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Report on police conduct to prevent collusion in SIU reviews

TORONTO — A new report on the conduct of police officers facing review by the Special Investigations Unit, offers recommendations intended to quell suspicions and prevent collusion in future cases.

On Thursday, former chief justice Patrick LeSage issued a three-page review of relations between police and the SIU, which is tasked with investigating serious injuries and deaths involving officers.

The review follows years of complaints from the civilian watchdog agency — and was triggered last year, when SIU director Ian Scott criticized Ontario's police forces and unions for allowing officers to collude and conceal incriminating evidence in criminal investigations.

Speaking to reporters at Queen's Park, LeSage said he hoped the review will "put aside some of the suspicions" that the system is failing.

"I think it will perhaps at least put aside some of the suspicions that I have heard that have occurred in the past," LeSage told reporters.

A recent Toronto Star investigation found that police officers across Ontario are treated differently than civilians when accused of seriously injuring or killing a person. In some cases, the investigation attributed this weaker form of justice to the SIU's inability to properly investigate.

The investigation found examples of officers being allowed to delay writing notes, and to share a lawyer while involved in the same SIU review. It also highlighted concerns that officers were collaborating on stories to prevent the SIU from learning the truth.

The LeSage review addressed all of these points.

Under his recommendations, officers involved in an incident cannot communicate with each other until the SIU probe is finished.

Officers who are witnesses in an SIU investigation cannot share a lawyer with the officer who is under review. And officers' notes are to be completed at the end of a shift, unless otherwise excused by the chief.

LeSage also reminded lawyers of their obligation not to share information between clients, when they represent more than one officer involved in the same SIU probe.

The recommendations are intended to apply to police services across Ontario, which currently operate by different rules and regulations. LeSage called on the government to do a complete review of the legislation and regulations governing the SIU and its relationship with police within two years.

According to Toronto Police Chief Bill Blair, all the recommendations are consistent with the policies of the city's police force.

"I don't see that any of it results in any significant change in the way we have been dong business," Blair said in response to the report.

However, opposition parties were quick to voice concerns with the LeSage review.

The review should have addressed the issue of a how police officer's notes are handled, said Conservative justice critic Ted Chudleigh.

"A number of questions about that need some answers, and I didn't see any answers coming out today," he said.

The report also left out the issue of compelling officers to co-operate with an SIU investigation, as either a witness or a subject officer, said NDP justice critic Peter Kormos.

In September 2009, SIU director Ian Scott announced he was unable to decide if an OPP officer was guilty of wrongdoing in the shooting death of Levi Schaeffer, a 30-year-old schizophrenic man from Peterborough. Scott said officers had their notes vetted by a police union lawyer prior to submitting them to SIU investigators. His public comments sparked tension between the SIU and police associations.

Last January, the attorney general's office appointed LeSage to conduct his review.

On Thursday, Attorney General Chris Bentley said he was happy with the "clear, simple, and direct" recommendations, which will strengthen public confidence in the SIU's important oversight role. Bentley said he would act on the recommendations as quickly as possible.

"Are we going to move? Yes," he said. "Are we moving as of now? Yes."

But lawyer Julian Falconer — who represents Schaeffer's family — questioned the clout of the review.

Falconer said the province has "made a fulltime hobby" of collecting recommendations and "lack the political courage to take the police on" and enact laws immediately.

"It's high time to stop the talk," he said.

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