

**Ministry of the  
Attorney General**

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Cabinet du  
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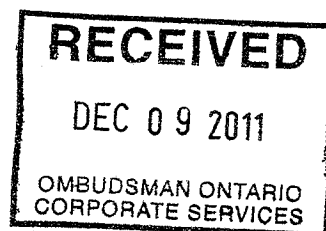
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Our Reference #: M11-09057

December 9, 2011

Mr. André Marin  
Ombudsman  
483 Bay Street, 10<sup>th</sup> Floor  
Toronto, Ontario  
M5G 2C9



Dear Mr. Marin:

Thank you for your recent letter of December 2, 2011 which enclosed your final report concerning the Investigation into the Ministry of the Attorney General's implementation of your recommendations for reform to the Special Investigations Unit ("SIU"). As you noted in your letter, we provided a response to the preliminary report on June 8, 2011.

Your final report and recommendations will be given careful consideration as we move forward with the Government's commitment to address the remaining LeSage recommendations. Consistent with your recommendations and those of Mr. LeSage, we have continued to move forward with improvements.

After Mr. LeSage's report was received, the Government committed to address all of his recommendations. Steps that the Ministry has taken to date include the following:

- Amended the SIU regulation effective August 1, 2011 to do the following:
  - prohibit witness officers from being represented by the same legal counsel as subject officers;
  - require that a police officer's notes be completed by the end of the officer's tour of duty, except where excused by the Chief of Police;
  - provide that a police officer involved in an incident shall not communicate directly or indirectly with any other police officer involved in the same incident concerning their involvement in the incident until after the SIU has completed its interviews.
- The former Attorney General wrote to the Law Society of Upper Canada asking it to clarify its Commentaries to the *Rules of Professional Conduct* reminding lawyers not to undermine the SIU regulation by disclosing information provided

by one witness officer to another, witness officer and officials have had preliminary discussions with the Law Society;

- Committed to setting out the definition of "serious injuries" in law;
- Committed to a review of the SIU commencing in 2013.

The Ministry offers the following comment:

Your report refers to the release of the SIU's 2008-09 Annual Report. The Report's release was delayed temporarily in order to give the LeSage Process a chance to succeed. The Report was released shortly after the LeSage Process was completed.

In regard to your findings with respect to legislation, officials consulted on various legislative proposals in good faith with stakeholders on all sides of the issues. The Government considered your recommendations and the inconclusive results of the consultations and decided not to propose statutory amendments in the Legislature at that time. As you note, the Ministry engaged the Honourable Patrick LeSage to meet with police groups and the SIU to help improve communications and build a framework for resolution of conflicts.

The recent steps listed above are in addition to those set out in my letter to you dated June 8, 2011.

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

Yours sincerely,



Murray Segal  
Deputy Attorney General

Ministry of Community Safety  
and Correctional Services

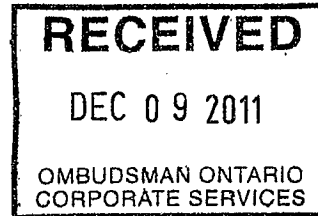
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MC-2011-3908

December 8, 2011

Mr. André Marin  
Ombudsman of Ontario  
Bell Trinity Square  
483 Bay Street  
10th Floor, South Tower  
Toronto ON M5G 2C9

Dear Mr. Marin:

ANDRÉ

Thank you for providing the Ministry of Community Safety and Correctional Services (MCSCS) with a confidential advance copy of your final report assessing the progress made in implementing the recommendations in your 2008 report *Oversight Unseen* into the operations of the Special Investigations Unit (SIU) and the agency's relationship with the Ontario government.

In response to your 2008 report, MCSCS and the Ministry of the Attorney General (MAG) developed a protocol for the referral and resolution of concerns regarding police practices. Both ministries continue to consult on systemic issues that may be identified by the Director of the SIU.

Recommendation 14 asks that MCSCS consider a province-wide directive on note preparation by police officers during SIU investigations. We will consider how best to communicate the recent case law decision on this matter to all police services in Ontario.

In response to Recommendation 15, the definition of a member of a police force in section 2 of the *Police Services Act* (PSA) was amended in 2009 to include any employee, uniformed or civilian, of a police force. As you know, section 113 (9) of the PSA requires members of police forces, including the Ontario Provincial Police, to co-operate fully with the members of the SIU in the conduct of investigations.

Let me conclude by assuring you that MCSCS will continue to work with MAG and police stakeholders.

Again, let me express my appreciation for providing an advance copy of your report.

Sincerely,

Ian Davidson  
Deputy Minister of Community Safety