



June 2003

The Honourable Norman W. Sterling
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, 2003.

Yours sincerely,

John A. Sutherland
Interim Director

contents

part one

About the Special Investigations Unit

- 1 Civilian Oversight of Policing
- 2 Purpose of the SIU
- 4 The Adams Processes 1998 and 2003

part two

The Investigative Process

- 5 Overview
- 6 Post-Investigation Roles
- 7 Mitigating the Consequences of an Investigation

part three

The Year in Review

- 9 Investigative Excellence
- 15 Case Studies
- 19 Stakeholder Relations
- 20 Investing to Serve the Community & Police Services Better
- 24 Financial Expenditures

part four

- 25 **The Adams Report**

part five

- 29 **Looking Forward**

Appendices

- 30 A: SIU Team Profile
- 31 B: Excerpt from the Ontario Police Services Act, 1990, Part VII, SIU, Related Order in Council and Regulation 673/98

SIU part one



About the Special Investigations Unit

“Through the SIU, the Province seeks to protect the fundamental human rights of all its citizens by ensuring that those charged with enforcing laws and advancing public safety remain accountable should they violate those rights.”

Honourable George Adams, QC, from Review Report on the Special Investigations Unit Reforms, February 26, 2003.

Civilian Oversight of Policing

Police officers have the power to detain citizens and to use lethal force when necessary to prevent death or serious injury to the public or to the police themselves. 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.

Civilian oversight of police services has become an important accountability mechanism for the exercise of these police powers, allowing the public to have confidence in the police. Approximately 125 civilian agencies for the oversight of policing 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. Every province in Canada has a mechanism for civilian oversight of policing, collectively exhibiting a range of models.

In Ontario, the Special Investigations Unit, (SIU or the Unit), was created in 1990 to investigate incidents of death and serious injury involving police officers. It is unique in Canada with respect to its powers and its jurisdiction. 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, medical professionals and lawyers may also advise the Unit of situations they believe may require investigation.

Purpose of the SIU

The Special Investigations Unit is a civilian law enforcement agency that operates at arms-length from the Ontario Ministry of the Attorney General. Its mission is to increase the confidence of all citizens of Ontario in their police services. The SIU does this through professional and independent investigations of incidents involving the police that have resulted in serious injury, including sexual assault, or death.

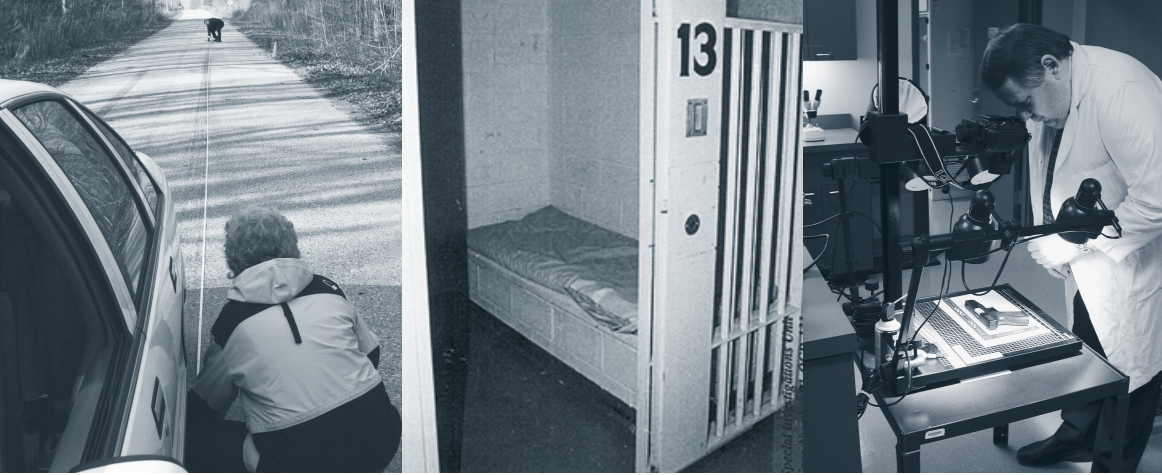
The jurisdiction of the Unit includes all municipal, regional and provincial police services across Ontario, which together comprise 65 services and about 21,600 officers as well as approximately a third that many civilian members of police services. The jurisdiction of the Unit does not include First Nations Constables, who are not included in the definition of *police officer* under the *Police Services Act*. The RCMP, a federal agency which is not currently included in the SIU's jurisdiction, is working with the Unit to develop a protocol to guide relations where the RCMP is involved in an incident otherwise investigated by the SIU.

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 may not work on cases relating to the police service(s) 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.

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

off duty officer

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.



The chart below summarizes case occurrences over the past ten years.

SIU Occurrence Chart

Historical Overview (by fiscal year)

Type of Occurrences	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	to 2002 2003
Firearm Deaths	2	2	4	9	4	1	3	5	4	1
Firearm Injuries	14	11	16	12	10	9	8	8	5	9
Custody Deaths	12	14	24	24	12	18	21	18	20	17
Custody Injuries	84	93	54	42	52	65	60	85	75	86
Other Injuries/Deaths	n/a	n/a	n/a	n/a	n/a	n/a	1	2	1	1
Vehicle Deaths	12	11	6	8	5	12	10	8	12	7
Vehicle Injuries	86	80	55	57	56	64	43	36	30	21
Sexual Assaults	9	11	9	8	9	11	10	15	15	9
Totals	219	222	168	160	148	180	156	177	162	151
# of cases in which charges laid (number of officers charged)	1	3	4	3	2	3 (6)	6 (6)	5 (9)	4 (5)	4 (4)

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.

The Adams Processes: 1998 and 2003

From its beginning in 1990, the SIU was a lightning rod for controversy. High expectations were not met early on, principally due to the lack of rules about the SIU, difficulty with 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.

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. He facilitated the development of 25 consensus-based recommendations, released in 1998, nearly all of which were subsequently implemented by the Government of Ontario. For example, it enacted a new Regulation (673/98) that gave the SIU and police services a blueprint for their relations in the future. The government also allocated new resources for additional staff, training and technical support for the SIU and appointed a new Director for a five-year term to provide leadership continuity.

In July 2002, after the passage of nearly five years, Mr. Adams was appointed to evaluate the success of the reforms he recommended in 1998. His February 2003 report was based upon consultations with the same police and community stakeholder groups and individuals that participated in 1997-98, and upon information provided to him by the SIU.

Mr. Adams’ undertaking is of critical importance to the SIU and Part IV of this Annual Report is devoted to a discussion of his key findings and their implications for the SIU. In brief, there was an acceptance by all parties of the need for civilian oversight of policing; agreement that the reforms initiated by the SIU in 1999 had achieved, or were in the process of achieving, their intended purpose; and consensus that there had been a vast improvement in the performance of the SIU since that time. A number of key issues were raised by both police and community representatives and Mr. Adams made suggestions in many instances about the resolution of those issues and improvements to the practices of the SIU. These are discussed more fully in Part IV of this report.

SIU part two



The Investigative Process

Overview

In order to fulfill its mandate to promote and maintain community confidence in Ontario's police services, the SIU conducts independent and professional investigations. It employs the latest techniques and equipment to investigate every reported incident that falls within its jurisdiction. The primary objective of each investigation is to determine whether there is evidence of criminal wrongdoing.

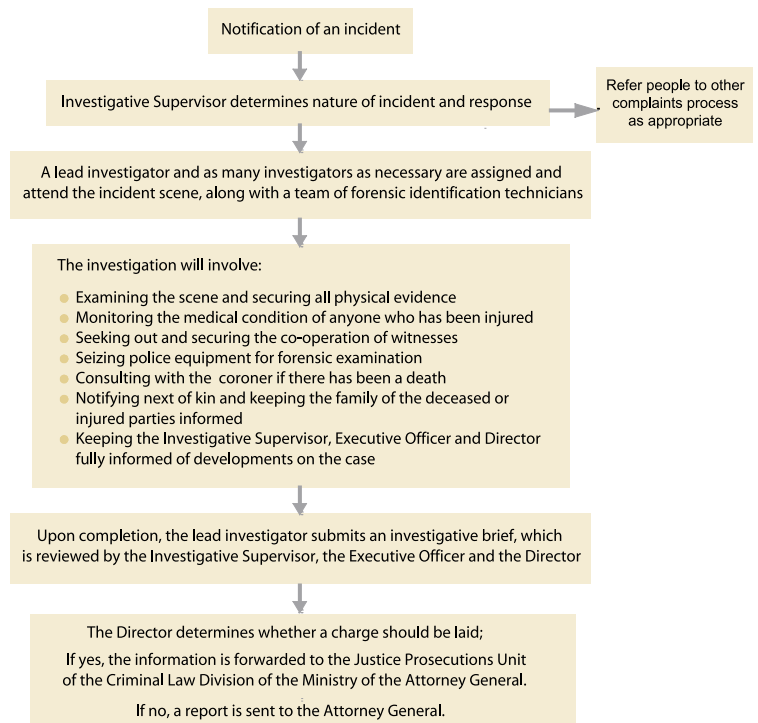
The investigative process begins with the assignment of a lead investigator and as many other investigators as required. Investigators conduct interviews with involved police officers and civilian witnesses, and maintain communications with people directly involved in the incident. Working with the investigators, the forensic identification team at the Unit protects, collects, preserves, and analyzes the physical evidence related to the incident.

Once the investigative process is complete, a report is submitted to the Director of the SIU. The Director then makes a decision to lay a charge or to close the case. The work of the Unit

may not be concluded at this point. In cases where a charge is laid, the SIU refers the matter to the Crown Attorney, who prosecutes the charge through the court system.

An important part of the SIU's mandate is to communicate the results of the investigation to the public. Most often, this is done by way of a news release or by responding to media inquiries. Prior to

The Investigative Process



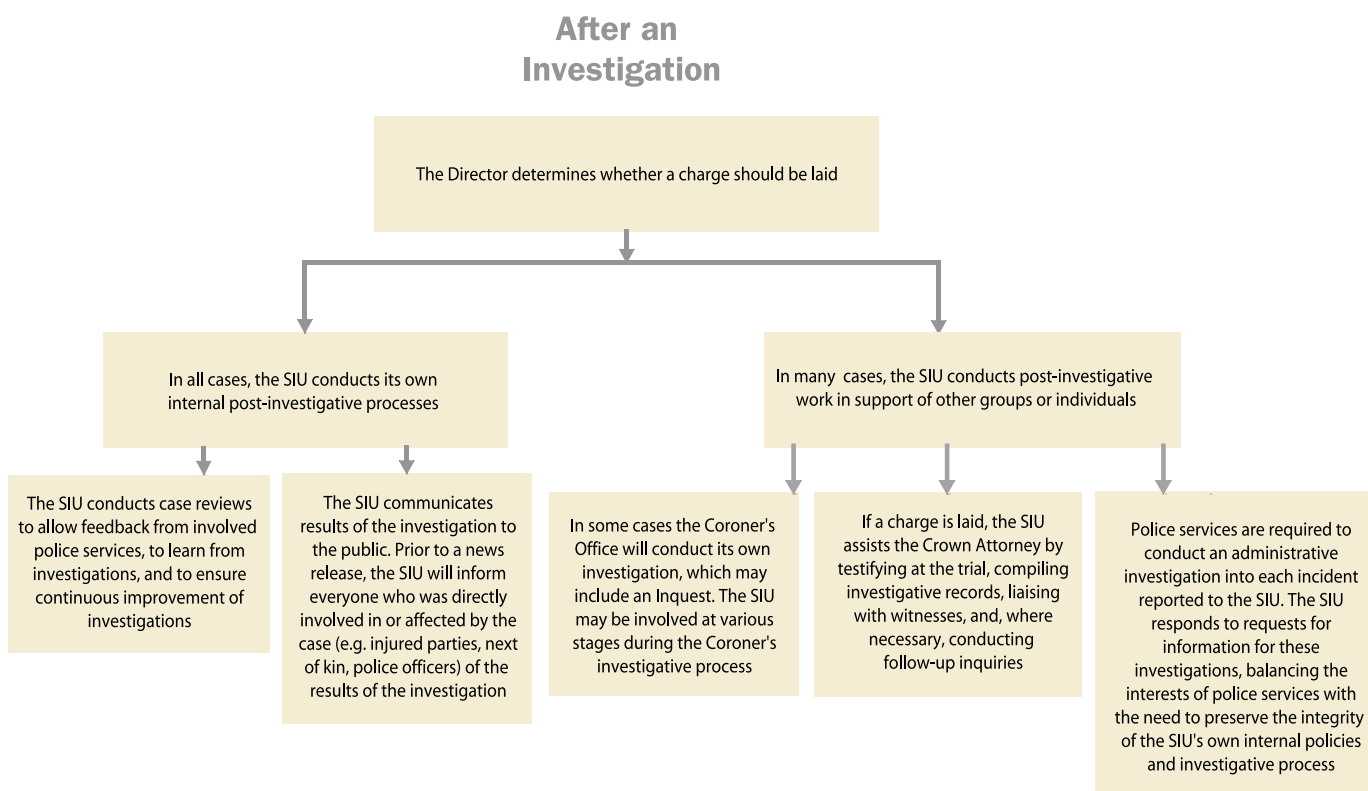
the public being informed, the SIU must ensure that all police and community members involved in the investigation are informed of the end result. This may entail a personal meeting and debrief of the investigation by senior SIU staff. In cases where a charge is laid, the information that the SIU can provide is limited in order to preserve the integrity of the trial process. Privacy legislation and the SIU's own confidentiality policies must also be considered.

Post-Investigation Roles

In the event that a charge is laid as a result of a SIU investigation, the SIU assists the Crown Attorney by testifying at the trial, compiling investigative records, liaising with witnesses to ensure their availability and preparation throughout the trial process, and, where necessary, by conducting follow-up inquiries.

Another significant part of the post-investigative work done by the SIU relates to its relationships with other institutions engaged in the administration of justice. In most if not all death cases, for example, the Coroner's Office will discharge its own investigative mandate under the *Coroners Act*. Where dictated by circumstance, the Coroner's involvement may extend as far as the holding of an Inquest – a formal proceeding to determine the precise circumstances of the death and how deaths in similar circumstances might be prevented. The SIU is involved at various stages of the Coroner's process; for example, in relation to information exchange at incident scenes, attendance at pre-Inquest meetings, or giving evidence at Inquests.

The same spirit of co-operation guides the SIU's interaction with police services following an



investigation. By virtue of Section 11 of Ontario Regulation 673/98, police services are required to conduct administrative investigations of every incident falling within the SIU's jurisdiction to review their policies and services and the conduct of their officers. SIU Operations Order 004 states the SIU's intention to co-operate wherever possible with Chiefs of Police as they conduct Section 11 investigations. Requests for co-operation are often in the form of access to information gathered by the SIU during an investigation. In these instances, the SIU must balance the legitimate interests of police services in requesting this information with the need to preserve the integrity of the SIU's policies and investigative process.

A further undertaking by the SIU following an investigation is to conduct a case review. Two types of case reviews are conducted by the SIU – internal and external reviews. Internal reviews ensure completeness of case content, some are used for learning purposes within the SIU, and others are used for assessing the overall management and efficiency of an investigation. External reviews, on the other hand, are conducted with police services following the investigation to ensure that the expected level of performance is being met and every opportunity for improvement is explored. The SIU conducts external case reviews for approximately ten percent of its cases annually.

Mitigating the Consequences of an Investigation

An important undertaking in all SIU investigations is to minimize any potentially negative consequences for the police and involved community members. The Unit does this by following a series of disciplined practices as described below.

First are the SIU Operations Orders that outline investigative policies and standards consistent with Regulation 673/98. For example, Order 012 states that SIU management and investigative staff must provide initial notification and “establish and maintain an effective process of communication with those victims and/or their families who are affected by SIU investigations.” The Order ensures that informing and maintaining communications with victims and their families remains a top priority throughout the investigation.

SIU Operations Orders also set out policies for communicating with police services during an investigation. The Unit most often communicates with a member of the affected police service who has been designated by the Chief of Police under Regulation 673/98 to act in his or her place. Many of the larger police services now have a standing chief's designate who is familiar with SIU procedures.



SIU SPECIAL INVESTIGATIONS UNIT
UES UNITÉ DES ENQUÊTES SPÉCIALES

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

NEWS RELEASE • COMMUNIQUÉ FOR IMMEDIATE RELEASE

SIU Updates Investigation Into Fatal Collision in Grenville County

TORONTO (October 29, 2002) - - The Special Investigations Unit (SIU) has assigned seven investigators, including two forensic identification technicians, to investigate a fatal motor vehicle collision that occurred at approximately 10:52 a.m. on October 28, 2002.

The SIU was notified that Ottawa Police Service (OPS) officers were pursuing a minivan that was reportedly implicated in suspicious activity in the Ottawa area. At the intersection of County Road 22 and Highway 43 in Grenville County the pursued vehicle collided with a blue Buick, resulting in the deaths of the driver and passenger of the Buick. The 22-year-old driver of the minivan was air lifted to the Ottawa Hospital, Civic Campus where he is being treated for serious injuries.

The deceased have been identified as Osias Villeneuve and Cecile Villeneuve. A post mortem is scheduled today.

The SIU has now designated one subject officer and five witness officers from the OPS. The investigation is continuing and the SIU is appealing for anyone who witnessed this incident to contact the Unit at 416-641-1879 or 1-800-787-8529.

Another Order provides direction regarding what information can be provided to the media during an investigation, consistent with the Regulation. There are limitations on the information that should be made public and they are designed to protect those involved and preserve the integrity of the investigation. At the beginning of an investigation, the SIU often issues brief statements noting that the SIU has responded to the incident and that an investigation has commenced. During an investigation, the Unit may also make public statements to maintain the public's confidence in the investigative process; for example, the SIU may provide some additional information about the incident and appeal for witnesses to contact the Unit.

Another mechanism for gathering reliable information and minimizing potentially negative consequences of an investigation is the SIU's *Witness Confidentiality Assurance*. Witnesses are often reluctant to provide information to an agency investigating police conduct and the greatest concern rests with witnesses whose injuries give rise to SIU investigations, and who may also be charged by the police as a result of the incident in question. These witnesses may fear that what they tell the SIU will be used to incriminate them. The *Witness Confidentiality Assurance*, which is read and explained to all witnesses, states "information provided by you will be held in confidence by the SIU unless you consent to its release or a lawful process compels the SIU to release it". The SIU may be compelled to release the information, for example, in cases where public safety is at issue, or where a witness may give very different information in a criminal proceeding than the information they gave to the SIU.

The SIU's commitment to conclude investigations within 30 days in 65% of all cases is another practice established to mitigate the stress of an SIU investigation. This is designed to ensure that there are no unnecessary delays in gathering evidence and determining the outcome of an investigation. This minimizes the stress associated with waiting for the outcome of an investigation for involved police officers, injured people and the family members of both. (As shown on page 14, in 2002-03 the SIU closed 92% of cases within 30 days.)

Witness Confidentiality Assurance

(given to witnesses, including witness police officers, but not to subject police officers)

The SIU is not a police service. The SIU is a civilian law enforcement agency, independent from any police service, which investigates the circumstances of serious injuries, including sexual assaults, or deaths in cases involving the police. We want to know about your knowledge or involvement in this incident; however, we are not investigating you. The focus of our investigation is the actions of the police officer(s) in relation to the (injury or death) in question. Information provided by you will be held in confidence by the SIU unless you consent to its release or a lawful process compels the SIU to release it. The only exceptions to this promise of confidentiality are if you provide information: 1) relating to an ongoing or future offence; or 2) if the information you provide is untrue or intended to mislead.

SIU part three



The Year in Review

Investigative Excellence

The purpose of the SIU - to enhance and maintain community confidence in policing through independent and professional investigations - rests upon a commitment to investigative excellence that is built upon year-over-year. Investigative excellence can be measured in a number of ways, including through the:

- speed with which investigators and forensic identification teams arrive at an incident scene;
- number of investigators and forensic identification technicians deployed to the incident scene;
- length of time that it takes to complete a thorough investigation;
- professional demeanor of SIU investigators in contact with the involved police service and community members (as assessed by police services and members of the community).

This section will review the SIU's performance in 2002-03 by examining these measures.

Investigations in 2002-03

The SIU investigated 151 incidents occurring in the fiscal year ending March 31, 2003, four of which resulted in charges being laid. Charges were **not** laid in approximately 97% of cases because, after a

rigorous and professional investigation, the facts did not support a reasonable belief of criminal wrong-doing on the part of the police. In most cases the police acted appropriately, and in some cases the police were exemplary in their behaviour. This data supports public confidence in the police services in Ontario.

There were requests from the public to investigate an additional 160 incidents that clearly did not fall under the SIU's jurisdiction. Where appropriate, these were referred to another agency. For example,

- A man called the SIU and stated that he had been arrested by the Ontario Provincial Police (OPP) for breach of the peace and carrying a prohibited weapon. He stated that he had been drinking and did have a gun, and that the police treated him poorly, both in the manner in which they spoke to him and dealt with him physically. He did not, however, receive any injuries so he was advised that he could contact the OPP Professional Standards Bureau if he wished to complain about the treatment he received from the police officers.
- A woman called the SIU and stated that during her arrest by the Saugeen Shores Police Service the officer mistreated her verbally and physically. The woman filed a complaint of officer misconduct with the police service. She was advised by the police service that there was no misconduct to investigate. Given that there was no serious injury and that she had complained to the

involved police, the SIU referred the woman to the Ontario Civilian Commission on Police Services in the event that she wished to continue her complaint.

In cases where SIU jurisdiction is not clear, the first step in the investigative process is to conduct a review of the reported facts. If the incident review confirms the SIU's jurisdiction, a full-scale investigation is undertaken. If the facts do not confirm jurisdiction, the Director is consulted and, as appropriate, the Director will exercise his/her discretion to terminate the investigation. In 2002-03, 38 cases were terminated because the review determined that there was not in fact a serious injury, or there was patently nothing to investigate. Below are two examples of termination based on the results of an incident review.

- A man was sent to hospital shortly after a police arrest in which police used force to stop the man fleeing from a stolen vehicle. Medical testing determined that the man's physical symptoms were reflective of the fact that he had active Tuberculosis Bacteria (TB). A brief interview with the man's companion confirmed that he did not appear to be seriously injured during his contact with the police, and the case was closed.
- A man held in custody after arrest for public intoxication showed signs of serious psychiatric illness and was transported to hospital for an assessment. The man passed away on the way to hospital. A post mortem examination showed that he died of natural causes, and that the man was in the advanced stages of cancer. The examining doctor advised that police were not responsible for his death, and that there was nothing the police could have observed that would have led them to believe the man was dying. The Director found that further investigation by the SIU was not warranted and the case was closed.

Occurrences April 1, 2002 – March 31, 2003

Types of Occurrences	#	Types of Occurrences	#
Firearm Deaths	1	Other Injuries/Deaths	1
Firearm Injuries	9	Vehicle Deaths	7
Custody Deaths	17	Vehicle Injuries	21
Custody Injuries	86	Sexual Assaults	9
Total Occurrences: 151			
Number of cases in which charges were laid: 4			
Number of officers charged: 4			

SIU Charge Cases by Type

Types of Incidents	1999-00	2000-01	2001-02	2002-03
Firearm Incidents	0	0	1	0
Custody Incidents	1	3	1	3
Vehicular Incidents	1	1	2	0
Sexual Assaults	4	1	0	1
Total	6	5	4	4

NEWS RELEASE • COMMUNIQUÉ

FOR IMMEDIATE RELEASE

SIU Calls for Assistance in Kemptville Motor Vehicle Collision

TORONTO (November 4, 2002) - - - The Special Investigations Unit (SIU) is continuing its investigation into the circumstances surrounding the fatal motor vehicle collision that occurred at the intersection of County Road 22 and Highway 43 near Kemptville on October 28, 2002.

The SIU is requesting assistance in locating the driver of a white cube van. The driver is believed to be an eyewitness to the incident. The van was traveling westbound on Highway 43 behind the vehicle belonging to Osias and Cecile Villeneuve. The van was stopped at the time of the collision and may have been damaged due to a falling light standard.

The SIU continues to ask for anyone who witnessed this incident, or who can identify the van, to contact the Unit at 416-641-1879 or 1-800-787-8529.

FOR IMMEDIATE RELEASE

SIU Concludes Investigation into Fatal Kemptville Collision

OTTAWA (December 9, 2002) - - - The Special Investigations Unit (SIU) has concluded its investigation of the circumstances surrounding the motor vehicle collision in Kemptville on October 28, 2002 which took the lives of 83-year-old Osias Villeneuve and his wife, 84-year-old Cecile Villeneuve. The incident occurred when the Villeneuves vehicle was struck by a van being pursued by members of the Ottawa Police Service (OPS).

Peter A. Tinsley, Director of the SIU, stated, "Based upon all of the evidence revealed in the course of this comprehensive investigation, I have concluded that the subject officer did not breach the criminal standard of care either in the operation of his police vehicle during the pursuit of a stolen Dodge van believed to be associated with several break and enters in the North Gower area, or in the overall execution of the pursuit. However, the investigation did raise serious concerns regarding issues of professional standards. Director Tinsley drew these matters to the attention of the Chief of Police in a private meeting in Ottawa today.

The SIU investigation revealed that on the morning of October 28, 2002, the OPS was investigating a series of break and enters in the North Gower area, a rural area southwest of Ottawa. A pursuit was initiated at approximately 10:42 a.m. at Roger Stevens Drive and Highway 416 when two OPS cruisers, one of them operated by the subject officer, began to pursue a stolen van whose driver was reportedly implicated in the break and enters.

At the time of the pursuit, an OPS airplane with three officers on board was in the air on another matter. The airplane was requested to assist in the pursuit and began monitoring it from the sky.

While attempting to negotiate a turn, the driver of one of the two pursuing OPS cruisers lost control and left the roadway. This left only one cruiser, operated by the subject officer, in pursuit of the Dodge van. The pursuit traveled in an easterly and then a southerly direction for 22.9 kilometres at an average speed of 130 km/h over the entire course of the pursuit and up to 161 km/h in its last 2.7 kilometres. The van ultimately entered the intersection of Highway 43 and County Road 22 without stopping for the posted sign and flashing red signal and collided with the Villeneuve vehicle, which was proceeding through the intersection with the right of way. The Villeneuves sustained fatal injuries in the collision. The collision occurred at approximately 10:52 a.m.; the pursuit having lasted approximately 10 minutes.

Director Tinsley stated: it was clearly the collision with the Dodge van that was directly responsible for the tragic deaths of Mr. and Mrs. Villeneuve. The object of the SIU investigation was to examine whether the subject officer shared liability in any way which breached the criminal standard of care. Notwithstanding a very high rate of speed, which is a potentially endangering factor associated with almost all pursuits, the evidence does not, in my view, support a reasonable belief that the subject officer conducted the pursuit in a fashion which showed a wanton and reckless disregard for the lives and safety of others, or that he operated his police vehicle in a manner which was a marked departure from the actions of a reasonable person in similar circumstances. The evidence indicates that the cruisers emergency equipment was activated throughout and the officer was operating on reasonably well surfaced roads, in good weather conditions, during daylight and in circumstances of relatively little other traffic, either vehicular or pedestrian. The evidence also indicates that the subject officer either stopped, or at least slowed, at controlled intersections. There is also evidence that the officer intentionally kept a reasonable distance from the pursued van in order to avoid pressing the suspect to even greater speeds, a fact evidenced by the police vehicle being brought to a controlled stop outside of the collision debris zone.

Director Tinsley also stated that, notwithstanding my conclusions regarding the basis for criminal charges, I do have serious concerns regarding the failure of some of the involved police service members to follow the established OPS policy in respect of suspect apprehension pursuits. These concerns include the apparent failure to consider alternative methods/tactics including the effective utilization of the OPS aircraft to maintain observation of the suspect vehicle. I have drawn my concerns to the attention of the Chief of Police for his consideration.

Director Tinsley concluded: In consideration of the fair trial interests of the driver of the Dodge van and as this matter may be the subject of further inquiry by the Chief of Police it would be inappropriate to make further comment at this time.

The SIU extends its appreciation to the many witnesses who came forward as a result of appeals and canvasses.

A complete version of this release can be found on www.siu.on.ca

External Case Reviews

In 2001-02, the SIU undertook a pilot project to conduct a review with a police service involved in an investigation. Subsequently the Unit made a commitment to implement this voluntary review process with at least 15 cases per year or ten percent of its cases annually. The purpose of the reviews is to elicit information from police services about the investigative response of the SIU, which helps to ensure that standards are being met and that opportunities for improvement are explored. As a first step in each review, the SIU sends a written survey to

the involved police service. Depending on the results of the survey, a second step may be taken, which would be a meeting between the SIU and the police service. These reviews may be initiated either by the SIU or at the request of a police service.

In 2002-03, the SIU undertook 19 external case reviews with six different police services across the province. Eleven of the reviews were chosen because of specific issues or concerns that were raised by the police service during the course of the SIU

investigation. In three of the cases, the written survey was followed up with a meeting between the SIU and representatives of the police service.

The SIU assesses the findings of the reviews to determine whether there are requirements for further training, additional equipment or new operational policies. As a result of the reviews, the SIU has become more sensitive to the issues raised by the police, and has provided explanations about how the SIU works. One of the most significant of these reviews was conducted in September 2002, and was attended by the Commissioner of the OPP, the Director of the SIU and senior staff from both organizations. As a result of this case review, training was developed and delivered for SIU investigators regarding procedures for when they first arrive at an incident scene.

Deployment

The SIU relies upon the services of both full time and as needed investigators to make the best possible use of resources when responding to an incident. Investigative Supervisors use their judgment, based on the nature of the report, to dispatch the correct number of investigators to the incident site. Initial deployment is often front-end-loaded to ensure that all possible requirements can be quickly met.

It takes an average of one hour and 17 minutes for investigators to reach an incident scene within the GTA and approximately four hours to reach communities outside of the GTA. This reflects the complement of full time and as needed staff across the province that can be quickly deployed to an incident scene. It also reflects the effort made by the SIU to get to an incident scene; for example, in 2002-03, the Unit chartered a private aircraft to reach a scene within a day of the occurrence.



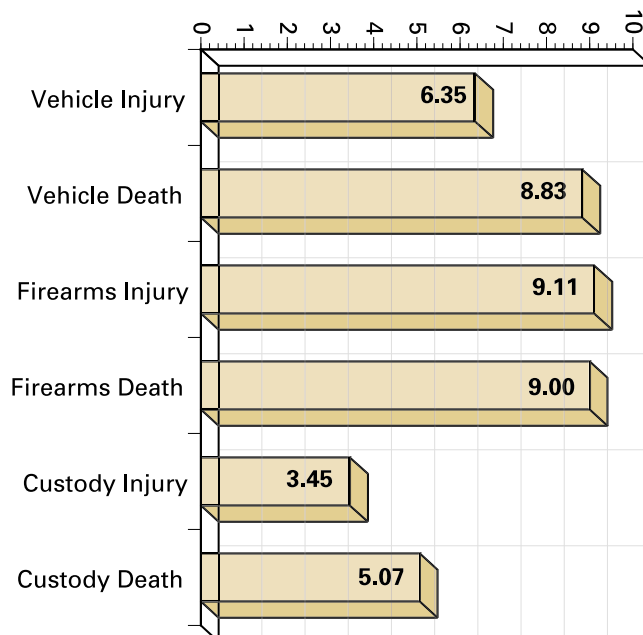
Average Response Time By Region (In hours and minutes)



In addition, deployment numbers by case type are revealing of the effort the SIU makes to ensure that an investigation is professionally initiated. For example, in cases where there are deaths and/or firearms involved, the highest number of

investigators are deployed. In these cases, it is absolutely critical for the SIU to respond as quickly as possible to maintain the security of the scene and to have enough investigators on scene to gather witnesses and all the pertinent evidence.

Average Number of Investigators by Case Type



Closure Rate

The closure rate is based on those cases closed by the decision to terminate an investigation following an incident review, 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 reports on the percentage of cases that meet that standard.

Case Closure Statistics

(by Fiscal Year)

Types of Incidents	1998-99 excluding 3 charge cases	1999-00 excluding 6 charge cases	2000-01 excluding 5 charge cases	2001-02 excluding 4 charge cases	2002-03* excluding 4 charge cases
Total # of cases	177	150	172	158	142
Average # of days to close	49.1	36.9	30.37	20.08	14.68
# of cases closed within 30 days	71	77	107	110	131
% of cases closed within 30 days	40.1	51.3	62.9	69.6	92.25
*5 cases not included as of May 1, 2003					

a subject
officer

a witness
officer

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

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.)

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.

CASE STUDIES



The following eight cases 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 released to the public.

CASE ONE

On April 9, 2002 at approximately 3:15 a.m. a Toronto Police Service officer in an unmarked cruiser entered into a pursuit of a stolen Cavalier on Highway 401 near Avenue Road. The officer called for assistance and two officers in marked vehicles joined the pursuit. The three police vehicles continued to pursue the Cavalier south on Bayview Avenue to York Mills Road. The Cavalier failed to stop for the police, accelerated through the red traffic light at the intersection of Wilson Avenue and Avenue Road, and collided with a recycling truck travelling on Avenue Road. The driver and two passengers in the stolen vehicle were pronounced dead at the scene. The driver of the recycling truck was not injured. Nine investigators, including three forensic identification technicians and a Collision Reconstructionist, were assigned to investigate the incident. Five police officers and 19 civilian witnesses were interviewed. The investigation also included a review of relevant police policies and procedures, police duty notes, communications tapes, mechanical fitness of the stolen vehicle, scene videotapes, photographs, and the airbag module data. Communications tapes revealed that the police had the stolen vehicle in their sight for 9 minutes, 27 seconds, with the final 20 seconds considered as a high-speed pursuit. Analysis of

the airbag module data determined that the stolen vehicle had been travelling at a speed of approximately 151 km/h at the moment of impact with the truck.

The investigation found that while the cruisers pursued the stolen vehicle at high speeds there was no evidence that the operation of the police vehicles created an unreasonable risk of danger to other motorists or pedestrians who might have been in the vicinity at the time. The Director concluded that the pursuit was conducted with due regard for public safety and the actions of the officers were consistent with established provincial and police guidelines.

CASE TWO

On the evening of January 31, 2003, police were called to the Red Lake Emergency Shelter, where they arrested and charged a man for causing a disturbance and public intoxication. He was transported to the OPP detachment where he was lodged in a cell without incident. At 7:00 p.m. the man fell from his cell bunk onto the floor – he was transported to the hospital where he was treated for a cut to his lip and released back into OPP custody at 9:15 p.m. 28 separate cell checks were conducted between the time he was returned to the cell and 3:40 a.m. The last cell check revealed

that the man was unresponsive. An ambulance was immediately called and CPR administered. The man was removed to the hospital where he was pronounced deceased at 4:22 a.m. The SIU immediately initiated an investigation and deployed two investigators and forensic identification technicians by chartered aircraft in order to arrive the same day. Investigators interviewed six OPP personnel and five civilians who dealt with or saw the deceased while he was in police custody. The cellblock where the deceased was lodged was photographed, videotaped, and documented. The investigation was assisted with the full co-operation of the OPP's Red Lake detachment, which provided recordings and other relevant documents. The Director determined that there was no evidence that any of the personnel involved with the deceased's custody were negligent or in any other way criminally responsible for his death. On the contrary, the evidence supported the conclusion that the deceased was properly cared for; he was carefully and regularly monitored while in police cells and medical assistance was provided as required.

CASE THREE

On May 24, 2002 at 9:45 p.m. an off duty officer of the Peel Regional Police Service (PRPS) was driving to work and became involved in an altercation with the male driver of another vehicle. Shortly after exiting Highway 410 at Queen Street in Brampton they brought their vehicles to a stop. They exited their vehicles and then became involved in a physical altercation.

On July 26, 2002, the civilian driver came to the SIU offices and reported that he had sustained serious injuries as a result of the altercation. The SIU launched an investigation. During the 17-week probe investigators interviewed numerous civilian witnesses, the medical personnel who treated the citizen and 15 police officers. They also obtained and reviewed records generated by the PRPS including officers' notes and communication tapes, medical records and photographs.

The Director concluded that there were reasonable grounds to believe that the police officer committed the offence of assault causing bodily harm, under section 267(b) of the *Criminal Code of Canada*, and caused a charge to be laid. The case is presently before the courts.

CASE FOUR

At approximately 3:00 p.m. on May 7, 2002, Toronto Police Service (TPS), including its Emergency Task Force officers, responded to a call that a man had fired shots at his estranged wife in the parking lot of her workplace. The wife was taken to hospital with non life-threatening injuries. Officers arrived to find a man in the parking lot holding a gun under his chin. He was ordered to drop his weapon, which he refused to do. Instead, he continued to move his weapon about, pointing it at himself and in the direction of police officers. The subject officer placed himself between the building entrance and the suspect, to stop the man from entering the workplace. The man refused an order to drop his weapon and pointed his weapon at the officer. The officer fired a single shot, fatally striking the man in the torso.

The SIU dispatched five investigators, three forensic identification technicians, one Investigative Supervisor and the SIU Communications Manager to the scene of the incident. During the three-week probe, investigators interviewed 11 police officers, including the subject officer, and 31 civilian witnesses, and reviewed numerous TPS documents and communication tapes, as well as a videotape of the shooting incident obtained from a local television station. The Director found that it was entirely reasonable that the officer involved believed it was necessary to shoot the deceased in order to protect himself and others in the vicinity from either death or grievous bodily harm. Therefore, the officer was legally justified in his use of lethal force, under the provisions of section 25 of the *Criminal Code of Canada*.

CASE FIVE

At 3:40 a.m. on July 28, 2002 a Northumberland OPP officer observed a vehicle with the license number of a car driven by a suspect in a double homicide. The officer attempted to stop the wanted car, but the driver failed to stop. A pursuit ensued southbound on County Road #28. At the intersection of County Road #10 and Highway 2, two Port Hope Police Service officers joined in the pursuit. The officers continued following the wanted vehicle through Port Hope to an intersection of County Road #2 and #10, in the hamlet of Welcome, where a spike belt was deployed. The suspect ran over the spike belt and lost control of his vehicle; the vehicle rolled, the driver was ejected, and died at the scene.

The SIU deployed eight investigators, including three forensic identification technicians to the scene. Three OPP and two Port Hope officers (including the subject officer) provided statements. Seven civilian witnesses were interviewed and communications tapes and documents were reviewed. The investigation disclosed that the suspect's vehicle had one snow tire on the left front of the vehicle and a smaller "spare donut" on the front right. The Director determined that the spike belt was an appropriate method to attempt to stop the vehicle. The combination of the spike belt and the tire configuration played a significant role in the driver losing control of the vehicle. The investigation disclosed no reasonable grounds to believe that the Port Hope Police Service officer was criminally liable in relation to the incident.

CASE SIX

At approximately 12:37 p.m. on October 18, 2002 a Hamilton Police Service officer was dispatched to a personal injury motor vehicle collision in downtown Hamilton. While travelling en route to the scene the officer intermittently turned on his siren and roof lights as conditions required, and stopped for stop signs and red traffic signals before proceeding

through a number of intersections. At the intersection of Hunter Street West and Caroline Street he proceeded through a red traffic signal and collided with a vehicle proceeding through the green light. The driver of that vehicle was killed instantly.

The SIU dispatched seven investigators, three forensic identification technicians, one traffic reconstructionist and one Investigative Supervisor to the scene. The investigators interviewed eleven officers, including the subject officer. They also interviewed 22 civilian witnesses.

The Director determined that the event was the result of a momentary lapse of attention or judgement on the part of the officer. Taken as a whole the subject officer's driving was not wanton or reckless so as to meet the standard of criminal negligence or dangerous driving. The Director referred the case back to the Chief of Police for determination of whether there was a breach of the Highway Traffic Act and/or the Police Services Act. In accordance with Section 11 of the Regulation, the Hamilton Police Service conducted an investigation and subsequently charged the officer with an offence under a provision of the Highway Traffic Act.

CASE SEVEN

On July 24, 2002, a man walking home from work in Toronto was stopped for questioning by a police officer who was patrolling the area. The man was subsequently arrested and received injuries during the arrest. The following day, the SIU was notified of the incident and an investigation was launched.

Eight local residents, along with nine police officers, were interviewed by SIU investigators. SIU investigators also spoke to medical personnel involved in treating the complainant. In addition, the SIU obtained and reviewed various police reports and records, as well as duty notes from the officers involved.

Based on the findings of the investigation, the Director of the SIU concluded that there were reasonable grounds to believe that the subject

what is criminal negligence?

The SIU regularly investigates incidents such as police pursuits and some custody matters in which the basis for potential liability arises from the concept of negligence. 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.*

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.

officer committed the offence of assault causing bodily harm, and caused a charge to be laid against the officer. The case is presently before the courts.

CASE EIGHT

Follow Up Investigation

The 2001-02 Annual Report described a SIU investigation involving members of the Belleville Police Service. This case study provides follow-up information about events post-investigation.

On October 1, 2001 a man took his own life while he was incarcerated at the Belleville police station, pending a bail hearing the following afternoon. The SIU conducted a thorough investigation into the incident. They 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.

Based on the findings of the investigation, it was determined that the officers involved were not negligent to a criminal standard. There was, however, serious concern about professional standards raised with the Chief of the Belleville Police Service. The Chief of Police subsequently conducted an internal

investigation under Section 11 of Ontario Regulation 673/98.

The SIU worked with the Chief of Police's designated liaison officer to provide information for the Section 11 investigation, and spent a day providing observations about where improvements could be made. As a result of the investigation, senior police officials were disciplined and the Belleville Police Service made a number of improvements that would prevent situations like this from happening in the future. Changes were made to the cell and monitor area of the police station, and procedural orders were amended.

In addition to the Section 11 investigation, a mandatory Coroner's Inquest was held in 2003. The Coroner's Jury heard the testimony of 20 witnesses over a three day period and brought back recommendations that included implementation of a mandatory procedure regarding frequent cell checks in the prisoner holding areas of the police service, and the establishment of a safety panel to inspect police service premises on an annual basis. Under a Coroner's warrant, the SIU provided its file on the case, which formed the basis of the documentation for the Inquest. The lead investigator and forensic identification technician were subpoenaed and the latter provided testimony at the Inquest.

Stakeholder Relations

The SIU is committed to maintaining and enhancing its relationship with key stakeholders – the community, police services, the Government of Ontario, and the media. In 2002-03, the SIU's strategic focus was on strengthening its relationships with community stakeholders and police services. Specific initiatives are outlined below.

Communications

The SIU recognizes that effective communication is a key component in enhancing the relationship between the SIU and its stakeholders. The Annual Report, news releases, the website, and brochures are the key mechanisms by which the SIU communicates information to stakeholders. The Annual Report is posted on the SIU website in English and French, and distributed to over 400 groups and individuals including: Chiefs of Police, the Director's Resource Committee, senior Ontario Provincial Police members, all major police associations, First Nations groups and police services, community organizations and individual community representatives, as well as print and television media throughout the province. News releases are issued for investigations and distributed through channels such as Canada NewsWire and the SIU website. The high degree of interest in the work of the SIU is evidenced by the fact that a recent SIU release was one of the top ten accessed files on the Canada NewsWire website.

The SIU website is improved every year and is increasingly used by the SIU and its stakeholders as a method for interactive communications. Several comments or inquiries per week are communicated to the SIU through the website. Users can take a virtual tour of the SIU and its facilities, including the Unit's vehicle fleet, forensic identification lab, and investigators area. The site also posts news releases and offers an advanced

search function, enabling users to search for news releases by key word, date or case number. Up to date information about the SIU, including case studies, Annual Reports, and information on community and police services outreach activities can also be found on the site.

Community Focus

Enhancing and maintaining the community's confidence in the police services of Ontario is the SIU's mission and this is accomplished to the extent that the community understands and has trust in the work of the SIU as a civilian oversight body. An important initiative in recent years has been the Director's Resource Committee, which was created to provide a regular forum for communications between the SIU and the broader community. Meetings focus on how the SIU can best meet community needs and expectations, and on providing feedback to the SIU on matters that are of concern to the community. The Resource Committee is committed to meeting at least twice a year.

The SIU has engaged in other outreach activities over the past year, aimed at informing a range of communities about the role of the SIU. Presentations were made to community organizations such as the Rotary Club and the City of Toronto Race and Ethnic Relations Committee, as well as to college and high school classes.

Police Services

Ensuring a co-operative relationship between the SIU and police services is essential. In 2002-03, the SIU built on its activities from previous years – presenting to law enforcement students, and meeting with representatives from individual police services and associations.

The SIU made numerous presentations to students

enrolled in policing and investigation courses, including students training for positions in police leadership, such as those enrolled in the Rotman Police Leadership Program and the Ontario Police College Complaints Resolution Course.

With regard to police organizations, the SIU maintained communication with representatives of the Ontario Association of Chiefs of Police, Ontario Association of Police Services Boards, the Ontario Provincial Police Association, the Police Association of Ontario, as well as with members of individual police services. Over the years, the working relationship between the SIU and police services has improved significantly. This has been the result of various outreach activities and the maturing that comes from working together over time. While its purpose is to ensure continued improvement of the SIU's investigative process, the SIU's external case review procedure has realized the added benefit of building the relationship between the SIU and police services.

The SIU is an associate member of the Ontario Association of Police Service Boards and attends the annual meeting of the Ontario Association of Chiefs of Police (OACP). At the June 2002 meeting, the OACP pledged a continued commitment to fostering communication between the SIU and the OACP and to improve the relationship between the

SIU and police services throughout the Province. A resolution was passed that the OACP continue to meet with the SIU to enhance the working relationship between them.

Other Oversight Agencies

Another group of stakeholders includes organizations in other jurisdictions that are involved in civilian oversight of police. For example, the SIU is a

member of the Canadian Association of Civilian Oversight of Law Enforcement whose mission is to advance the concept and application of civilian oversight of law enforcement. The Unit's involvement in this organization enables it to discuss common policy issues and share investigative best practices. There is also interest in the SIU model from civilian oversight bodies around the world and from countries that are considering implementing a similar model. Members of the Unit met with international representatives from Argentina and Jamaica in 2002-03.

Investing to Serve the Community and Police Services Better

In 2002-03, the SIU continued to invest in measures to improve the effectiveness and efficiency of the SIU and its investigative capacity. Proper staffing, equipment, technology and training enable the SIU to conduct timely, effective and thorough investigations, the cornerstone for building community confidence in policing. The three key areas of focus for investments made in 2002-2003 were Human Resources, Training, and Business Systems and Processes.

Human Resources

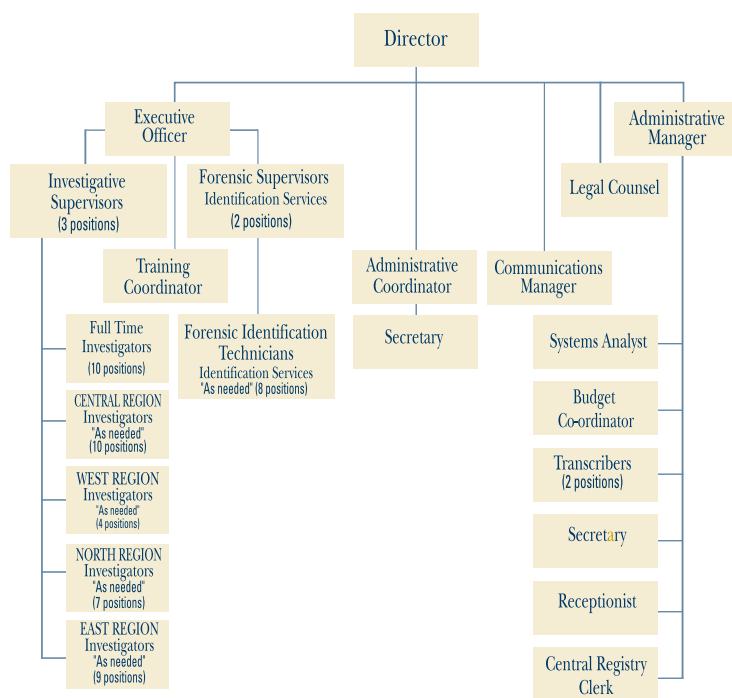
The SIU is committed to recruiting professional and talented staff to fulfill its mandate. Since 1998, the Unit has been refining its structure and size to best meet operational requirements. This has been an evolutionary process, and in February 2003, the last vacancies in the finalized structure were filled with the swearing in of new investigators and forensic identification technicians.

The SIU has also made an effort over the past year

to hire qualified and capable administrative staff. The following positions were filled during 2002-03 with staff who are new to the Unit: Administrative Co-ordinator, Budget Co-ordinator, Secretary - Director's Office, Receptionist and Central Registry Clerk. The administrative team of the SIU is now better able to support the SIU's commitment to professional investigations and efficient use of its resources.

In 2002-03, the SIU introduced a new and innovative employment strategy that included the two following initiatives. The first was to bring in a senior year student from the University of Toronto under the Forensic Science Mentorship Program. Working under the supervision of senior management staff in the Forensic Identification section, the student was responsible for conducting research, writing a report on a selected project, presenting an oral report to the SIU, and making a presentation at the University upon completion of the placement.

The second initiative was to hire a forensic identification technician with an unconventional background. Traditionally, technicians gain education and experience within the police community before joining the SIU. The Unit recognizes the importance of recruiting people with a policing background, and it also sees value in hiring qualified candidates who gained their skills and knowledge through a different path. This year the SIU hired a forensic identification technician because of her extensive educational background in forensics. She received a bachelor of science from the University of Guelph and furthered her forensic education at the University of Strathclyde in Scotland, where she received her Master of Science with a major in Forensic Science. She then completed a six-month placement with the Maine State Police prior to returning to Canada. The SIU is confident that recruiting people with diverse backgrounds and experience can only strengthen the Unit's capacity to conduct professional investigations.



* Authorized Compliment

Training

The SIU trains its staff to exceed established investigative standards. The SIU has a well trained investigative and forensic identification team in place and trains new hires thoroughly and efficiently so that they can work to SIU standards as soon as possible after joining the Unit.

Over the past year, the SIU has put a priority on training its full time investigators, recognizing that at least one full time investigator is involved in every investigation. All of the SIU's full time investigators are now trained in General Investigative Techniques and Major Case Management; 90% are trained in Homicide



Investigation. For the more specialized courses, such as Sexual Assault Investigation and Shooting Incident Reconstruction, the SIU trained a smaller number of investigators. Forty percent have been trained in Sexual Assault Investigation and 30% in Shooting Incident Reconstruction.

The SIU makes efforts to communicate with and keep its as needed investigators across the province informed of new activities, procedures and protocols. In 2002-03, senior management made visits to investigators in areas such as Sudbury, Ottawa and Kingston.

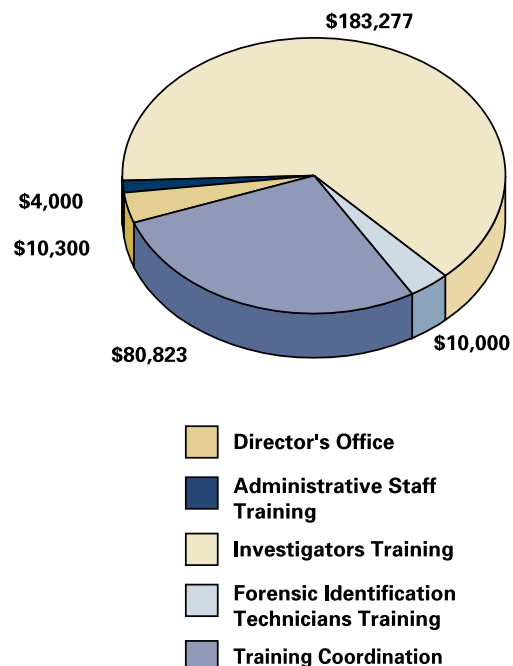
Continuous improvement over the past few years has enabled the SIU to enhance the quality and content of its training program. For example, at the SIU's Annual Investigators Seminar, the SIU brought a representative of the Federal Bureau of Investigation (FBI) to speak. A highly educated professional with extensive experience in forensic psychology and law enforcement, the speaker was able to share with the SIU investigators his own personal experience and knowledge of the field. Investigators also heard a wide range of presentations, from the latest in polygraph technology to information about the Hamilton-based Crisis Outreach and Support team (COAST). COAST provides a 24-hour crisis line, and outreach support services for psychiatric crises every night of the week. Many times police officers face situations with individuals who have a mental illness and are difficult to manage. In these situations, the police can call COAST and an outreach team will be dispatched to help manage the situation. This, in effect, reduces the chance of injury and eliminates the need to transport the individual to hospital for assessment.

In 2002-03, the SIU spent approximately 11% of its annual budget on training for all staff. The direct cost of training was \$288,400 for 84 training sessions. The staff time for training was 1077 days, which cost an additional \$273,000 (approximately) in salary dollars, for a total of approximately \$561,400.

In addition to a commitment to train staff, the SIU is committed to continuous learning and improvement of its own processes and procedures. For example, through the internal case review process, cases are chosen for review and discussion for learning purposes by investigative staff. The internal reviews take into consideration a range of factors such as the length of the investigation, the diversity or uniqueness of the issues and geography. Twenty percent of cases each year are studied by all investigative staff.

Training Expenditures 2002-03

Total: \$288,400.
(Does not include salary \$'s)



Business Systems and Processes

In order to support efficient and effective investigations, in 2002-03 the SIU made a significant investment in two information management systems, SuperGravity and PowerCase.

After considerable research on different case management systems, the SIU chose to invest in PowerCase. This software application is used by investigators to organize resources and information related to an investigation. It has the capability to not only organize information, but also to prioritize tasks, monitor workflow, analyze evidence, and prepare reports and document lists that may be required during prosecution following an investigation. The PowerCase system was adopted by the Campbell Task Force, and under the auspices of the Solicitor General, the SIU received stand-alone licensing for its use. In 2002-03, the SIU invested \$42,000 in this system, which includes the training of 20 SIU staff.

SuperGravity is a document management system that enables the SIU to process and manage every document that the Unit receives, and all the documents it is required to disclose following an investigation (e.g. for litigation purposes or Section 11 police investigations). The system enables secure document storage and transfer as well as simple, clear reproduction of documents. In 2002-03, the SIU invested \$77,000 in SuperGravity, including training.

The required hardware and software for both PowerCase and SuperGravity are in place and staff training is complete. The systems will be fully operational and in use, effective 2003-04.

The SIU continued to use and improve its Capital Asset Management Plan, which ensures that



Asset Tracking System

forensic equipment, the SIU fleet, investigators' equipment and telecommunications equipment is maintained in good repair and replaced as necessary. The equipment is then in good working order and available to investigators when they need it.

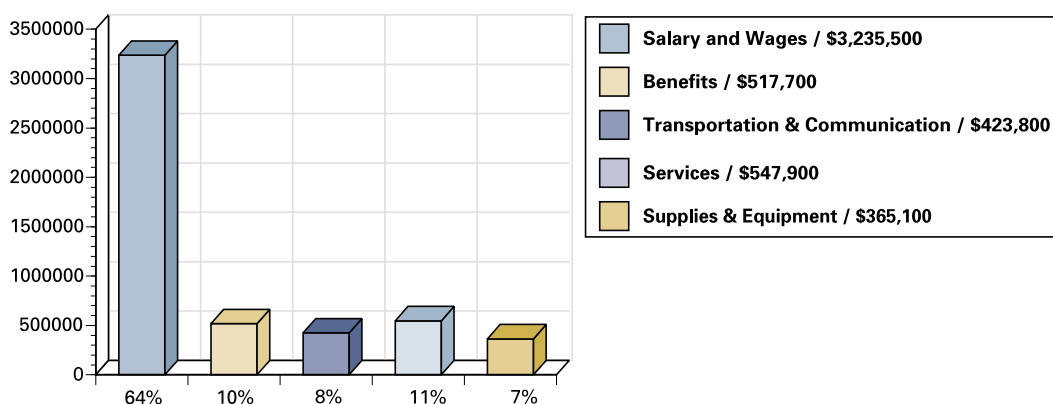
In order to keep track of its physical evidence and equipment inventory, the SIU invested \$14,000 in an Asset Tracking System. The system is backed by a powerful database engine, integrated support for bar coding and handheld scanners, and a user-friendly Windows interface. It is an effective way for the SIU to organize and track its physical assets and evidence from incident scenes.



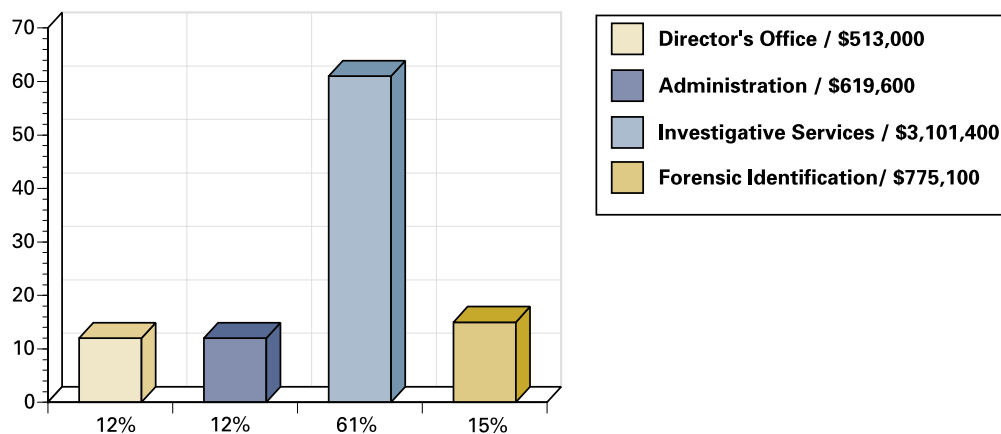
Financial Expenditures

For the year ended March 31, 2003 the total annual expenditures were \$5,090,000 as follows:

2002-03 Expenditures

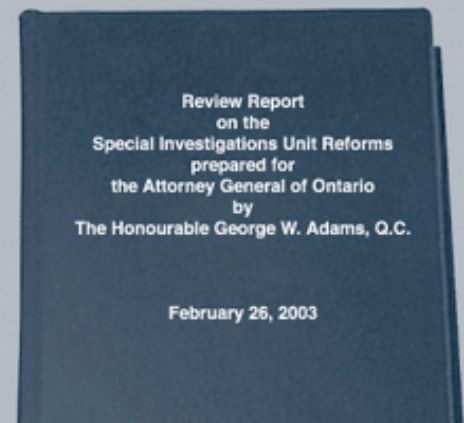


2002-03 Expenditures by Section



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 and technology.

SIU part four



The Adams Report

"In terms of conflict, [civilian oversight] is likely one of those areas of public policy where significant tensions between the participants are inherent if not normal. Civilian oversight exists at the crossroads of some very powerful and competing forces in a society. The parties, however, have made great progress on all fronts since and because of the implementation of the 1998 recommendations. There is a better appreciation of each other's legitimate perspectives and an impressive confidence in the professionalism and integrity of the SIU."

Honourable George Adams, QC, from Review Report on the Special Investigations Unit Reforms, February 26, 2003

The Honourable George Adams was appointed in July 2002 to evaluate the reforms to civilian oversight and the SIU that began in 1999. The evaluation was based upon information provided to him by the SIU and through consultation with the

same police and community stakeholder groups and individuals that participated in Mr. Adams' 1997-98 consultation, which led to the 1999 reforms. Mr. Adams'

recent report was submitted to the Attorney General in February 2003.

Readers interested in learning more about the Adams Report can find both the full report and a summary on the website:
www.siu.on.ca

Report highlights

This Annual Report cannot do justice to the breadth and scope of Mr. Adams' report. He conducted a comprehensive review that was organized according to the recommendations that he made in his 1998 report. In his overview of the varying perspectives he heard during the consultation, Mr. Adams made the following observations:

- There was agreement amongst stakeholders that civilian oversight of policing is necessary and police representatives acknowledged that civilian oversight is important for maintaining public confidence in police services.

- Community representatives acknowledged that the safety and unfair prosecution of police officers are important issues, and understood the impact on an officer when he or she is the subject of an SIU investigation or is charged with a criminal offence.
- Each stakeholder group acknowledged that there had been a “vast improvement” in the SIU’s performance under the leadership of Director Peter Tinsley. Additional resources were invested in the SIU and regulatory changes improved the regime under which the SIU and the police conducted themselves – all of which contributed to improved confidence in the SIU by community groups, police services and police organizations.
- All participants agreed that the SIU is just one component in the policing landscape in Ontario and cannot be the policy instrument to address all the problems that may confront police officers and members of the public when they are in contact with one another.

Mr. Adams made many significant observations throughout the body of his report. The following matters are those that are **directly** related to the SIU and its mandate to maintain community

confidence in police services through professional and effective investigations.

The definition of “serious injury”

The SIU adopted the definition of serious injury as defined by the Honourable John Osler in 1991. Both community groups and police representatives have raised concerns about this definition: the former would argue for a broader definition and the latter for a more narrow definition. While Mr. Adams noted that the definition does not provide perfect guidance for defining the SIU’s jurisdiction, it does provide a workable approach, and is abided by the majority of police services in Ontario.

Incident reviews

In order to ensure that the SIU exercises its jurisdiction appropriately, in cases where the report of an incident does not clearly establish jurisdiction, the SIU conducts an incident review prior to launching a full investigation. This practice was adopted in part to ensure that costs to both the SIU and the involved police service are kept to a minimum; however, the practice has since raised considerable controversy. Mr. Adams noted that while further consultation prior to adopting this practice may have been helpful, it is nevertheless a useful initiative.

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*

Neither the police nor the broader community are fully aware of the many instances where the SIU determines that it has no jurisdiction, either immediately or after an incident review. Mr. Adams suggested that making this information public might be helpful in order to minimize the controversy around the definition of serious injury and the use of incident reviews. Several such examples are described in this Annual Report as a first step.

The duty of the police to co-operate in SIU investigations

The report touched on a number of matters that relate in general to the duty of the police, both involved officers and police services, to co-operate with the SIU during the course of its investigations.

Mr. Adams noted that:

- It is the exclusive purview of the SIU to determine who is a subject or witness officer;
- “Analogous treatment” is a practical approach to deal with civilian members of police services;
- Despite the obligation of witness officers to co-operate in a timely manner with the SIU’s requests for interviews, this continues to be a difficult matter at times;
- The interpretation of subject officer “notes”, “notebook entries” and “reports” is an ongoing debate. On this issue, Mr. Adams stated “some police services have taken the overly technical view that “notes” as used in the Regulation extends beyond mere “notebooks” and captures a wide range of police records.” Ongoing discussion on this issue is required to ensure that this debate does not hamper SIU investigations.

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 would in their circumstances.

Transparency about the outcome of investigations

Both community and police representatives have indicated a desire for the SIU Director’s reports to the Attorney General to be made public when no charges are laid, linking this to accountability and to maintaining community confidence. There are implications that must be assessed, such as weighing the need for transparency and accountability against the need to be able to provide witness confidentiality assurances and to guard the rights to privacy that are protected by law.

Mr. Adams observed that the current practice of the SIU to provide informative news releases at the

conclusion of investigations meets the need to make key facts and outcomes public. As well, the SIU holds debriefs with injured persons and affected families, and conducts case reviews with a sampling of police services.



Liaison between police services and the SIU

Section 2 of the Regulation provides that, in every incident investigated by the SIU, the Chief of Police will designate an officer to be the liaison with the SIU. Large police services often have a standing SIU designate who develops expertise in dealing with SIU investigations. This helps in the resolution of issues that may arise during the course of an investigation. Smaller police services do not have the opportunity to develop this expertise and level of comfort dealing with the SIU, which can at times lead to undue conflict and delay. The SIU intends to act on Mr. Adams' observation that it would be useful for the SIU, in concert with various stakeholders, to develop a package of materials for chiefs and their designates, and to convene an annual conference to discuss issues related to the SIU's investigations and procedures.

Continuous improvement in SIU investigator training

Mr. Adams found that both police and community representatives agree that the SIU conducts professional and efficient investigations. This is due in large part to the recruitment and training efforts of the SIU since 1999, and the Unit's commitment to the continuous improvement of its training program as reflected in the appointment of a full time Training Coordinator. Mr. Adams suggested that the SIU might engage in an independent peer review of its training standards and the qualifications of its investigators to ensure that they are equivalent to any police service in the province. The SIU intends to follow through on this suggestion.

Community relations

The report makes many observations about the nature of the relationships among the police community, the broader community and the SIU. Mr. Adams noted that the SIU deals frequently with police organizations, given that its work requires contact with the police. Regular meetings with community organizations have been more difficult to organize and the Director's Resource Committee was developed to address this challenge. Mr. Adams noted that there may be some merit to having forums where the community and police representatives have an opportunity to discuss matters of shared interest.

As stated earlier, this Annual Report cannot do justice to the breadth of Mr. Adams' review. The SIU is committed to responding to his observations and working with police and community representatives to continuously improve the SIU's role in maintaining community confidence in police services through professional investigations.

SIU part five



Looking Forward

The 2003 Adams Report represents a significant milestone for the SIU. After years of controversy, followed by regulatory reform and new resources for the Unit in 1999, the SIU is now widely seen to be fulfilling its mandate – to promote and enhance community confidence in policing, through professional and independent investigations. The improvements and investments made thus far have established a foundation for the SIU. Over the next year, the Unit will focus on refinements and continuous improvements to its own practices and processes.

Just as importantly, the SIU will continue to work with community representatives and police organizations to improve understanding of the Unit and how it carries out its responsibilities. In consultation with stakeholders, the Unit will

develop more written materials about its policies and procedures for use by chiefs and their designates. These working documents will also be shared with community representatives throughout the Province. The goal will be to provide all interested parties with reliable information about the SIU and its investigations.

The SIU is a vital part of the framework of policing in Ontario. The Director and Staff are committed to maintaining and strengthening both community and police confidence in the SIU in the years ahead. Independent and professional investigations coupled with a concerted communications program will enhance understanding and contribute to increased stakeholder confidence.



Appendix A

SIU Team Profile

The SIU is led by the Director who is appointed by the Attorney General. The Unit is staffed as follows:

Investigative Supervisors and full time Investigators work out of the SIU's office in Mississauga, while the remainder of the investigators are located across the province and deployed on an as needed basis. The SIU Supervisors have an average of 32 years investigative experience, while Investigators have an average of 25 years investigative experience.

The SIU also has its own in-house Forensic Identification Section, with the capacity to assist in all manner of forensic identification work. The team is led by full time Forensic Identification Supervisors and staffed with as needed Forensic Identification Technicians. Collectively, this group has 113 years of experience. This year the Unit had a student from the University of Toronto for a short term placement through the Forensic Science Mentorship Program.

The work of the office is further assisted by an Executive Officer, Legal Counsel, Administrative Manager, Communications Manager, Administrative Co-ordinator, Training Co-ordinator, and an administrative staff composed of Transcribers, a Central Registry Clerk, a Budget Co-ordinator, an Information Technology Systems Analyst and Administrative Assistants.

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.



SIU SPECIAL INVESTIGATIONS UNIT

Independent Investigations - Community Confidence

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