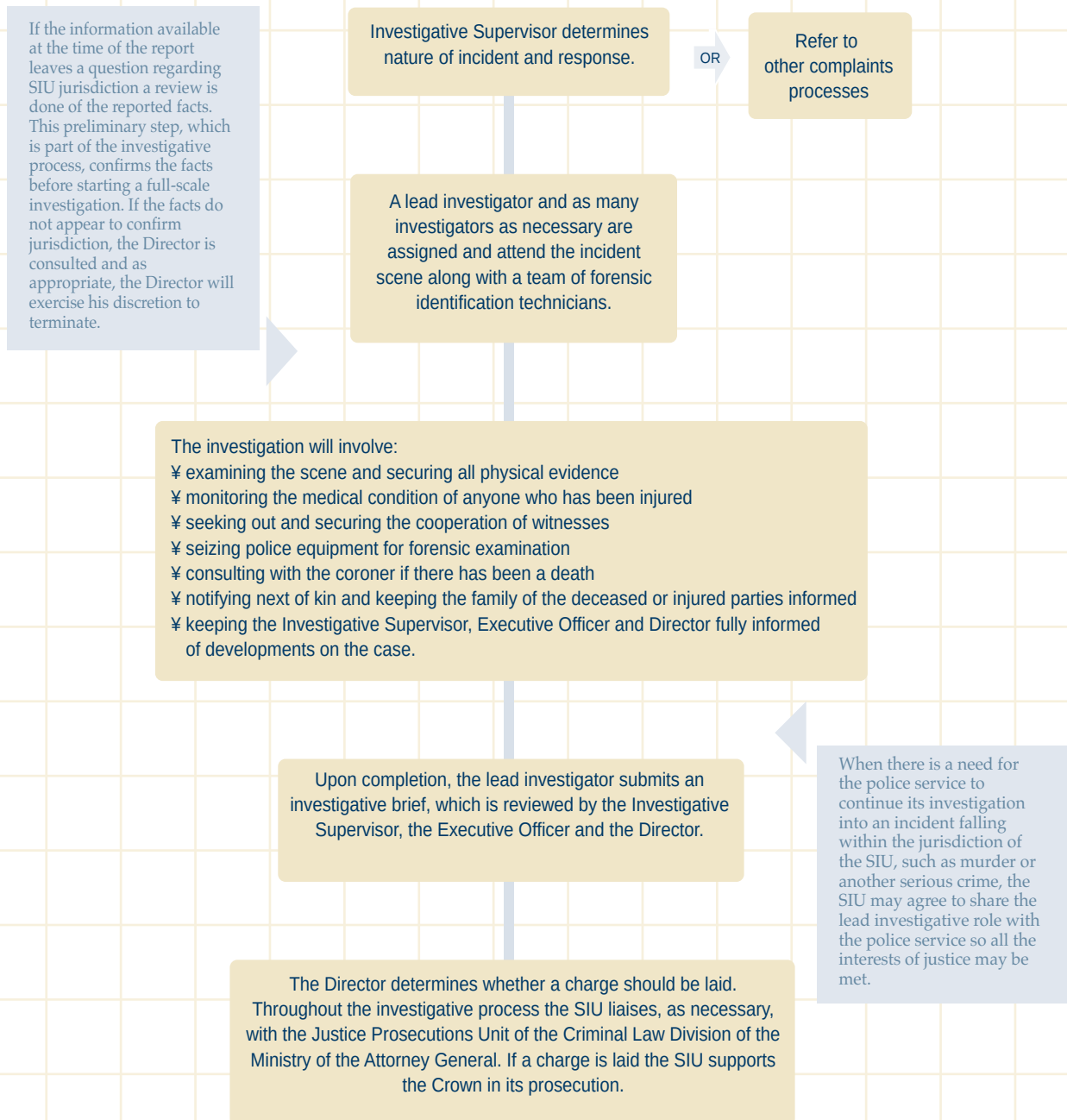
Special Investigations Unit

SIU investigators, trained to the highest professional standards, conduct thorough investigations of every reported incident. They employ the latest of techniques including those related to major case management, sexual assault and firearms investigations, as well as collision reconstruction. These investigators represent the SIU in conducting interviews with involved police officers and members of the community, and maintain communications with people directly affected by the incident. They gather and interpret information related to the case and report the product of their inquiries to the Director who then determines whether charges should be laid or the investigation should be closed.

The Forensic Identification Section is responsible for the protection, collection, preservation, and analysis of the physical evidence at the scene of an incident. Leading-edge digital and video camera equipment and sophisticated surveying tools allow SIU technicians to record and objectively analyze all critical components of an incident scene to, ultimately, determine its importance. The technicians are also responsible for interpreting trace evidence and recording the autopsy process. The SIU's Forensic Identification Section regularly receives the invaluable cooperation of Ontario's Centre of Forensic Sciences and, as necessary, has turned to the RCMP Laboratory in Ottawa and the FBI in the United States for assistance.



Notification of an Incident



Public Information During an Investigation

The involved police service may make an initial statement to the press.

The SIU may issue an initial news release, depending on the nature of incident. Releases often include calls for assistance from the public.

During the investigation, the Unit may make public statements to maintain the integrity of the investigation, and, in that regard, efforts are made to provide sufficient information to maintain the public's confidence in the investigative process.

At the end of an investigation the SIU provides information to the public, subject to the *Freedom of Information and Protection of Privacy Act*. Particular attention is paid to the need for the complainant or next of kin to have a full understanding of the investigative results. This is generally accomplished through direct personal contact, prior to public dissemination.

The SIU investigation is by nature a criminal investigation. Accordingly, the information that can be made public during the course of the investigation is limited. Moreover, both the police and the SIU are governed by Regulation 673 / 98, which specifically limits the information that can be made public.

SIU SPECIAL INVESTIGATIONS UNIT

The Year in Review

In its last Annual Report, the SIU described the year 2001-02 as a time to focus on consolidating the gains of the previous years and strengthening the Unit's operations and practices to ensure its resources are utilized to provide the best possible service and oversight. Four specific priorities were identified:

- Investigative Excellence
- Human Resources and Training
- Awareness and Understanding of the SIU
- Business Management and Processes

Progress in these priority areas is described below. The annual financial expenditures of the SIU are found under *Business Management and Processes*.

Investigative Excellence

The core business of the SIU is the investigation of incidents involving the police that have resulted in serious injury, including sexual assault, or death. The purpose of this work is to maintain public confidence in the policing services of Ontario. In 2001-02, the SIU focused on consolidating and enhancing its competency and capacity to fulfil this purpose. The recruitment and training of SIU staff is pivotal in this effort and is more fully described in the section titled *Human Resources and Training*.

Case Reviews

Internal

- The SIU has adopted a rigorous approach to reviewing cases in order to learn from and improve its investigative practices.
- Firstly, supervisors review **each case** at its conclusion for *completeness of content*.
- Secondly, they determine which cases would be best for review and discussion for *learning purposes* by investigative staff, taking into consideration a range of factors such as the length of the investigation, the diversity or uniqueness of the issues, geography, etc. **Twenty percent** of the cases each year are studied by all investigative staff and this practice is of critical importance to the development of investigative excellence. (Please see *Human Resources and Training* for more information about these practices.)
- Thirdly, the management team also reviews **five percent** of the cases each year to assess how *they* did in managing the investigation, from deployment of resources

through to communication with the involved police service, direction to staff, and media relations.

External

In 2001-02 the SIU expanded the scope of case reviews and undertook a pilot project, with the cooperation of the Chatham-Kent Police Service, to conduct a review with a police service involved in an investigation. With the pilot completed and a procedure now in place, the SIU is committed to implementing this voluntary review process for at least 15 cases each year, approximately **ten percent** of its cases annually.

The purpose of the reviews with police services is to exchange information with external sources regarding the investigative response of the SIU. This will help to ensure that the expected level of service is being met and every opportunity for improvement fully explored. As well as providing feedback to the police and Unit personnel, the external review process also provides an opportunity to identify further training requirements, equipment needs, and the need for additional operational policies. The process is as follows:

- The first step in each review is a written survey that has two parts. One part is completed by the lead SIU investigator and the second part of the survey is completed by a representative of the participating police service.
- Depending upon the results of the survey, a second step may be taken, which would be a meeting between the SIU and the police service. This could include the participation of the Chief and/or Chief's Liaison Officer and involved police officers, as well as appropriate representation from the SIU. This is done in order to more fully explore



areas of concern, or highlight areas of excellence, from the perspectives of both the police service and the Unit.

Cases may be selected for review on a random basis or purposefully because a concern was raised, either by the police service, a member of the public, or the SIU during the course of the investigation. Care will be taken to ensure that a variety of police services and issues are involved in this review process.

Operations Orders

The SIU fulfilled the commitment in the 2001-02 Business Plan to review and develop Operations Orders to codify all aspects of the Unit's operations that are presently understood to require such codification. These policies and procedures guide investigative staff in their day-to-day work and are used to orient new members to the expectations and responsibilities arising from working for the SIU. Most importantly, they set the standards to which investigators are held accountable. The SIU is engaged in the ongoing review and updating of Operations Orders to support investigative excellence.

Equipment

It is of critical importance that investigators respond quickly to the report of an incident, with the necessary equipment ready at hand. Each SIU investigator is outfitted with an assortment of items that includes the basic equipment needed to conduct an investigation. In 2001-02, the Unit focused on broadening the range of available equipment, with an emphasis on enhancing the mobility of investigators and their ability to deal effectively with working conditions in the field; for example, satellite phones for communication in remote locations and full sets of outerwear for extreme weather.



The SIU has an independent Forensic Identification Section and continuously improving its capacity is an important objective.

Acquisitions in 2001-02 included:

- A comparison microscope and water tank to carry out preliminary ballistic examinations in conjunction with the Centre of Forensic Sciences, in order to expedite the commencement of investigations;

- Two additional extended one-ton vans, outfitted to the most modern standards, to transport forensic identification equipment safely to incident sites. These vans are designed to preserve and convey evidence so that it is not contaminated; and
- One new trailer, with three on order, to carry generators and other heavy equipment that is necessary from time to time.

Closely related to its state-of-the-art facility and equipment is the Forensic Identification Section's commitment to maximizing the use of technology. During 2001-02, the team developed and documented an approach to optimizing digital recording of incident scene impressions. A paper on the subject prepared by Forensic Supervisors Keith Woods and Len Shaw, in collaboration with Brian Dalrymple, a forensic consultant to the SIU, has been accepted for publication by the Journal of the International Association for Identification and is expected to be released in 2002.

Investigations in 2001-02

The SIU investigated 162 cases in the fiscal year ended March 31, 2002, four of which resulted in charges being laid. More significant is the statistic that, following rigorous and professional investigations, charges were **not** laid in approximately 97.5% of the cases investigated by the SIU because the facts did not support a reasonable belief of criminal wrongdoing on the part of the police. In fact, in some cases the conduct of the involved police officer(s) was found to be commendable and this was publicly stated on closure of the investigative file. However, in some cases in which no criminal charge was laid, there were concerns about the actions of an officer(s) in regards to professional standards, and this was made known to the Chief of Police of the involved police service (please see Case Studies #1 and #2 following).

There were also requests from the public for the SIU to investigate another 132 incidents that clearly did not fall under the SIU's jurisdiction. Where possible the individual complainant was referred to another agency.

What is Custody?

For the purposes of tracking cases at the SIU, the word "custody" refers to all incidents that are not related to sexual assault, are not firearms or vehicle related, but do involve taking control of a person, exercising control of a person, attempts to control a person, or attempts to regain control of a person, as well as what is generally known in the police community to mean arrest and detention.



Occurrences

April 1, 2001 - March 31, 2002

Types of Occurrences	#	Types of Occurrences	#
Firearm Deaths	4	Other Injuries/Deaths	1
Firearm Injuries	5	Vehicle Deaths	12
Custody Deaths	20	Vehicle Injuries	30
Custody Injuries	75	Sexual Assaults	15
Total Occurrences: 162 Number of cases in which charges were laid: 4 Number of Officers charged: 5			

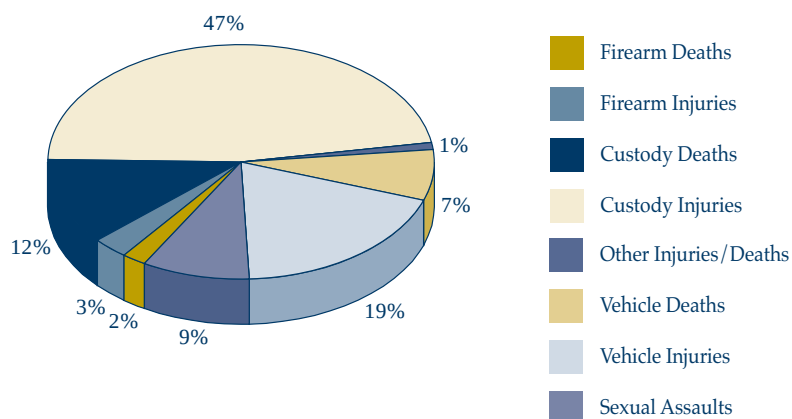
SIU Charge Cases by Type

(by Fiscal Year)

Types of Incidents	1999-00	2000-01	2001-02
Firearm Incidents	0	0	1
Custody Incidents	1	3	1
Vehicular Incidents	1	1	2
Sexual Assaults	4	1	0
Total	6	5	4

SIU Types of Occurrences

April 1, 2001 - March 31, 2002



Closure rate

Closure is the completion of an investigation and the closure *rate* is measured on those cases closed by the decision to terminate an investigation or not to lay a charge. (Cases in which charges are laid are not, strictly speaking, closed, because further investigation and legal proceedings may take months or even years.) The closure rate then, is the length of time it takes from the incident report to the decision not to lay a charge. The SIU has set a target of 30 days or less and will report on the percentage of cases that meet that standard. As the chart below shows, the closure rate moved from 40.1% in 1998-99 to 69.6% in 2001-02, exceeding the rate of 65% that the SIU established as a target at the commencement of the renewal period. This achievement reflects the SIU's increased competence and capacity to complete cases without jeopardizing investigative integrity.

Case Closure Statistics

(by Fiscal Year)

Types of Incidents	1998-99 excluding 3 charge cases	1999-2000 excluding 6 charge cases	2000-2001 excluding 5 charge cases	2001-2002 excluding 4 charge cases
Total # of cases	177	150	172	158
Average # of days to close	49.1	36.9	30.37	20.08
# of cases closed within 30 days	71	77	107	110
% of cases closed within 30 days	40.1	51.3	62.9	69.6

Geographic Caseload

2001-2002



Examples of Cases in 2001-02

This report includes seven case studies to illustrate the range and complexity of the work undertaken by the SIU. The names of the injured parties and the police officers are not included. The information included in the case studies has already been made public through news releases and interviews.

Case One

On October 1, at 12:15 a.m. the Belleville Police took a man into custody on a “threatening charge”. He was incarcerated at the police station, pending a bail hearing the following afternoon. At 7:17 a.m. he was found dead in his cell, apparently from a ligature knotted around his neck. The SIU was notified at 7:50 a.m.

It was clear that the man had taken his own life. The question for the SIU to consider in its investigation was whether or not the involved members of the police service were negligent to a criminal standard in their care of him. The SIU examined custody videotapes, police communication tapes, relevant cell check sheets and police notes. They photographed and videotaped the scene and produced elevation drawings and a floor plan of the Belleville Police facility.

While there were significant departures from the orders of the Belleville Police Service about Prisoner Care and Control, the SIU did not find **criminal negligence** on the part of the involved officers. The Director of the SIU did, however, raise serious concerns about professional standards with the Chief of the Belleville Police Service. (The Chief subsequently conducted an internal investigation and three officers were handed 52 hours loss of pay in total penalties. The Chief also committed to developing training for all staff. A mandatory Coroner’s Inquest will further review this very tragic matter.)

Case Two

On June 8, a police officer of an unidentified police service saw two motorcycles travelling east on Highway 7 at a high rate of speed.

Shortly before the intersection with Main Street in Rockwood, the officer activated his emergency lights. The officer pursued one of the motorcyclists and then terminated the pursuit because of the associated risks. The second motorcyclist fled rapidly, failed to negotiate a curve on Harris Street, left the roadway and suffered fatal injuries when he collided with a telephone pole.

When the SIU was called, the report indicated that an officer from the Wellington County Detachment of the OPP might have been operating the pursuing police vehicle, however, OPP involvement in this incident was ruled out when the involvement of a Guelph police officer, who had not come forward, was discovered in the investigative process.

Once this became known, the focus of the SIU investigation shifted from one police service to the other, and to whether or not the police officer who was actually involved was causally related to the collision. Extensive interviews were conducted with over 300 witnesses and an SIU collision reconstructionist examined the collision scene.

Ultimately, the Director determined that there was no evidence that the Guelph police officer was causally involved with the collision and the case was closed. (The police officer was disciplined for discreditable conduct under the *Police Services Act*, by the Guelph Police Service.)

What is Criminal Negligence?

The SIU regularly investigates incidents such as police pursuits and some custody matters in which the basis for liability arises from the concept of negligence as found in our criminal law. Criminal negligence requires consideration of substantially different factors than those found in situations in which the death or injury was the result of the use of force such as a firearm. Subsection 219(1) of the *Criminal Code* defines *criminal negligence* in the following terms:

Everyone is criminally negligent who

- a) in doing anything, or
- b) in omitting to do anything that it is his duty to do,

shows wanton or reckless disregard for the lives or safety of other persons.

The jurisprudence surrounding *criminal negligence* is complex, evolving and not amenable to simple statements. With that caveat in mind, the following may safely be said about the broad contours of the law of *criminal negligence*.

Criminal negligence is distinguished from civil negligence in that the conduct in question will not amount to criminal negligence unless it amounts to a marked and substantial departure from the conduct of a reasonably prudent person in all the circumstances.

In cases of *criminal negligence*, the required fault element is objectively based and will be found to exist where the harm encompassed in the offence in question can be seen to be within the reasonably foreseeable risk created by the conduct of the individual, in light of all the circumstances.

Case Three

On January 3, an OPP officer in Terrace Bay, two hours east of Thunder Bay, responded to a report of a vehicle, reportedly stolen, being operated in a suspicious manner. A pursuit ensued and came to a stop on Highway 17 near Pays Plat. There was a confrontation between the officer and the driver of the vehicle, shots were fired, and the driver of the vehicle sustained a firearm injury to his left arm.

The Criminal Investigation Branch of the OPP investigated the stolen vehicle aspect of the incident. The SIU, contacted by the OPP, investigated the officer's involvement in the shooting. The Unit was on the scene the same day, chartering a plane in order to get investigators and equipment to the scene as quickly as possible.

Five investigators, including two forensic identification technicians were assigned to the incident. The SIU conducted a 13-week probe. Investigators mechanically examined the two involved vehicles, interviewed close to 35 police and civilian witnesses, conducted a mapping of the shooting scene, including scene videos and photographs, and reviewed copies of relevant police policies and procedures. The collection of all physical evidence required that the Highway be closed for 26 hours. At the conclusion of the investigation, the Director of the SIU found that there were reasonable grounds to believe that the officer committed the offences of aggravated assault contrary to section 268 and discharging a firearm with intent to wound, contrary to section 244 of the *Criminal Code of Canada*. The Director caused those charges to be laid against the officer. This case is presently before the courts.

Case Four

On November 26, the Peterborough-Lakefield Community Police Service notified the SIU that they had received a complaint by a woman of sexual assault by an officer, which had allegedly taken place in September 1997 during the course of an interview.

The SIU assigned two investigators to this incident who interviewed the woman who made the complaint. They also received a videotape that clearly captured the activities during the interview in question.

The videotape was of a police interview, conducted as part of a criminal investigation. It recorded that a police officer touched the leg of the complainant on six occasions. The touching consisted of taps with the tips of two or three extended fingers. Five of the taps were momentary in length and one was in contact with the woman's leg for approximately four seconds.

The Director of the SIU carefully considered all of the circumstances, including the part of the body touched, the nature of the contact, the situation in which the touching occurred and the accompanying words and gestures. He concluded that the evidence did not support a reasonable belief that the woman was sexually assaulted and the case was closed.

Case Five

On April 20, a Niagara Regional Police Service officer, driving a marked cruiser, was responding to a priority call for service when he was involved in a motor vehicle collision with another car. The police cruiser struck the rear of a station wagon at an intersection and a passenger in the car sustained fatal injuries as a result of the collision.

The SIU dispatched eight investigators, including three forensic identification technicians, to the incident scene. During the 13-week probe, the investigators mechanically examined the two involved vehicles, interviewed dozens of police and civilian witnesses, reviewed copies of relevant police policies and procedures and conducted a mapping of the scene, including scene diagrams and photographs. A detailed collision reconstruction report was prepared.

Based on the findings of the investigation, the Director of the SIU concluded that there were reasonable grounds to believe that the subject officer was criminally liable. Accordingly, the Director of the SIU caused a charge of dangerous driving causing death, under section 249(4) of the *Criminal Code of Canada* to be laid against the subject officer. This case is presently before the courts.

Case Six

On April 30, the Ontario Civilian Commission on Police Services (OCCPS) received an anonymous letter containing allegations against members of the Quinte West Police Service and the former Trenton Police Service. Included in the allegations were claims of a historical sexual assault and these were referred to the SIU by the OCCPS.

The SIU assigned two investigators to investigate the allegations. A number of witnesses with information relevant to the probe were interviewed. The investigators were also able to locate and interview the woman reportedly involved in the complaint.

Based upon the results of the investigation, the Director of the SIU concluded that there was no evidence whatsoever to substantiate the allegations of sexual assault. In fact, he stated that, contrary to the information disclosed in the anonymous letter, there was no basis to believe that the alleged sexual assault did occur. The case was closed.

Case Seven

On March 23, the Windsor Police Service contacted the SIU to report that a man had sustained injuries during the course of being arrested and was in hospital for treatment.

The SIU assigned three investigators and one forensic identification technician to the incident. The facts of the case were that the police found a man asleep in a stolen car, with the motor running. Attempts to wake him did not work and the car was locked, so police officers broke two windows in the car. The man awoke, became violent, and struck the officers with a tire iron. During the struggle to subdue him and take him into custody, the man was struck on the face and landed face first in the gravel when he was pulled from the car.

The preliminary focus of the SIU investigation was to determine the nature of the injuries received by the man arrested by the police; that is whether the injuries were “serious” as that term is used to define the SIU’s jurisdiction.

The man was found to have a laceration on the cornea of his eye, with a prognosis that it would heal naturally with no lasting impairment. He received x-rays and CT scans of his head and facial area to determine if there were any fractures. There were none. The eye injury was the only one sustained as a result of the arrest.

The injury was ultimately determined not to be “serious”. The Director of the SIU concluded that an investigation into the incident was not warranted and the file was closed.

What are Serious Injuries?

“Serious injuries” shall include those that are likely to interfere with the health or comfort of the victim and are more than merely transient or trifling in nature and will include serious injury resulting from sexual assault. “Serious Injury” shall initially be presumed when the victim is admitted to hospital, suffers a fracture to a limb, rib or vertebrae or to the skull, suffers burns to a major portion of the body or loses any portion of the body or suffers loss of vision or hearing, or alleges sexual assault. Where a prolonged delay is likely before the seriousness of the injury can be assessed, the Unit should be notified so that it can monitor the situation and decide on the extent of its involvement.

*The Honourable John Osler
First Director of the SIU*

Human Resources and Training

Like most organizations, the most valuable resource of the SIU is its people. The SIU is fully committed to hiring and developing professional, talented and committed staff to support the fulfillment of its mandate and this was further demonstrated in 2001-02.

Recruitment

Since the government's investment in the renewal of the SIU in 1999, the Unit has been able to focus on recruiting people to ensure appropriate regional distribution, and the right balance of full-time to "as needed" investigators, management to professional and support staff, and investigators and technical staff to administrative staff.

The third wave of hiring since the renewal period began took place in February 2002, when the SIU hired 12 new investigative staff. At this time, five of the Unit's ten full-time investigators are from non-police positions in the law enforcement community. They have successfully made the transition to criminal investigation through substantial and ongoing training programs. The strength of the investigation team includes supervisors, the Forensic Identification Section, and the SIU's Executive Officer who is the head of investigative services. The total investigative complement stood at 53 at March 31, 2002. The Unit's total strength as of March 31st was 67, including administrative support and professional staff. Of this total number, approximately 95% were new to their jobs since 1999, including all but one manager.

As Needed Investigators

In order to have trained, professional investigative staff throughout the province, the SIU hires and trains qualified investigators who are members of the SIU and work *as needed* when an incident occurs. They can be found throughout the province and are linked to the SIU through regular briefings, training sessions and meetings.

During recruitment processes in 2001-02, there have been significant responses to SIU vacancies. One administrative position received 580 responses, and advertisements for investigative positions attracted approximately 350 responses. To manage the recruitment process effectively, the SIU uses external consultants, testing techniques, and conducts panel interviews involving external expertise and representation, including representation from the police and the broader community, as appropriate.

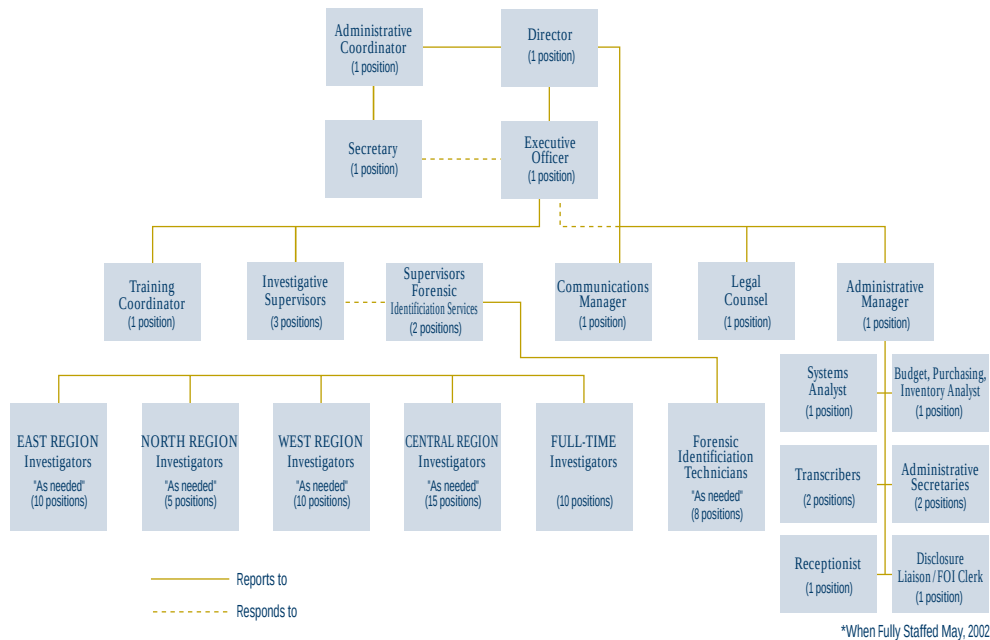
Deployment of Human Resources

The SIU makes the best possible use of its resources and relies upon the services of both full-time and as-needed investigators to respond to incident reports. Investigators and forensic technicians are recruited from across the province to ensure that the Unit can respond efficiently. For example, SIU investigators were on the scene well within two hours after the report of an incident on Highway 401, not far from the Quebec border. In another case, a chartered aircraft was used to put in place a fully equipped investigative/forensic team on the same day that the incident occurred. SIU investigators

often travel a considerable distance to an incident scene and remain there until all necessary investigative work is completed. Their effort and commitment contributes significantly to the professionalism of the SIU.

The SIU relies on the judgement of its supervisors to dispatch an appropriately sized team to the site of each incident, based on the nature of the report. The dispatch is frequently front-end-loaded in order to ensure that all possible requirements can be met quickly. Major events now regularly see a minimum of six investigators, two forensic identification technicians and a collision reconstructionist assigned as necessary to the investigation.

Special Investigations Unit *Organizational Chart*



Personnel Performance and Accountability

In 2001-02, the SIU implemented a formal performance management system. Measures are identified for each individual against which performance will be assessed. Just as important, training and learning plans are related to performance outcomes. This process has been executed across the organization, ensuring that training resources are applied to planned training activities.

The Unit completed its internal Orders in 2001-02 and provided staff training on the nature of the Orders and their responsibility to follow them. These Orders and the Investigator's Creed provide the accountability framework for SIU investigators, which is enforced under the provisions of the *Public Service Act*, related Management Board directives and applicable collective agreements.

SIU

Investigator's Creed

In an address at the swearing in ceremony of new investigators for the Special Investigations Unit in January 2000, Toronto Police Deputy Chief Bob Kerr presented 13 points of expectations for the SIU and its investigators. Director Peter Tinsley adopted these points to form part of the training materials for all SIU investigators and to reflect the ethos of the Unit.

I expect you

- To have the investigative skills to conduct a thorough and comprehensive investigation;
- To follow the established rules and regulations and internal policies;
- To set aside your personal biases and conduct an impartial and independent investigation;
- To treat involved officers with respect;
- When possible, to explain to the involved officers why you are doing what you are doing;
- To be sensitive to the fact that the involved officers have just experienced a very traumatic experience;
- To conduct a speedy investigation whenever possible;
- To keep the involved police service up to date whenever possible;
- To treat the involved officers the way you would expect to be treated;
- To do your job to the best of your abilities;
- To do everything possible to improve the working relationship between your agency and the police services of Ontario;
- To challenge police agencies who are not cooperating to do so; and
- To report to the respective Police Services Board, those Chiefs of Police who are not making the effort to ensure their members are complying with the *Police Services Act*; or any other agreements.

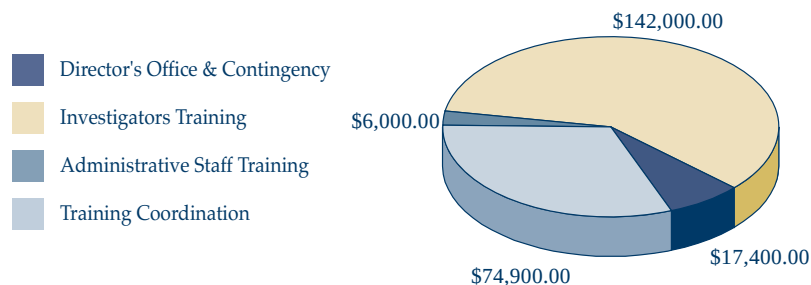
Focus on Training

Ninety-five percent of SIU staff are new to the Unit since 1999. For all intents and purposes, it is a new organization with the attendant benefits and challenges. People new to the SIU come from diverse backgrounds and the SIU has designed a training strategy to amplify the benefits of this and to address the challenges. In addition to transferring technical skills, training helps to develop a shared understanding of expectations and to foster a culture of excellence across the organization. Some of the training is designed to allow for knowledge transfer between experienced personnel and newer staff.

The SIU spends 5% of its annual budget on training of all staff, not including the cost of time for staff to attend training. In 2001-02, the cost of training was \$240,300, which funded 87 training sessions conducted by the SIU.

Training Expenditures 2001-02

Total: \$240,300. (Does not include salary \$'s)



Training was carried out over 978 training days. This required an additional \$230,000 (approximately) in salary dollars for a total of \$470,300 or approximately 9% of the SIU's budget. Some examples of the SIU's commitment to training are described below.

Training for Administrative and Professional (non-investigative) Staff

The SIU's annual training strategy incorporates training and development for administrative and professional staff who provide critical support to the successful functioning of the SIU. Transcribers, legal counsel, and administrative staff, for example, all participated in training and development activities aimed at enhancing their professional performance and contribution to the Unit. Training activity included courses at the Ontario Police College and participation in seminars and conferences offered by

professional organizations such as the Federation of Law Societies of Canada and the National Verbatim Reporters Association.

Investigator Training

Orientation Program – This is a five-day program for new investigators and forensic identification technicians. It focuses on customizing the skills that they bring to the SIU so that they are able to carry out their legal and procedural responsibilities once on the job. Participants meet other members of staff, are taught by professionals from the SIU and partner agencies such as the Centre of Forensic Sciences and the Office of the Chief Coroner, and begin their participation in a mentoring program with a seasoned staff member.

Much of the training that is integrated into the annual calendar is based upon reviewing and learning from the SIU's own cases, for example:

Monthly Case Debriefs – investigative and forensic identification staff attend these two-hour sessions that are taped so that staff outside the GTA can view them and hear the round table discussion.

Unit Training Sessions – every investigator attends a two-day session each quarter where the focus is on new policies and procedures and working through all aspects of a case.

Because of the need to keep “fresh”, training sessions in the use of the Sokkia Total Station mapping instrument and other aspects of traffic accident investigation are run monthly. Forensic identification staff and reconstructionists attend this training according to a planned schedule, and the content includes such topics as collision scene tire mark evidence training, bloodstain analysis, accident scene photography, as well as the use of computer programs such as Autosketch and Image Pro Plus.

The **Annual Investigators' Seminar** is designed to provide thorough updates on operational and administrative matters and to provide professional development through presentations from highly respected speakers from Ontario, across Canada, and elsewhere.

SIU-hosted Training

In 2001-02 the SIU hosted an Ontario Major Case Management Course and a Shooting Incident Reconstruction course in order to meet the needs of SIU investigators. Given available training capacity, officers from police services are also invited to participate. Such courses will continue to be hosted annually by the SIU.

Out-sourced Training

SIU investigative staff participated in training and development activities offered by law enforcement centres and sponsored by police services. These included the Ontario Police College, the Canadian Police College, the Ontario Provincial Police, the Toronto Police Service, Harvard Associates in Police Science (Baltimore), Princeton University Department of Public Safety & New Jersey State Police, and the Ontario Centre of Forensic Sciences.

The courses ranged from various investigative courses, especially homicide and sexual assault programs, through to firearms familiarization training and accident reconstruction placement with a police service.

Awareness and Understanding of the SIU

The SIU undertook a strategic effort in 2001-02 to maintain and improve communications with stakeholders – the community, police services, the Government of Ontario, and the media. The highlights of its accomplishments over the past year are described below.

Communications Strategy

The SIU developed and implemented a strategy to ensure that all stakeholders have access to important information about the SIU and its activities throughout the year. The SIU produces a range of communication products in support of the SIU's motto, **"Independent Investigations, Community Confidence"**. These products include the Annual Report, newsletters, and brochures.



The website is an essential communication tool and during 2001-02 it was upgraded to enhance the SIU's new corporate identity and to make more information publicly accessible. It now includes printable versions of SIU publications, case studies and statistics, an explanation of the SIU complaint process, and an online correspondence capacity. To facilitate public access to the SIU, it is now listed, for the first time, in the blue pages of phone books around the province under "Police, Civilian Oversight".

In 2001-02 it became clear that considerable progress has been made in recent years in developing a public understanding of the role and responsibilities of the SIU. The media and the public now expect that the SIU will conduct investigations into reported incidents. Many representatives of the media understand and are comfortable using the language of the Regulation and routinely use the terms subject and witness officer.



Timely Dissemination of Information to the Community, the Police, and the Media

Protocols were put in place in 2001-02 to guide communication practices with diverse stakeholders. These protocols are based on a commitment to disseminate information in a timely fashion and to provide detailed information in press releases to the police, media and the community. For example:

- meetings with involved individuals or next-of-kin, including contact prior to the public announcement of the result of an investigation, have been reinforced as part of SIU policy;
- the media and all others can now access SIU releases from a wire service and from the SIU website in "real time"; and,
- the Director and a full-time Communications Manager are accessible to respond to further inquiries.

Outreach Programs to the Police and the Community

In 2001-02, the SIU continued its outreach efforts to build relationships with police services and organizations and with community representatives. The SIU embraced every opportunity to speak to or meet with stakeholder organizations – ranging from police foundation courses, colleges, high schools, community colleges, and university classes, as well as community-based organizations.

NEWS RELEASE • COMMUNIQUÉ

FOR IMMEDIATE RELEASE

SIU updates Morrisburg shooting investigation

TORONTO (March 11, 2002) - - - The individual who died in a shooting that occurred on March 10, 2002, on Highway 401, west of Upper Canada Road, was a 37-year-old man from the Montreal area. The identity of the deceased is not being released at this time. Efforts are continuing to notify the next of kin, believed to be a resident of Quebec.

The man was fatally injured after being shot during an incident involving O.P.P. officers from the Morrisburg detachment. The post mortem for the deceased is scheduled for today at Ottawa General Hospital.

An O.P.P. officer was also shot and transported to Ottawa Hospital for treatment.

The incident occurred at approximately 10:15 a.m. Immediately upon notification at approximately 11:30 a.m., the SIU assigned ten investigators, including four forensic identification technicians and a supervisor to attend the scene. The first SIU investigators arrived on the scene at 1:30 p.m. and commenced an investigation assisted by forensic identification technicians who arrived a short time later. Police had reported that officers had stopped a red Pontiac Sunfire with two male occupants when there was an exchange of gunfire, resulting in the injuries to the deceased and the police officer. The second occupant in the Sunfire was uninjured and has since been taken into police custody.

SIU investigators have now designated two O.P.P. officers as witness officers. The investigation is ongoing and the SIU is appealing for anyone who witnessed this incident to contact the Unit at 416-641-1879 or 1-800-787-8529.

FOR IMMEDIATE RELEASE

Man in Morrisburg shooting identified

TORONTO (March 11, 2002) - - - A 37-year-old man who sustained a fatal firearm injury during an incident on Highway 401 on March 10, 2002, has been identified as Daniel Lamer.

Investigators with the Special Investigations Unit (SIU) are continuing in the investigation into the circumstances surrounding the shooting in which one O.P.P. officer was also injured. The SIU have now designated two O.P.P. officers as witness officers.

The SIU is appealing for anyone who witnessed this incident to contact the Unit at 416-641-1879 or 1-800-787-8529.

FOR IMMEDIATE RELEASE

SIU Concludes Morrisburg Shooting Investigation

TORONTO (April 16, 2002) - - - Peter A. Tinsley, the Director of the Special Investigations Unit (SIU), has concluded that there is no basis whatsoever to substantiate any belief that two Ontario Provincial Police (O.P.P.) officers are criminally liable for discharging their firearms during an incident on Highway 401, west of Upper Canada Road.

37-year-old Daniel Lamer was fatally injured after being shot during an exchange of gunfire involving O.P.P. officers from the Stormont, Dundas and Glengarry detachment. O.P.P. Constable Brisson was also wounded and transported to hospital for treatment.

The SIU investigation revealed that on March 10, 2002, at approximately 10:05 a.m., O.P.P. officers stopped a red Pontiac Sunfire traveling westbound on Highway 401 for speeding. The vehicle pulled over to the north shoulder of the highway and two officers both in uniform, stopped behind the Sunfire, exited the police cruiser and approached the Sunfire. The driver of the vehicle, later identified as Marc Bouffard, was placed in the back of the police cruiser and a request was made for a French-speaking officer to attend the scene.

Two additional O.P.P. officers, including Cst. Brisson, attended to assist. As one officer remained in the police cruiser, the other three officers approached the passenger side of the Sunfire on the westbound shoulder of the highway. At the request of the police Mr. Lamer exited his vehicle. Mr. Lamer drew his firearm, threatened the officers, and then proceeded to fire at the police. There was an exchange of gunfire between two of the involved officers and Mr. Lamer.

Cst. Brisson sustained a gunshot wound to his head and an examination conducted by the Centre of Forensic Sciences revealed the back panel of the officer's body armour had also been struck once at close range. Mr. Lamer was also wearing a bulletproof vest at the time of the incident. A post-mortem and forensic examination determined Mr. Lamer was struck five times. The cause of death was concluded to be a gunshot wound to the head.

Mr. Bouffard was uninjured and taken into police custody where he now faces numerous charges.

Following a report of the incident at 11:35 a.m., the first SIU investigators arrived on the shooting scene at approximately 1:30 p.m. and commenced an investigation assisted by forensic identification technicians who arrived a short time later. As part of the investigation, the SIU investigators interviewed over ten police and civilian witnesses and requested and obtained police duty notes and communications tapes. SIU forensic identification technicians collected various pieces of evidence including shell cases, clothing, police service weapons and Mr. Lamer's two loaded firearms.

Upon a complete review of the evidence, Director Tinsley concluded the involved police officers were lawfully engaged in the performance of their duties when they discharged their firearms. The evidence established Mr. Lamer was armed, threatened the officers, and utilized his firearm during the incident, prompting the involved officers to discharge their own weapons. Director Tinsley stated, "The officers shot at Mr. Lamer with the very reasonably held belief that shooting was necessary in order to preserve their own lives or the lives of their colleagues, thus justifying their lethal use of force under both sections 25 and 35 of the Criminal Code."

The SIU communicated regularly with police representatives of organizations such as the Police Association of Ontario, the Ontario Provincial Police Association, and the Ontario Association of Chiefs of Police, as well as with members of individual police services. This outreach provides an opportunity for Unit representatives to talk about their role and how they conduct investigations; it is also essential for providing forums for continuing discussions about the obligations of the police during SIU investigations.

Community and police representatives are invited to participate in interviews for recruiting all new management staff. This was exemplified this fiscal year in the hiring process for the new Executive Officer, in which the Deputy Chief of a major police service and a well-known community leader sat on the hiring panel.

The Director's Resource Committee

*In the past, significant efforts were made to foster a wide range of communication links with the community, however, opportunities to discuss the concerns of the broader community were somewhat ad hoc. In 2001-02, the **Director's Resource Committee** was established to provide a more regular forum for communications between the SIU and the broader community.*

At twice yearly meetings, members of the committee meet to focus on both general operations and specific issues:

General Operations – To provide advice and/or comments in respect of the meeting of community expectations and needs; and,

Specific Issues – To provide advice and/or comments regarding topical matters related to the SIU that may be of interest or concern to members of the community.



From left to right: Deputy Chief Terrence Kelly of the York Regional Police Service, Peter A. Tinsley, Director of the SIU, and retired Justice of the Peace and Honorary Consul for the Republic of Guinea, C. Arthur Downes.



Director's Resource Committee Top Row, L-R: Arthur Downes, Tam Goossen, Peter Tinsley, Julian Falconer
Second Row: Erica Lawson, Robert Kerr, Avvy Go, Audi Dharmalingam, Bromley Armstrong
Missing: Herman Stewart, T. Sher Singh, Rose Hong

Business Management and Processes

In 2001-02, the SIU focused on implementing business processes to promote accountability and improve effective use of resources. These internal systems and processes are an important feature of any effective organization.

Planning

The SIU adopted a formal **business planning** process in 2000-01 and in the last fiscal year the Unit worked to integrate more of its planning and management processes in order to enhance accountability. Each fall, senior staff participate in a strategic exercise to identify priorities and financial requirements for the next fiscal year. This is captured in a business plan that is shared with the Ministry of the Attorney General and serves as an accountability tool between the SIU and the Government of Ontario.

Operational plans and result measures are subsequently developed and implemented to address the priorities of the business plan. Specific plans and strategies are developed, such as the annual training plan, management performance plans, and the communications strategy. These support business planning and provide the necessary scope and detail to do the related **financial planning** effectively. In 2001-02 management performance plans were linked to the business plan, providing more integrated accountability across the organization. Monitoring is done quarterly and strategies and tactics are adjusted as necessary to ensure that objectives are met.

In the last fiscal year, the SIU also developed an overall **Capital Asset Management Plan** that encompasses plans for forensic equipment, fleet management, investigators' equipment, and telecommunications.

Orders

The term "Orders" refers to policies that set out standards and procedures describing how work is to be conducted in an organization. At the SIU there are General, Operations and Administrative Orders and the standards they set are monitored and enforced. A project to review these core business procedures and protocols was initiated in 2000-01 and completed in 2001-02.

General Orders cover office protocol and conduct matters; Operations Orders describe the jurisdiction of the SIU and set out standards related to how the Unit conducts and manages investigations; and, Administrative Orders describe the procedures for financial, administrative and human resources management.

External Audit of Evidence Handling

The SIU hired an external consultant in 2001-02 to conduct an audit of the Unit's evidence handling procedures and the contents of the evidence storage facilities. This was done to ensure that all physical evidence storage met or exceeded

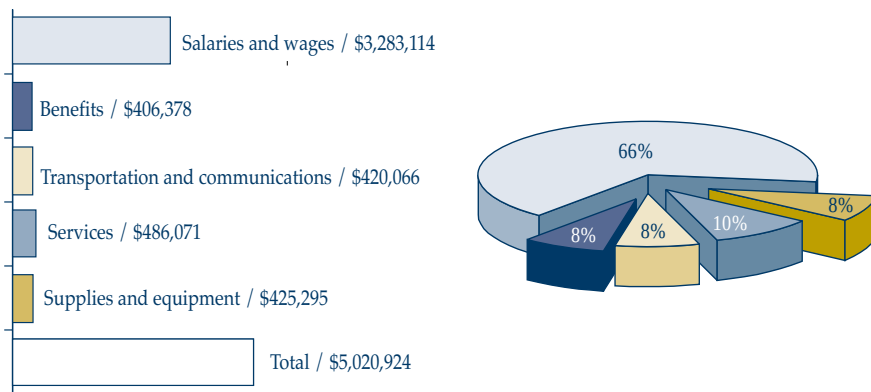
"If someone was searching for an example of a professional, well-managed evidence storage facility, I would send them to the SIU"
Bob Eamer, External Auditor, Texalbec Inc.,
Retired Chief Superintendent, OPP

required standards. The auditor's report indicated that the SIU has the required policies and procedures in place to ensure the effective collection and preservation of evidence to meet the rigorous requirements for presentation in court proceedings.

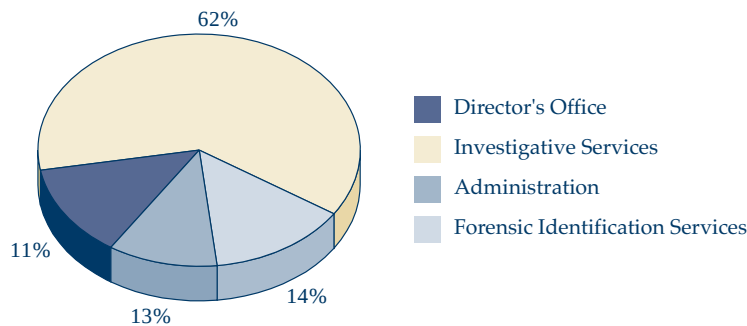
Financial Expenditures

For the year ended March 31, 2002 the budget for the SIU was \$5,215,098. Total annual expenditures were \$5,020,924 as follows:

2001-02 Expenditures



2001-02 Expenditures by Section



Investigative and Forensic Identification Services include expenditures related to the effective administration of cases. These expenditures include, but are not limited to: transcription and document processing services, telecommunications, travel, and fleet and information technology.

Looking Forward

The SIU will continue to focus upon building capacity and becoming a centre of investigative excellence. It will build upon the renewal efforts of the past three years and pursue a path of continuous improvement. For example, the SIU plans to achieve its full strength of approximately 75 highly qualified and trained personnel in 2002-03. New hires, the implementation of the training plan, as well as continued business planning will enhance the investigative capacity of the organization. The external case review process will contribute significantly to improvements in investigative practices and to the Unit's relationships with police services. The Director's Resource Committee will support ongoing communication between the SIU and the broader community. Notwithstanding the pressures of new contract settlements, but through prudent management of public funds, the SIU will attempt to once again come in on budget in 2002-03 without forsaking its mandate.

The SIU is a mechanism for building community confidence in the police. Since its founding in 1990, the SIU has become a vital part of the framework of policing in Ontario, with widespread public support. Better resources and increased mobility mean that SIU investigators and forensic technicians can get to the scene and do their work more efficiently. The SIU has greater control of investigations than in the past. Improvements in the investigative and forensic identification capabilities of the SIU have brought a measurable improvement in relations with police services.

The Director and staff are committed to maintaining and strengthening both community and police confidence in the SIU in the years ahead.



Appendix A:

Selected Staff Profiles

Director, Peter A. Tinsley

Peter A. Tinsley is a lawyer and former Assistant Judge Advocate General of the Canadian Armed Forces. He was appointed Director of the Special Investigations Unit (SIU) on January 1, 1999 for a 5-year period. Mr. Tinsley's 28-year career in the Armed Forces included 15 years with the Office of the Judge Advocate General. During that time he served in a variety of positions including as counsel to senior Department of National Defence authorities. He was the lead prosecutor and appellate counsel in the prosecutions of Canadian Forces members stationed in Somalia. Immediately prior to his appointment, Mr. Tinsley was in private practice in Belleville, concentrating in criminal law and mediation. Mr. Tinsley is on the Board of Directors for the Canadian Association for Civilian Oversight of Law Enforcement and a member of the Advisory Committee to Ontario's Centre of Forensic Sciences.

Executive Officer, Paul Cormier

In February of 2002, Paul Cormier was appointed Executive Officer for the Special Investigations Unit. Prior to his arrival at the SIU, Mr. Cormier served 33 years with the Halton Regional Police Service and retired at the rank of Superintendent, holding the position of District Commander for the Town of Oakville. During his policing career, he was, at one point, the Commander of Support Services and was responsible for the tactical response unit, bomb disposal squad, K9 and regional traffic reconstructionists. Mr. Cormier also oversaw a variety of administrative support functions. Mr. Cormier was a member of the Ontario Association of Chiefs of Police (OACP), and served as vice-chair of the OACP training committee. Mr. Cormier is a graduate of the Federal Bureau of Investigations National Academy.

Appendix B:

Excerpt from the Ontario Police Services Act, 1990, Part VII, SIU, Related Order in Council and Regulation 673/98

ONTARIO POLICE SERVICES ACT, 1990 PART VII SPECIAL INVESTIGATIONS UNIT

Section 113.

- (1) There shall be a special investigations unit of the Ministry of the Solicitor General
- (2) The unit shall consist of a director appointed by the Lieutenant Governor in Council on the recommendation of the Solicitor General and investigators appointed under the *Public Service Act*.
- (3) A person who is a police officer or former police officer shall not be appointed as director, and persons who are police officers shall not be appointed as investigators.
- (4) The director and investigators are peace officers.
- (5) The director may, on his or her own initiative, and shall, at the request of the Solicitor General or Attorney General, cause investigations to be conducted into circumstances of serious injuries and death that may have resulted from criminal offences by police officers.
- (6) An investigator shall not participate in an investigation that relates to members of a police force of which he or she was a member.
- (7) If there are reasonable grounds to do so in his or her opinion, the director shall cause information to be laid against police officers in connection with the matters investigated and shall refer then to the Crown Attorney for prosecution.
- (8) The director shall report the results of investigations to the Attorney General.
- (9) Members of police forces shall cooperate fully with the members of the unit in the conduct of investigations.

Extract from Order in Council 814/93:

The administration of Part VII of this Act be assigned and transferred from the Solicitor General and Minister of Correctional Services to the Attorney General, effective April 8, 1993, and

The powers and duties of the Solicitor General, now vested in the Solicitor General and Minister of Correctional Services, pertaining to the Special Investigations Unit, with the exceptions of that set out in subsection 113 (5) of this Act, be assigned and transferred to the Attorney General, effective April 8, 1993.

REGULATION 673/98 MADE UNDER THE POLICE SERVICES ACT
CONDUCT AND DUTIES OF POLICE OFFICERS RESPECTING INVESTIGATIONS
BY THE SPECIAL INVESTIGATIONS UNIT

1. (1) In this Regulation,

“SIU” means the special investigations unit established under section 113 of the Act;

“subject officer” means a police officer whose conduct appears in the opinion of the SIU director, to have caused the death or serious injury under investigation;

“witness officer” means a police officer who, in the opinion of the SIU director, is involved in the incident under investigation but is not a subject officer.

(2) The SIU director may designate an SIU investigator to act in his or her place and to have all the powers and duties of the SIU director under this Regulation and, if the SIU director appoints a designate, any reference to the SIU director in this Regulation, excluding this subsection, means the SIU director or his or her designate.

2. (1) The chief of police may designate a member of the police force who is not a subject officer or witness officer in the incident to act in the place of the chief of police and to have all the powers and duties of the chief of police in any matter respecting an incident under investigation by the SIU.

(2) If the chief of police appoints a designate under subsection (1), any reference to the chief of police in this Regulation, excluding this section, means the chief of police or his or her designate.

(3) The person appointed under subsection (1) must be a senior officer.

3. A chief of police shall notify the SIU immediately of an incident involving one or more of his or her police officers that may reasonably be considered to fall within the investigative mandate of the SIU, as set out in subsection 113 (5) of the Act.

4. The chief of police shall ensure that, pending the SIU taking charge of the scene of the incident, the scene is secured by the police force in a manner consistent with all standing orders, policies and usual practice of the police force for serious incidents.

5. The SIU shall be the lead investigator, and shall have priority over any police force in the investigation of the incident.

6. (1) The chief of police shall, to the extent that it is practicable, segregate all the police officers involved in the incident from each other until after the SIU has completed its interviews.

(2) A police officer involved in the incident shall not communicate with any other police officer involved in the incident concerning their involvement in the incident until after the SIU has completed its interviews.

7. (1) Subject to subsection (2), every police officer is entitled to consult with legal counsel or a representative of the association and to have legal counsel or a representative of the association present during his or her interview with the SIU.

(2) Subsection (1) does not apply if, in the opinion of the SIU director, waiting for legal counsel or a representative of the association would cause an unreasonable delay in the investigation.

8. (1) subject to subsections (2) and (5) and section 10, immediately upon being requested to be interviewed by the SIU, and no later than 24 hours after the request where there are appropriate grounds for delay, a witness officer shall meet with the SIU and answer all its questions.

(2) A request to be interviewed must be made in person.

(3) The SIU shall cause the interview to be recorded and shall give a copy of the record to the witness officer as soon as it is available.

(4) The interview shall not be recorded by audiotape or videotape except with the consent of the witness officer.

(5) The SIU director may request an interview take place beyond the time requirement as set out in subsection (1).

9. (1) A witness officer shall complete in full the notes on the incident in accordance with his or her duty and, subject to subsection (4) and section 10, shall provide the notes to the chief of police within 24 hours after a request for the notes is made by the SIU

(2) Subject to subsection (4) and section 10, the chief of police shall provide copies of a witness officer's notes to the SIU upon request, and no later than 24 hours after the request.

(3) A subject officer shall complete in full the notes on the incident in accordance with his or her duty, but no member of the police force shall provide copies of the notes at the request of the SIU.

(4) The SIU director may allow the chief of police to provide copies of the notes beyond the time requirement set out in subsection (2)

10. (1) The SIU shall, before requesting an interview with a police officer or before requesting a copy of his or her notes on the incident, advise the chief of police and the officer in writing whether the officer is considered to be a subject officer or a witness officer.

(2) The SIU shall advise the chief of police and the police officer in writing if, at any time after first advising them that the officer is considered to be a subject officer or a witness officer, the SIU director decides that an officer formerly considered to be a subject officer is now considered to be a witness officer or an officer formerly considered to be a witness officer is now considered to be a subject officer.

(3) If, after interviewing a police officer who was considered to be a witness officer when the interview was requested or after obtaining a copy of the notes of a police officer who was considered to be a witness officer when the notes were requested, the SIU director decides that the police officer is a

subject officer, the SIU shall,

(a) advise the chief of police and the officer in writing that the officer is now considered to be a subject officer;

(b) give the police officer the original and all copies of the record of the interview; and

(c) give the chief of police the original and all copies of the police officer's notes.

(4) The chief of police shall keep the original and all copies of the police officer's notes returned under clause (3) (c) for use in his or her investigation under section 11.

11. (1) The chief of police shall also cause an investigation to be conducted forthwith into any incident with respect to which the SIU has been notified, subject to the SIU's lead role in investigating the incident.

(2) The purpose of the chief of police's investigation is to review the policies of or services provided by the police force and the conduct of its police officers.

(3) All members of the police force shall cooperate fully with the chief of police's investigation.

(4) The chief of police of a municipal police force shall report his or her findings and any action taken or recommended to be taken to the board within 30 days after the SIU director advises the chief of police that he or she has reported the results of the SIU's investigation to the Attorney General, and the board may make the chief of police's report available to the public.

(5) The Commissioner of the Ontario Provincial Police shall prepare a report of his or her findings and any action taken within 30 days after the SIU director advises the Commissioner that he or she has reported the results of the SIU's investigation to the Attorney General, and the Commissioner may make the report available to the public.

12. (1) The police force may disclose to any person the fact that the SIU director has been notified of an incident and is conducting an investigation into it.

(2) Except as permitted by this Regulation, the police force and members of the police force shall not, during the course of an investigation by the SIU, disclose to any person any information with respect to the incident or the investigation.

13. The SIU shall not, during the course of an investigation by the SIU, make any public statement about the investigation unless such statement is aimed at preserving the integrity of the investigation.

14. A chief of police or police officer shall not be required to comply with a provision of this Regulation if, in the opinion of the SIU director, compliance is not possible for reasons beyond the chief of police's or police officer's control.

15. This Regulation comes into force on January 1, 1999.

SPECIAL INVESTIGATIONS UNIT

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Independent Investigations - Community Confidence • Enquêtes indépendantes - Confiance de la collectivité

June, 2002

The Honourable David Young
The Attorney General for Ontario
720 Bay Street, 11th Floor
Toronto, Ontario
M5G 2K1

Dear Mr. Attorney General:

Pursuant to the Memorandum of Understanding between the Ministry of the Attorney General and the Special Investigations Unit, it is my honour to present to you the Annual Report of the Special Investigations Unit, for the year ending March 31, 2002.

Yours sincerely,

A handwritten signature in black ink, appearing to read "Peter A. Tinsley".

Peter A. Tinsley
Director