



cutting through complexity

PRIVATE AND CONFIDENTIAL

Scouts Canada

REVIEW OF SUSPENSION AND TERMINATION FILES

JUNE 21, 2012

Contents

1	Executive Summary	1
1.1	Introduction.....	1
1.2	Context.....	1
1.3	Review Methodology.....	2
1.4	The Process for Suspending and Terminating Volunteers.....	3
1.5	Confidential List.....	3
1.6	Analysis and Findings.....	4
1.7	Suspending, Terminating and Listing.....	6
2	Restrictions	10
3	Definitions	11
4	Introduction	12
5	Scope and Limitations	13
6	Background	14
6.1	Two Recognized Federations.....	15
6.2	Organizational Structure.....	15
7	Context and Relevant Policies	17
7.1	Child and Youth Safety.....	17
7.2	By-Laws, Policies & Procedures, Section 7002: Child Abuse.....	19
7.3	Policy.....	20
7.4	Confidential List.....	23
8	Review Methodology	25
8.1	File Review.....	25
8.2	Policy Review.....	27
9	Analysis and Findings: State of the Files	28
9.1	Introduction.....	28
9.2	Completeness.....	28
9.3	Observations and Implications.....	30
10	Analysis and Findings: Governance	31
10.1	Introduction.....	31
10.2	Decentralized.....	31
10.3	The Movement to Centralize.....	32

11	Analysis and Findings: Contact with Authorities	35
11.1	Introduction	35
11.2	Requirements for Reporting Child Abuse	35
11.3	Reporting Categories	35
11.4	Authorities by Four Scenarios	36
11.5	Contact with Authorities by Time Period	37
11.6	Authorities Were Contacted by Scouts	37
11.7	Records Do Not Indicate that Scouts Contacted Authorities	38
11.8	Authorities Were Aware of the Incident Before Scouts	39
11.9	Unknown.....	43
12	Analysis and Findings: Suspensions and Terminations	44
12.1	Introduction	44
12.2	Issues with the CL	44
12.3	Time From Finding Out to Listing	45
12.4	Leadership Registration Process	48
13	Analysis and Findings: Gaps in Policy	50
13.1	Introduction	50
13.2	Communication with Scouts in Other Countries and Other Organizations in Canada	50
13.3	All Volunteers are Screened	50
13.4	Resignations	50
13.5	Status of Membership	51
13.6	Unsanctioned Events	51
13.7	Allowed to Remain Active in Scouting.....	51

1 Executive Summary

Restrictions

Scouts Canada (Scouts) has requested KPMG's permission to disclose this report to the public, and KPMG Forensic (KPMG) grants permission for Scouts to make this report available to the public on the condition that the public accepts that this report is being provided for information purposes only. No member of the public (defined herein as anyone other than Scouts) shall rely upon this report for any action they take or choose not to take, and KPMG accepts no liability to the public for any reliance they may choose to place on this report. Comments in this report are not intended, nor should they be interpreted to be, legal advice or opinion.

The following Executive Summary serves as a summary of KPMG's overall work and findings and should only be read in conjunction with the full report.

1.1 Introduction

On December 7, 2011, KPMG was retained by Scouts to conduct an arm's-length review of the contents of the suspension and termination files held by Scouts related to sexual misconduct against youth (SMAY).

KPMG's detailed work has been shared with Scouts in order that they can use specific information to take action or move forward more generally. The attached report serves as a summary of KPMG's overall work and findings.

The matters reviewed are sensitive, involving children, or persons who were children at the time of the incident, their parents and families as well as a number of other parties. The protection of their privacy, while providing the public with an objective overview of these matters, has been of paramount importance for both KPMG and Scouts.

The scope of the review pertains only to the documentation provided to KPMG by Scouts and related conversations KPMG has had within Scouts. As KPMG's mandate was limited to examining the contents of Scouts' internal SMAY files, KPMG did not conduct interviews on specific incidents with anyone inside or outside Scouts and did not conduct thorough investigations on each file or review documentation outside of Scouts. The SMAY files in KPMG's review population relate to the time period from 1947 to 2011.

As detailed below, there were a number of challenges with Scouts' file management, file content and attempting to ensure all relevant files were available for review.

1.2 Context

During the period of 1947 to 2011 covered by this review, society's view of, practices with regard to, and the laws surrounding child abuse have evolved from a time of little recognition of its existence to one of heightened awareness.

Child abuse manifests itself in different forms, including: physical abuse; sexual abuse and exploitation; neglect and emotional abuse. According to the Child Welfare League of Canada (CWLC), child welfare legislation in all Canadian provinces and territories requires that professionals working with children and the general public report incidences of child maltreatment and children at risk of maltreatment.

Scouts started as a grassroots organization in the early 1900s with little national perspective and oversight, technically an extension of the Scouting Association of the United Kingdom. Scouts evolved with the philosophy of being a volunteer-led, staff-supported movement. The organisation exists due to the service of volunteers both directly delivering programs and providing governance. They are supported by a limited number of paid staff members.

KPMG is advised that prior to 2001, Scouts' organizational structure was decentralized, with essentially each province functioning autonomously and having the power to enact their own policy (subject to minimal national direction), and the power to make decisions on how to deal with its provincial volunteers in matters related to SMAY.

In hindsight, the governance model in place until approximately 2001 had a profound impact on Scouts' handling of SMAY during much of the time under review.

Prior to 2001 there is evidence in various files of confusion within the system as to what suspension and termination policies and practices apply from time to time. In addition, KPMG's review of the files leaves the impression that in practice, policy was not well understood, was left up to interpretation, changes were not well communicated, and training was not always sufficient.

The contents of the files reviewed indicated the decision making process around how to manage incidents of SMAY varied greatly. The contents of the files were variable and incomplete, the investigative processes (to the extent documented) were inconsistent, the decision making process to suspend or terminate were different, as was the ultimate disposition of a given case. Decisions were made by persons close to the incident, reflecting the norms of the community directly impacted. There appeared to be little National involvement on given files other than some high level guidance.

While a duty to report matters of child abuse and criminal acts against children was introduced in 1992, the structure of Scouts remained largely unchanged until a number of efforts were made around 2001 to centralize the organization, update policy to reflect changes in law, and increase controls around risk. Among these was: the introduction of a national screening policy; a greater importance on risk management; the implementation of a registration database; the inclusion of a policy on child abuse; and the creation of a National Board of Governors and giving them the sole authority to make policies.

This change in governance equally affected the handling of incidents of SMAY in the more recent decades. The standards Scouts set for itself in the post-2001 period were high and the positive changes described above were a reflection of efforts to meet these standards. Unfortunately, the evidence in individual files reviewed as outlined below indicates that at times Scouts did not always meet the high standards it set for itself.

1.3 Review Methodology

KPMG developed and implemented a standard review methodology and applied it across the population of SMAY files reviewed. In addition, KPMG performed a policy review to the extent they were provided. Finally, KPMG held discussions with Scouts to better understand the historical practice and context over the time period relevant to the review.

1.4 The Process for Suspending and Terminating Volunteers

Scouts' process for suspending and terminating volunteers consists broadly of suspending an individual, investigating the allegations and, based on the results of the investigation, deciding to terminate or reinstate the individual.

According to the Scouts website, the current policy is:

Scouts Canada places great importance on creating the most secure environment possible for our youth members. To maintain such an environment, we apply rigorous procedures and guidelines related to youth engagement. Our 'suspend first, inquire later' policy requires that any report of misconduct triggers an immediate and explicit response:

- *First, we immediately suspend the volunteer Leader in question.*
- *Second, we immediately notify both police and child protection services.*
- *Third, we share all relevant information in our possession with the police and child protection services and support their efforts to conduct a thorough investigation.*¹

The reasons for termination are not limited to incidents of SMAY, and could range from the inability to relate reasonably with other persons to being convicted of any criminal act.

The specifics with regard to the length of time the overall process should take are convoluted and have changed over time. Practice was inconsistent in the files reviewed. According to policy, ideally a suspension was and is only supposed to last 90 days (or three months). Under certain circumstances, a suspension may be extended for an additional 90 days, making the total normal suspension period a maximum of 180 days (or six months).

Once the maximum suspension period has expired, KPMG understands that the decision must be taken to reinstate the individual or terminate their membership. If the decision is made to reinstate, the individual is allowed back into Scouts and the process ends. However, if the decision is to terminate, at times a select panel of volunteers, called the National Review Board, needed to ratify the decision. Generally, the terminated individual's name needs to be identified on record as being ill-suited for Scouting. In pre-electronic times this is referred to as "*listing*" a person and in electronic times it is called "*coding*" a person.

1.5 Confidential List

The Confidential List (CL) and its exact form and use evolved over time. Generally, the CL is a list of names of individuals who are ill-suited for and not allowed to gain membership in Scouts for reasons ranging from the inability to relate reasonably with other persons to being convicted of any criminal act. The list includes the names of individuals where allegations have been made that have not been proven by Scouts or a court of law. They have been listed as a precaution.

The CL is a national list and was originally kept in paper form, distributed to each provincial body, and was to be checked prior to registering each leader. In 2002 the standalone CL was replaced with the introduction of the Membership Management System (MMS), a database with a field where an individual's name could be coded as ill-suited and a warning message would appear should anyone with the same name attempt to register. The purpose of these controls was "*to ensure that a person whose membership has been*

¹ <http://www.scouts.ca/ca/child-and-youth-safety>

terminated for a serious reason...cannot gain admittance as a member in another location.”² The National Review Board controls the CL.

1.6 Analysis and Findings

1.6.1 State of the Files

When KPMG began the review, KPMG was told that Scouts had determined the relevant review population to be 350 instances of termination and suspension related to SMAY. Early on in KPMG’s review, based on a number of questions raised by the review and resulting discussions with Scouts, it became apparent that the relevant SMAY population was greater. First, the content of the files provided to KPMG were often disorganized, incomplete and not what a reasonable person would expect to see as support for a suspension and/or termination. Second, within the files, KPMG found reference to names other than the person whose file was being reviewed. The source of the names appeared to indicate that a file should have existed at one point and should possibly still exist. However, KPMG had not been provided with files on these additional names. Finally, the existence of complaint and/or legal files came to KPMG’s attention. Although these files are considered separate from the suspension and termination files kept by Scouts, it was clear that they may contain documentation relevant to KPMG’s mandate.

1.6.1.1 Completeness

In order to attempt to fulfil KPMG’s mandate of performing a thorough and arm’s-length review of all existing termination and suspension files related to incidents of SMAY held by Scouts, a number of steps were taken to ensure reasonable avenues were explored in order to identify any additional existing and relevant files.

KPMG recommended that Scouts perform a thorough review of all their records at the National Office in Ottawa, Ontario as well as their 20 Council Offices located across the country. This recommendation was followed by Scouts and resulted in 96 additional files being provided to KPMG for review.

1.6.1.2 Unlisted Names

As discussed above, KPMG found reference to a number of other names within files and indications that a file should have existed for these individuals. KPMG searched each of these names against a current extract of all names coded in MMS. If the results of the search were negative, the name was added to an ongoing list KPMG dubbed the Unlisted Names (UN) list. KPMG’s total tally of unlisted names was 144.

It is important to note that names are listed for reasons other than SMAY (e.g. theft). However, the reason for listing a name is not included on the list itself. Therefore, a number of the other names found in the files and included in KPMG’s UN list may not relate to SMAY.

Of the 144 names collected by KPMG during the file review and included in the UN list, 40 files related to SMAY were produced and provided to KPMG for review. 11 of the 144 were determined to not relate to SMAY. As no files were located for the remaining 93 names, KPMG cannot comment on whether or not these names relate to SMAY.

In an abundance of caution, Scouts listed all 144 names in MMS in 2012.

² Page 2 of AP3 revised November 30, 1972.

1.6.1.3 Observations and Implications

KPMG cannot confirm that no other relevant suspension and termination files exist. The steps recommended by KPMG and taken by Scouts did increase the overall review population from the original 350 to 486 names.

It was explained to KPMG that there was no defined filing protocol or process and that in years pre-2001 files were kept and managed by independent Provincial Councils with little input or control nationally. In 2001, when governance was centralized, all past files of this type were to be centralized but clearly this did not happen in all cases.

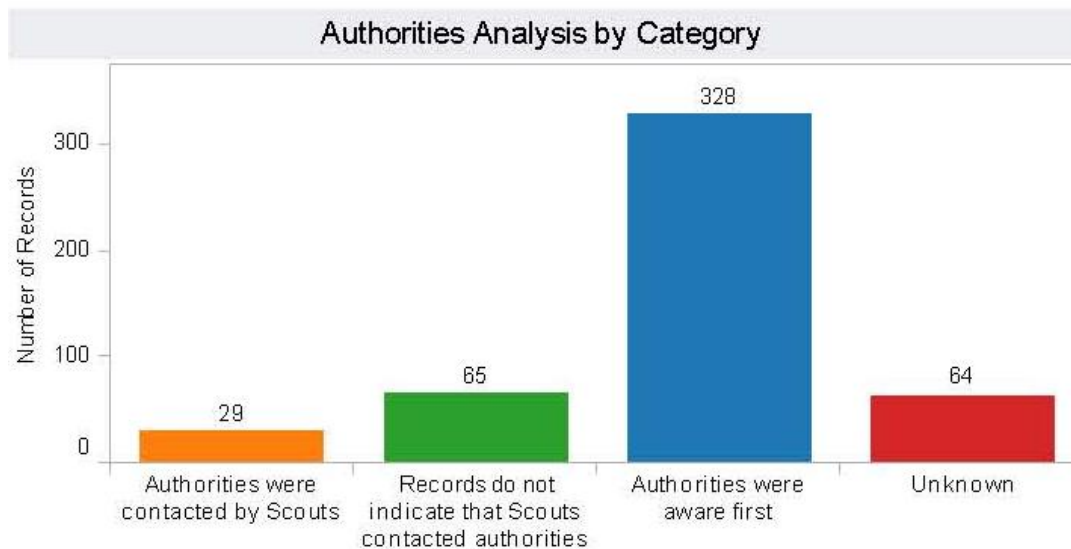
The state of these important corporate records was surprising to both KPMG and Scouts' current management. It is clear from the state of the files that Scouts was not managing these matters centrally or learning corporately from past mistakes.

The implications to this review of the weaknesses of the files and the filing system and KPMG's ability to draw conclusions in particular matters are noted throughout the report.

1.6.2 Contact with Authorities

For the purposes of this report, KPMG considered 1992 (the year the requirement to report first appeared in Scouts policy) as the year Scouts were first required to report incidents of SMAY to the authorities.

KPMG reviewed the entire population of files for evidence of any contact with authorities. Of the 486 cases reviewed, KPMG determined that the authorities were contacted by Scouts in 29 cases. In 65 cases, KPMG determined that Scouts' records indicate Scouts did not share information with authorities at the time they first had evidence that SMAY had taken place. In 328 cases, KPMG determined that the authorities appear to have been aware of the situation before it came to the attention of Scouts. Finally, in 64 cases, there was no evidence on file to allow KPMG to allocate a given file to any of the three preceding categories. The following table illustrates these results:



The 29 cases where KPMG determined Scouts contacted authorities displayed the expected behaviour.

Of the 65 cases where Scouts did not share information with authorities at the time they first had evidence SMAY had taken place, the dates on file allowed KPMG to determine that there are 13 cases where Scouts found out in or after 1992. Five of these cases related to incidents that took place in earlier decades.

Subsequent to KPMG's review, Scouts reported all 65 of these cases to the authorities, regardless of whether they occurred in the pre-1992 period when Scouts' written policy did not require reporting.

Authorities were already aware in 328 cases as the parents of the victim or a third party who gained knowledge of the incident made the decision to involve the authorities first instead of going directly to Scouts.

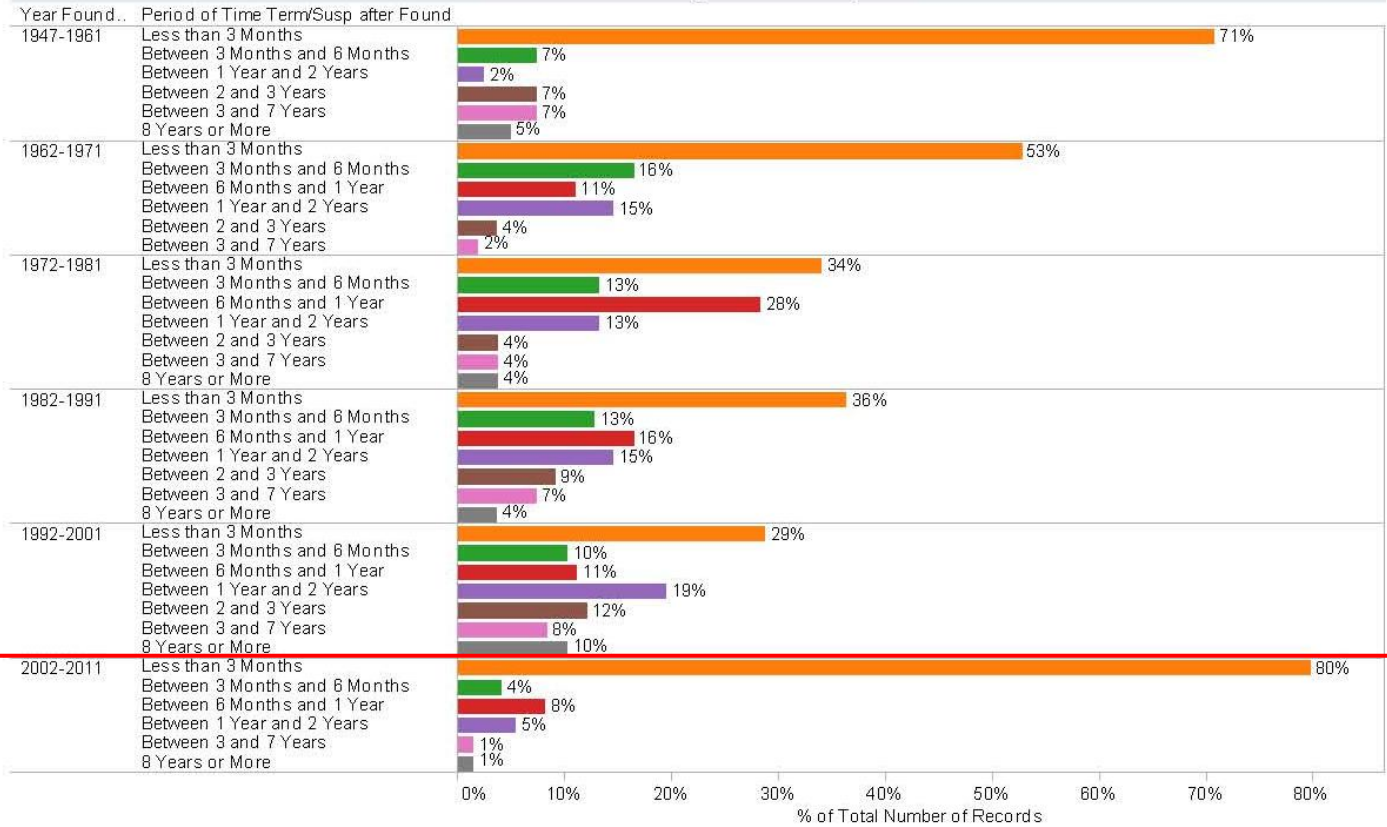
Out of an abundance of caution, Scouts reported all 64 unknown cases to authorities in 2012.

1.7 Suspending, Terminating and Listing

KPMG reviewed the entire population of files for evidence of time elapsed between Scouts finding out about an incident of SMAY and the date the individual's name was listed or was coded as either suspended or terminated. For each case where these two dates were available, KPMG then calculated the time elapsed between the two. Given Scouts' policy, KPMG would expect most listings to have occurred within three months (90 days) of Scouts becoming aware of an incident while noting there was generally policy in place that would allow this to extend to 180 days (six months).

The table below illustrates the results of this analysis:

Time between Finding out and Listing - %



Period of Time Term/Susp after Found

- Less than 3 Months
- Between 3 Months and 6 Months
- Between 6 Months and 1 Year
- Between 1 Year and 2 Years
- Between 2 and 3 Years
- Between 3 and 7 Years
- 8 Years or More

The decades from 1947 – 2001 reflect a mixed pattern of how quickly people were listed and there is little to be drawn by way of distinction between the decades. As discussed above and throughout KPMG’s report, the pattern of conduct illustrated in this table is one of inconsistent adherence to policy, changing rules and weak governance. During this period, in many cases individuals were not listed within 180 days, potentially putting children at risk and in fact, KPMG saw seven cases where the untimely listing of an individual did allow continued contact with Scout Youth and additional SMAY took place.

The decade 2002 – 2011 reflects a different pattern where 59 of 74 cases were listed within 90 days and a total of 62 of 74 within 180 days. This is likely a reflection of a number of things, including a growing awareness of the issue of child abuse, the introduction of an electronic membership database (MMS) and the

change to a more centralized governance model. Although, in comparison to the previous decades, progress appears to have been made, the fact remains that there is still room for improvement as 12 cases were not listed within 180 days. In two cases, the accused leader remained associated with Scouts after knowledge of SMAY occurred.

1.7.1 Leadership Registration Process

Registration records are kept separately from the suspension and termination files. Therefore, these did not form part of KPMG's review mandate. However, from the odd registration document and comments that happened to be included in the files reviewed, as well as discussions held with Scouts, KPMG understands that the registration process evolved over the years. In early years, the registration process was quite informal with leaders being selected based on their reputation and community ties.

Leadership Selection³

While no current screening techniques exist that can identify every potential danger, we can reduce the risk by learning all we can about an applicant for a leadership position — his or her experience with children and why he or she wants to be a Scout leader.

Our Leader screening Policy establishes a stringent and thorough process with multiple check-points:

- *All volunteer members must complete a Police Record Check (PRC), including a Vulnerable Sector Check (which checks specifically for child-related offences);*
- *All volunteers and staff must provide an updated PRC every three years;*
- *Prospective volunteers must complete an interview with interviewers trained to look for red flags;*
- *Three personal references must be provided and are checked;*
- *Volunteers are not permitted to work with youth until fully screened and the entire process is signed off by the Council Executive Director;*
- *Occasional volunteers who are not parents or guardians accompanying their registered youth must be fully screened before participating in overnight activities;*
- *Scouts' 2-Leader policy must be maintained during all group meetings, activities, trips and outings with youth;*
- *Allegations of any violations of youth protection procedures and guidelines against a volunteer result in immediate suspension pending investigation;*
- *We are uncompromising in our adherence to this process.*

³ <http://www.scouts.ca/sites/default/files/files/Scouts-Canada-Youth-Protection-Members-Eng.pdf> (Colour and emphasis included in original text).

The differences between the informal process of past years and the above do illustrate various efforts made by Scouts over the years to improve child and youth safety. Examples of current practices include: the introduction of the 2-Leader policy where one adult should never be left alone with children/youth; the mandatory requirement of a Police Records Check (PRC); and personal reference checks.

Although KPMG did not do a detailed review of Scouts' registration process, KPMG did review a sample by requesting and examining each of the 12 files, from the most recent decade, that were not listed within 180 days, for compliance with the PRC policy. The results, at least for this limited sample, reflect a lack of rigor around Scouts' policy concerning PRC. This matter should be reviewed further by Scouts.

1.7.2 Gaps in Policy

KPMG's review uncovered a number of other instances which would suggest gaps in Scouts' policy and/or practice, including:

- Inconsistent practices with regard to communications with Scouting organizations in other countries as well as with other similar organizations. This applies to both situations of screening whether an applicant is suited to be a Scout Leader as well as the prevention of an ill-suited person from becoming involved with similar organizations or Scouting abroad.
- Scout Youth (including those who may be 16 years of age or older), parents and guardians of registered Scout Youth, and occasional volunteers are not screened. In addition, some individuals avoid registering altogether but are regularly involved with Scouts.
- Another gap in policy and practice relates to resignations. Some instances relate to an individual being given an opportunity by Scouts to resign instead of being suspended and/or terminated. However, most cases related to situations where the individual in question resigns after allegations of SMAY were brought forth or had already resigned before allegations of SMAY were known to Scouts.
- The files contained evidence of inconsistent practice when it came to listing individuals involved in incidents of SMAY if, when Scouts became aware, the individual was not currently a registered member (but had been in the past).
- KPMG observed that Scouts does not have a policy that ensures parents will be informed directly by Scouts of all relevant Scouts' sanctioned events and that Scout Youth should only attend these sanctioned events. KPMG observed two instances where individuals took advantage of their status as a Scout Leader to hold unsanctioned events where they committed acts of SMAY involving Scout Youth.
- Another gap identified during KPMG's review is when individuals who were suspended or terminated and possibly listed as ill-suited for Scout leadership were allowed to take part in Scouts activities. KPMG identified 11 instances of this prior to 1992 and three instances post-1992.

* * * * *

2 Restrictions

Scouts Canada (Scouts) has requested KPMG's permission to disclose this report to the public, and KPMG Forensic (KPMG) grants permission for Scouts to make this report available to the public on the condition that the public accepts that this report is being provided for information purposes only. No member of the public (defined herein as anyone other than Scouts) shall rely upon this report for any action they take or choose not to take, and KPMG accepts no liability to the public for any reliance they may choose to place on this report. Comments in this report are not intended, nor should they be interpreted to be, legal advice or opinion.

3 Definitions

AP3 = Administrative Policy Number 3

BP&P = By-Laws, Policies & Procedures

CL = Confidential List

COPS = Council Operating Procedures

CRC = United Nations Convention on the Rights of the Child

CWLC = Child Welfare League of Canada

MMS = Membership Management System

PRC = Police Records Check

RCMP = Royal Canadian Mounted Police

SMAY = Sexual Misconduct Against Youth

UN = Unlisted Names

WOSM = World Organization of the Scout Movement

4 Introduction

On December 7, 2011, KPMG was retained by Scouts to conduct an arm's-length review of the contents of the suspension and termination files held by Scouts related to sexual misconduct against youth (SMAY).

At the time KPMG was appointed, Scouts committed to make KPMG's report public.

KPMG's detailed work has been shared with Scouts in order that they can use specific information to take action or move forward more generally. This report serves as a summary of KPMG's overall work and findings.

The matters reviewed are sensitive, involving children, or persons who were children at the time of the incident, their parents and families as well as a number of other parties. The protection of their privacy while providing the public with an objective overview of these matters has been of paramount importance for both KPMG and Scouts.

In a number of cases where it appeared that SMAY had taken place and authorities were not involved, KPMG provided observations to Scouts. In turn, Scouts referred all of these cases to authorities. Any disclosure of these details and matters would be inappropriate in order to allow the authorities to review these matters in the way they feel best.

KPMG's review of the historical files has allowed KPMG to develop a view of past and current processes and practices as well as an understanding of how Scouts handled these matters and the various changes that took place at Scouts over the course of time relevant to the review. KPMG has provided observations on these matters throughout this report.

KPMG's review is based on what was provided to KPMG by Scouts. Following KPMG's recommendations, Scouts undertook a number of steps, including a search of national and regional offices, to ensure reasonable avenues were explored in order to identify any additional termination and suspension files related to SMAY. While noting the obvious weaknesses in the filing system and corporate memory of past practices and policies, KPMG did not at any time during the review find Scouts to have been anything but forthcoming and completely cooperative.

5 Scope and Limitations

The scope of the review pertains only to the documentation provided to KPMG by Scouts and related conversations KPMG has had within Scouts. As KPMG's mandate was limited to examining the contents of Scouts' internal SMAY files, KPMG did not conduct interviews on specific incidents with anyone inside or outside Scouts and did not conduct thorough investigations on each file or review documentation outside of Scouts. The SMAY files in KPMG's review population range from 1947 to 2011. As will be detailed elsewhere in this report, there were a number of challenges with Scouts' file management, file content and attempting to ensure all relevant files were available for review.

6 Background

The following are Scouts' values and mission:⁴

Values

For more than 100 years, Scouts Canada has brought a world of adventure, outdoor experience, friendship and fun to 17 million Canada [sic] youth.

...

Mission

To contribute to the education of young people, through a value system based on the Scout Promise and Law, to help build a better world where people are self-fulfilled as individuals and play a constructive role in society.

Scouting's Mission is achieved by:

- *Involving youth throughout their formative years in a non-formal educational process.*
- *Using a specific method that makes each individual the principal agent in his or her development as a self-reliant, supportive, responsible and committed person.*
- *Assisting youth to establish a value system based upon spiritual, social and personal principles as expressed in the Promise and Law.*

According to the Scouts website:⁵

Scouting began in 1907 when Lt. Gen. Robert Baden-Powell took a group of youth to a camp on Brownsea Island in the United Kingdom. There is evidence that a few Scouting groups started up in Canada in 1907. The Canadian General Council of the Boy Scout Association was incorporated by an act of the Canadian Parliament on June 12, 1914. In 2007, our Centennial Year, our name was officially changed by an act of Parliament to Scouts Canada.

...

Today, Scouts Canada is a highly diverse organization with over 100,000 members nationwide representing every faith and culture. Scouts Canada offers programming in more than 19 languages reflecting Canada's multicultural landscape and communities.

⁴ <http://www.scouts.ca/ca/values>

⁵ <http://www.scouts.ca/ca/scouts-canada-history>

The table below presents the membership of Scouts from 1910 to 2011.

Membership Snapshot	
Year	Number of Members
1910	6,000
1920	28,626
1930	52,572
1940	97,785
1950	117,680
1960	291,852
1965	319,983
1970	268,921
1980	283,984
1990	265,313
2000	188,314
2011	102,609

6.1 Two Recognized Federations

KPMG understands from Scouts that Canada is the only country with more than one national Scouting federation recognized by the World Organization of the Scout Movement (WOSM). The two separate federations are: 1) Scouts Canada; and 2) Association des scouts du Canada (Association). Although both organizations are national in reach, Association's membership is concentrated in Québec whereas Scouts has limited presence in this province. KPMG's review only pertains to Scouts.

6.2 Organizational Structure

Scouts started as a grassroots organization with little national perspective and oversight, technically an extension of the Scouting Association of the United Kingdom. Scouts evolved with the philosophy of being a volunteer-led, staff-supported movement. The organisation exists due to the service of volunteers both directly delivering programs and providing governance. They are supported by a limited number of paid staff members.

KPMG is advised that Scouts' organizational structure was decentralized prior to 2001, with local members selecting regional/district commissioners and presidents who, in turn, assisted in the selection of 11 provincial/territorial commissioners and presidents. The provincial/territorial commissioners and presidents formed a large part of the National Council which enacted national policies on a consensus basis.

The structure of Scouts remained largely unchanged until 2001 when the various Provincial/Territorial Councils ceded their semi-autonomy and policy making powers to a Board of Governors with the sole authority to make policies. Two major bylaw rewrites in 2000 and 2003 resulted in the Provincial/Territorial Councils relinquishing their more independent style and has brought about a stronger corporate perspective. In place of 33 Provincial/Territorial/Regional/District Councils, 20 Councils were established. The Ontario Provincial Council was replaced by eight councils; Alberta by two, British Columbia/Yukon by three and all other provinces became single councils. Districts and Regions were eliminated and consolidated into Areas.

All Groups now report through the Area to one of the 20 Councils. Administrative Centres were created to support multiple Councils and along with Council Offices, ensured staff support was in place. The centralization of Council offices into Administrative Centres (now called Service Centres) is an ongoing process.

7 Context and Relevant Policies

7.1 Child and Youth Safety

An understanding of the evolution of society's view and practices regarding child abuse is necessary to place the matters reported on in this document into context. During the period of 1947 to 2011 covered by this report much has changed.

To provide the reader with an overview, KPMG has included below an excerpt from a document entitled "Child Abuse in Canada: Evolution of Duty to Report" that was prepared for these purposes by the Child Welfare League of Canada⁶ (CWLC):

History

Issues around child maltreatment, including concepts, definitions, policies and law have evolved considerably over the years. Throughout Western history, the protection of and provision of essential services for children has been traced to the Medieval and Renaissance periods. Factors such as war, poverty and health epidemics resulted in children in need being cared for by communities of people, extended families, churches and hospitals. The impact of the Industrial Revolution sparked increased attention to child poverty, orphaned children, child labour, juvenile delinquency and primary school attendance.

During this period, volunteer social reformers began to provide services for children who were displaced, abused and neglected and an organizational infrastructure for providing systematic care for children arose. In Canada, the British North America Act of 1867 set out a legal context for the practice and regulation of caring for neglected and abandoned children. This led to the establishment of Canada's first Children's Aid Society in Ontario in 1891, allowing child protection authority figures to intervene in the family unit in order to protect the child.

Evolution of Child Abuse Reporting

In the 1960s, Dr. Henry Kemp's research on physical abuse and "battered child syndrome" greatly impacted the ways in which child maltreatment issues were conceptualized and treated. The term "child abuse" became the prevalent terminology and Dr. Kemp's research heightened public concern and awareness of child abuse in North America. It was during this period that mandatory child abuse reporting legislation was enacted in Canada for medical professionals and child welfare services started to focus more closely on allegations of abuse and investigative practices.

The early to mid-1980s saw further developments in the legislative response to child abuse. The Badgley Report (1984) was seminal in raising awareness of the high rates of child sexual abuse across Canada, which were previously largely hidden. The report made recommendations to the federal government and as a result, provinces and territories reoriented their child protection legislation, expanding the definitions for the various forms of abuse, particularly sexual abuse. In addition, provincial legislation mandated that cases of abuse be reported to authorities and required that suspected child abuse cases be investigated.

⁶ <http://www.cwlc.ca/>

Notably, the Criminal Code of Canada was changed in 1988 to address some of the deficiencies of the previous laws and to better protect children in Canada. Bill C-15 changed the gender-bias that previously existed, where offences were only applicable to female victims and male offenders, not taking into account boys that were sexually abused. It broadened the range of sexual offences beyond sexual intercourse to include sexual exploitation and prohibited adults from engaging in any sexual contact with children under the age of 14, regardless of consent.

The Bill made provisions to facilitate the testimony of children in court, and eliminated the need to corroborate the unsworn testimony of the child. Furthermore, the Bill allowed for cases of historical child sexual abuse to be brought forward, in contrast with the previous laws, which required complaints of sexual abuse to be reported within a year of the offence. The amendments to the Criminal Code of Canada raised the number of prosecutions of child sexual abuse cases. Programs and policies were designed to raise awareness to prevent future child sexual abuse and to treat trauma experienced by child victims and adult survivors. As a result, sexual abuse reporting increased dramatically during this time.

Throughout the 1990s, policies and practices to build a more protective environment for children continued. The Government of Canada signed the United Nations Convention on the Rights of the Child (CRC) in 1990 and ratified it in 1991. The CRC contains several articles related to the protection of children and specifies that the State should provide social programmes of support that include identification, reporting and investigation for judicial involvement. By 1999, all Canadian provincial and territorial legislatures had ratified the Convention, thereby recognizing children's rights across federal and provincial jurisdictions, which share responsibilities for implementing rights. It was during this time that provincial and territorial child welfare legislation expanded to prohibit a range of violence including emotional harm, exposure to domestic violence, some forms of neglect and child pornography.

More recently, amendments to the Criminal Code of Canada under Bill C-10 included the former Bill C-54, *Better Protecting Children and Youth from Sexual Predators*, which prohibits anyone from providing sexually explicit material to a child for the purpose of facilitating the commission of a sexual offence against that child and from using any means of telecommunications, including the Internet, to agree or make arrangements with another person for the purpose of committing a sexual offence against a child.

Current State of Child Abuse Reporting

In Canada, child welfare services and supporting legislation are organized at the provincial and territorial levels to allow for the unique needs of children and families to be addressed. However, the legislation varies between the jurisdictions including the age of protection and definitions of maltreatment. As a result, gathering data to examine the national trends of child abuse over time has been challenging. However, research has indicated that the number of children investigated for maltreatment increased dramatically in most jurisdictions since the early 1970s. The *Canadian Incidence Studies of Reported Child Abuse and Neglect* indicates that between 1998 and 2003 the rates of substantiated maltreatment increased by 125% during that five-year period.

Child welfare legislation in all provinces and territories requires that professionals working with children and the general public report incidences of child maltreatment and children at risk of maltreatment (see Table 1: *Duty to Report Legislation*). Professionals working with children and youth are legally bound to report maltreatment and may be found guilty of committing an offence if they do not report under the relevant act applicable to their province

or territory. They, however, are not legally obligated to report cases of child abuse in cases of historical abuse if the victim is now an adult.

According to the Department of Justice Canada's fact sheet on Child Abuse:⁷

The term "child abuse" refers to the violence, mistreatment or neglect that a child or adolescent may experience while in the care of someone they either trust or depend on, such as a parent, sibling, other relative, caregiver or guardian. Abuse may take place anywhere and may occur, for example, within the child's home or that of someone known to the child.

The fact sheet further explains that different forms of abuse include: physical abuse; sexual abuse and exploitation; neglect; and emotional abuse.

According to the Scouts website:⁸

Scouts Canada places great importance on creating the most secure environment possible for our youth members. To maintain such an environment, we apply rigorous procedures and guidelines related to youth engagement. Our 'suspend first, inquire later' policy requires that any report of misconduct triggers an immediate and explicit response:

- *First, we immediately suspend the volunteer Leader in question.*
- *Second, we immediately notify both police and child protection services.*
- *Third, we share all relevant information in our possession with the police and child protection services and support their efforts to conduct a thorough investigation.*

7.2 By-Laws, Policies & Procedures, Section 7002: Child Abuse

While various earlier policies make reference to the protection of youth, KPMG understands from Scouts that a specific section on child abuse— Section 7002: Child Abuse—was included in the By-Laws, Policies & Procedures (BP&P) in September 2004 and was revised in November 2008 and March 2011. KPMG has reviewed the three versions of Section 7002 and, with the exception of minor changes, KPMG notes that the section remains the same as the 2004 version. Therefore, KPMG will be referring to the most recent version below.

The section on child abuse opens by stating that: *"Even with our current risk management initiatives and the policy regarding the screening of all adult volunteers, the possibility of a youth member being abused is still a reality."*⁹ It goes on to assert that *"Scouts Canada has an excellent process in place for suspending, investigating and, if necessary, terminating Scouters/adult members accused of abusing youth members."*¹⁰

⁷ <http://www.justice.gc.ca/eng/pi/fv-vf/facts-info/child-enf.html>

⁸ <http://www.scouts.ca/ca/child-and-youth-safety>

⁹ Page 6, By-Laws, Policies & Procedures, Section 7002, March 2011.

¹⁰ Page 6, By-Laws, Policies & Procedures, Section 7002, March 2011.

The child abuse policy then emphasizes the duty to report as follows:

In most Canadian jurisdictions, there is a legal duty to report if a child has been or is at risk of being physically or emotionally harmed (including sexually molested) by a person having charge of the child. This is also a duty to report if a child less than 12 years of age has seriously injured another person or caused serious damage to another person's property and is either not appropriately supervised or is not getting the treatment that the child requires.¹¹

Subsection 7002.1 – Procedure For Handling Allegations of Harassment Or Abuse Of Youth Members lays out the procedure[s]...which “*should be taken immediately.*” The subsection also states that “***...in all cases the needs and interests of our youth members must take precedence.***”¹²

In addition, the following steps and sub-steps are relevant to KPMG’s file review:

(i) When a youth or parent advises that an abuse had taken place:

...

2. Advise the person that you are required to and will report the occurrence to the appropriate Child Protection Authority as well as the Scouts Canada Council Executive Director...

4. Advise the person they will hear further directly from the Child Protection Authority...

(iv) This process should also be used for “historical” cases where there are affected youth and adults active as current members.

*(v) In any abuse case, the Council Executive Director **MUST** inform and consult with the Scouts Canada Risk Manager and the Director of Communications. The Council Executive Director **MUST** also seek the advice of Police and Child Protection Authority.*¹³

7.3 Policy

While there is reference in BP&P going back to the 1950s about the “*Responsibility in Making Appointments*”¹⁴ of leaders, Scouts was only able to produce fulsome policy documentation starting in 1972. The 1951 Scouts document entitled “*Policy, Organization and Rules for Canada*”¹⁵ notes:

In view of the responsibility to parents and of dangers which have been found to exist, Scouters, Group Committees, District Councils and Commissioners must take every precaution to ensure that no one, whose character is open in any way to suspicion, shall be admitted to membership in the Association, and they must act firmly and promptly in any case where such a person has gained admission.

The regular service in any adult capacity of any person, whether on probation or not, must not be accepted in any circumstances without previous reference to the District Council who must make inquiries at Provincial Headquarters before giving sanction.

¹¹ Page 7, By-Laws, Policies & Procedures, Section 7002, March 2011. Bolding exists in original text.

¹² Page 7, By-Laws, Policies & Procedures, Section 7002, March 2011. Bolding exists in original text.

¹³ Page 7-8, By-Laws, Policies & Procedures, Section 7002. Bolding and capitals exist in original text.

¹⁴ Page 14, Policy Organization and Rules for Canada, 1951.

¹⁵ Page 14, Policy Organization and Rules for Canada, 1951.

As of 1972, two sources of policy relevant to SMAY exist within Scouts: 1) By-Laws, Policies & Procedures and 2) Administrative Policy Number 3 (AP3).

AP3 appears to be the most relevant to KPMG's review as it is the policy for suspensions and terminations. More specific to this section, AP3 explains the procedures for suspending and/or terminating an individual's membership, including the time frames within which these must be done. In addition, AP3 appears to reference BP&P when relevant.

The following paragraphs will discuss AP3 as pertinent to KPMG's file review.

7.3.1 Administrative Policy Number 3

AP3 is not specifically a policy on child protection but it governs suspensions and terminations. The reasons for termination are not limited to incidents of SMAY and could range from inability to relate reasonably with other persons to being convicted of any criminal act.

The earliest copy of AP3 Scouts was able to locate and provide to KPMG reads: "*Original June 30, 1969*" and "*Revised November 30, 1972.*" Therefore, KPMG understands that AP3 was in effect from at least June 30, 1969 and is still in effect today¹⁶. Scouts has been unable to locate a copy of the original policy from 1969 and is unable to confirm what their policy was prior to 1969.

The November 30, 1972 version of AP3 is a total of four pages including attachments. Over the years various updates and modifications were made to this policy. The result is that as the document evolved, it became more detailed and therefore lengthier. This is evidenced by the fact that the 2005 version is 12 pages (not including attachments).

The earliest indirect reference to the protection of youth found within AP3 is in the version revised November 30, 1972.

7.3.2 Suspensions

KPMG's review of AP3 indicates that in 1972 "*a suspension is the immediate action to be taken by the district, regional or provincial council, pending inquiry.*"¹⁷ In the version revised in November 1985, a suspension remains an immediate action but is "*taken by commissioners to provide time for a proper enquiry...*" By the version revised December 1986, the word immediate is removed and a suspension is now "*the action taken...*" but a sentence is added to stipulate that the individual (among others) must be promptly advised. By the version of AP3 revised February 2002, a suspension is once again "*...the immediate action*" and is "*taken by commissioners or council executive directors to provide time for a full investigation...*" Finally, the version revised in April 2005 still includes the word immediate but specifies that "*...Council Commissioners, Area Commissioner and Council Executive Directors...*" have the authority to suspend and do so "*...to provide time for a full Scouts Canada investigation...*" In sum, the wording and who is allowed to suspend changes but Scouts' written policy appears to be one of suspend first and investigate after but promptly.

¹⁶ However, KPMG has been informed that AP3 was renamed COPS 401.

¹⁷ Page 1 of AP3 revised November 30, 1972.

7.3.3 Terminations

According to KPMG's review of AP3, the reasons for terminating an individual from Scouts evolved over the years.

Up until the November 1985 revision of AP3, the reasons for termination included:

- Sexual perversion (deviation);
- Immorality;
- Other gross misconduct; and
- Any conduct which would prejudice or bring disrepute on Boy Scouts of Canada and which cannot be adequately dealt with by district, regional or provincial council action.

The November 1985 revision states the reasons as being:

- Criminal Acts;
- Acts of Instability; and
- Acts of Disrepute.

In February 2002, the following two additional reasons are added:

- Acts which place Scouts at risk as a result of failing to comply with By-law, Policies & Procedures and regulations of Scouts; and
- Acts which are contrary to the principles and practices of Scouts.

In April 2005, the Council Operating Procedures (COPS) Section 401 replaced AP3, but was very much the same policy.

7.3.4 Process for Suspending and Terminating Volunteers

KPMG understands that the Scouts' process for suspending and terminating volunteers consists broadly of suspending an individual, investigating the allegations and, based on the results of the investigation, deciding to terminate or reinstate the individual. The specifics with regard to the length of time this process should take are convoluted and change over time. Practice was inconsistent in the files reviewed.

Reference to the length of the process is first introduced in AP3 in 1985 and stipulates that:

A suspension cannot exceed a 90 day period without a decision, unless there are extenuating circumstances that warrant an extension of time specified by the investigating commissioner. In any event, a total suspension period cannot exceed 180 days.¹⁸

¹⁸ Page 1 of AP3 revised November 1985.

Then in 1986 AP3 states that a suspension can be extended beyond 180 days “under unusual circumstances” and requires “the approval of the next senior commissioner.”¹⁹ The 1992 version of AP3 adds that a suspension can also exceed 90 days if Scouts is “awaiting the outcome of a criminal or quasi-criminal investigation by police or other public authorities” but that “a total normal suspension period cannot exceed 180 days, but under unusual circumstances may be extended for a further 90 days on the approval of the next senior commissioner.” Therefore, as of 1992 the absolute maximum length of a suspension with unusual circumstances appears to be 270 days. AP3 remains the same from the perspective of suspension length until 1999 when it is revised to say: “A suspension cannot be extended beyond 180 days without the approval of the National Review Board.” The maximum of 180 days unless approved by the Review Board still stands in the April 2005 revision. KPMG understands from Scouts that this version is still in effect.

Ideally a suspension was only supposed to last 90 days (or three months). Under certain circumstances, a suspension may be extended for an additional 90 days making the total normal suspension period a maximum of 180 days (or six months). Under unusual circumstances, a suspension can be extended beyond six months but requires approval from the National Review Board.

The policy above with its defined time lines appears to have been designed to force a decision and to ensure the termination and listing (see below) of a person (if appropriate) within the 180 day time frame.

Once the maximum suspension period has expired, KPMG understands that the decision must be taken to reinstate the individual or terminate their membership. If the decision is made to reinstate, the individual is allowed back into Scouts and the process ends. However, if the decision is to terminate, the process continues. Currently, the individual provincial council prepares a case for termination and forwards it to the National Review Board for consideration for formal termination.

7.4 Confidential List

7.4.1 Definition

The Confidential List (CL) and its exact form and use evolved over time. Generally, the CL is a list of names of individuals who are ill-suited for and not allowed to gain membership in Scouts for reasons ranging from the inability to relate reasonably with other persons to being convicted of any criminal act. The list includes the names of individuals where allegations have been made that have not been proven by Scouts or a court of law. They have been listed as a precaution.

The CL is a national list and was originally kept in paper form, distributed to each provincial body, and was to be checked prior to registering each leader. In 2002 the standalone CL was replaced with the introduction of the Membership Management System (MMS); a database with a field where an individual’s name could be coded as ill-suited and a warning message would appear should anyone with the same name attempt to register. The purpose of these controls was “to ensure that a person whose membership has been terminated for a serious reason...cannot gain admittance as a member in another location.”²⁰ The National Review Board controls the CL.

7.4.2 National Review Board Controls the List

The 1972 version of AP3 states that “[c]ontrol of the list and additions and deletions thereto, is vested in the National Review Board, on behalf of National Council. This board consists of: Deputy Commissioner...;

¹⁹ Page 1 of AP3 revised December 1986.

²⁰ Page 2 of AP3 revised November 30, 1972.

...Legal Counsel and the Chief Executive."²¹ In 1985, AP3 is revised and states that the National Review Board "administers the Confidential List of Terminations" and "reviews all cases of suspension, termination and appeal referred...and recommends either rejection or confirmation..."²² The 1985 version also sees the addition of two members to the board: a "Canadian citizen at large" and the "Executive Director of Administration Services." The 1990 version of AP3 no longer mentions the review of suspensions as being part of the board's responsibilities but appeals and terminations remain. As of the version of AP3 revised February 2002, "[a]ny decision to terminate a member must have the prior approval of the...Review Board."²³ In sum, although the composition of the board changes over time, from at least 1972 onward they appear to be responsible for control of the CL.

7.4.3 Purpose of the List

According to the 1972 version of AP3, "[t]he purpose of the [confidential] list is to ensure that a person whose membership has been terminated for a serious reason...cannot gain admittance as a member in another location."²⁴ KPMG notes that the main issue with this is that it requires every name to be checked against the most up-to-date version of the list prior to allowing an individual access to Scouts. Should Scouts fail to check the list or not check the most recent version, an individual already on the list could gain admittance. This possibility appears to be addressed in 1978 when AP3 is revised to say "[t]his is accomplished by checking the names of prospective Scouters against the names on the list before acceptance as Scouter."²⁵

²¹ Page 2 of AP3 revised November 30, 1972.

²² Page 4 of AP3 revised November 1985.

²³ Page 1 of AP3 revised February 2002.

²⁴ Page 2 of AP3 revised November 30, 1972.

²⁵ Page 2 of AP3 revised November 15, 1978. Underlining exists in original text.

8 Review Methodology

8.1 File Review

In order to ensure consistency throughout the review, a standard review methodology was developed at the outset of KPMG's work and applied across the population of SMAY files reviewed. When unique or new matters arose on a particular file, a contemporaneous team discussion was held and consensus would be reached on how the particular matter would be treated in every case going forward. Although specific procedures did evolve as matters arose, the overall review fields generally remained the same.

Prior to commencing the overall review, it was important that KPMG establish a solid and standardized review template to be used by the entire team. In order to do so, KPMG began by selecting a sample of a dozen files for an initial review. These sample files were from a variety of time periods, of varying thicknesses and as representative of the overall population as was possible given KPMG's limited knowledge at the time. KPMG developed a standard template of review fields. Going forward, these standard fields were addressed by each reviewer during the review of a file. Where the contents of the file permitted, the reviewer would record the answer (or any facts present in the file) that were pertinent to a given field on a standard template used to record the results. In addition to a number of specific fields applied to each file reviewed, a section was reserved in the results template for additional notes. Reviewers were asked to record any and all other relevant facts that may fall outside the standard fields in this area.

The standard review fields included:

- **What is/are the date(s) of the incident(s)?** – This question was used to record the date when the alleged SMAY incident(s) occurred. The date was only recorded if it was found among the documentation in the file being reviewed. Examples of documents that may have provided the answer to this question include: a newspaper clipping, police report or incident report notes on file. A default date was used if the exact date was unclear but a definite time period was found. If no date of incident was found on file, this question was answered as unknown.
- **Details of incident(s)** – In response to this question, the reviewer recorded any details located in the file pertaining to the allegation(s) and/or charge(s) in question.
- **Are Scout Youth involved?** – Although the perpetrator would have been involved in Scouting in some capacity, the incident(s) in question may or may not have involved a victim who was a registered Scout Youth. For example, some of the files reviewed related to incidents where an individual committed an act of SMAY and the victim was a relative. In addition, this same individual happened to also be known as a Scout Leader and this fact was reported in the media. Depending on the facts recorded in the file, one of three answers was input for this question. They were: yes, no or unknown. If the information on file was unclear, the reviewer chose unknown.
- **Notes related to whether Scout Youth were involved** – If required or if the reviewer felt it added value, additional notes from the file could be entered with regard to the involvement of Scout Youth. For example, if a Scout Youth was the victim of an incident but the incident took place at a non-Scout related event, the note *"happened during a non-Scout event"* may be entered here.
- **On what date did Scouts find out?** – According to the facts on file, the date on which Scouts appear to have first found out about the incident(s) is recorded. Commonly, this date may come from

correspondence on file, be it a letter of complaint from a parent or a note to the file with regard to how the information was received. Alternately, the date may be defaulted to the earliest date on the file if no clear indication of exactly when Scouts first found out is present. Finally, unknown is used if no indication of when Scouts found out is found in the file.

- **Notes relevant to how Scouts found out** – If required or if the reviewer felt it added value, additional notes from the file could be entered with regard to how Scouts was made aware of the SMAY incident. One example of such a note may be: *“It appears from a note on file that a Cub Leader and Parents brought forth the complaint.”* If the information is unclear, the reviewer may include a note indicating what piece of evidence the date of when Scouts found out was taken from. An example of this type of note could be: *“The earliest dated document on file that provides information with regard to the incident is a newspaper clipping dated 12 January 1989. Therefore this is the date used for the purposes of KPMG’s review.”*
- **Date authorities were contacted** – According to the facts on file, the date that the authorities were contacted is recorded. If there is no information on file pertaining to whether authorities were contacted, the word unknown is recorded in this field. Authorities are not always limited to police. Another example of authorities would be contact with the Children’s Aid Society.
- **Explanatory notes relevant to the date authorities were contacted** – In this field a description of the facts found on file related to how/if the authorities were contacted is entered. For example, this field may specify that a hand-written note was found on file that said *“Spoke to Inspector J. Doe on 15 June 1971. Therefore, this was taken as contact with authorities on this date.”*
- **Date that the individual appeared on the CL** – According to the documentation in the file, the date the individual’s name first appears on the CL is recorded. If included in the file, the ideal date is taken directly from a copy of the CL. However, when a copy of the list is not on file, the date stated on other relevant documents may be used. If no date appears on file to indicate the date of listing, this field is recorded as unknown. Furthermore, at times, different lists were kept by the Provincial Councils and National. During the review, KPMG considered an individual as listed regardless of the originating source of a list.
- **Category of individual on CL** – At times, different categories were used to distinguish between the reasons individuals were listed.
- **Notes relevant to the CL** – If required or if the reviewer felt it added value, additional notes from the file could be entered with regard to an individual getting listed. One example of such a note may be: *“Scouts procedures for termination appear to have commenced on 29 April 1968. As per the information that appears on the copy of the CL on file.”*
- **Scout status** – If known from the evidence on file, this field is populated with the current/last known status of the accused/perpetrator. If available, the progression of status during the case could also be listed here. For example: *“Letter of suspension sent 2 May 1976; Terminated 15 Sep 1976.”*
- **Additional notes** – Reviewers were asked to record any and all other relevant facts that may fall outside the standard fields described above in this area. As this is meant to be a catch-all field, a wide variety of items could be recorded here. Anything deemed relevant by the reviewer to this specific file (or even the overall file) but not already covered off by another field could be recorded here. This could include notes on documentation that is missing from the file, the fact that the file consists of only a few pages, or perhaps that the file contains documentation that appears to pertain to another individual and is thus misfiled.

- **Other comments** – This field was used to record overall comments and questions resulting from the accumulation of all the other fields. Examples of comments could range from: “*Appears to be a significant delay in getting this individual listed. Why?*” to “*Appears to follow process.*”
- **Record other names found in the file** – During the course of a review of a specific file, the reviewer was asked to pay attention to any documents they come across that may contain names of other individuals who should have been potentially listed.

As a result of the review process followed above, KPMG provided a number of files to Scouts in order that they could provide additional information or any other comments that would help KPMG in the understanding of a given circumstance. These files consisted of all files where KPMG had concerns that authorities were not contacted by Scouts, as well as a number of other files representing a variety of different but significant issues. Scouts reviewed and provided comments on all the files KPMG handed over. KPMG took these comments into consideration during the analysis.

8.2 Policy Review

KPMG performed a policy review to the extent possible. KPMG attempted to obtain and review the relevant policies in place throughout 1947 to 2011. While there is reference in BP&P going back to the 1950s about the “*Responsibility in Making Appointments*”²⁶ of leaders, Scouts was only able to produce fulsome policy documentation starting in 1972. Accordingly, for the period 1947 to 1971, KPMG has provided observations throughout this report without comments on specific policy.

Finally, KPMG held discussions with Scouts to better understand the historical practice and context over the time period relevant to the review.

²⁶ Page 14, Policy Organization and Rules for Canada, 1951.

9 Analysis and Findings: State of the Files

9.1 Introduction

When KPMG began the review, it was explained that Scouts had recently performed an internal review of the termination and suspension files to identify which files pertained to SMAY. KPMG was told that this internal review unveiled a total population of 350 instances of termination and suspension related to SMAY. KPMG began their work based on this information; the same information reported by Scouts to the media.

Early on in KPMG's review it became apparent that the relevant SMAY population was not limited to the 350 files originally identified by Scouts. This conclusion was reached based on a number of questions raised by the review of the content of the files and ensuing discussions with Scouts. First, the contents of the files provided to KPMG were often disorganized, incomplete and not what a reasonable person would expect to see as support for a suspension and/or termination of a volunteer leader. For example, the documentation found on file was not in chronological order, there was rarely a case summary on file that kept track of the evolution of the matter, and key documents such as proof of suspension and/or termination were missing. KPMG has detailed in the methodology section how information was recorded and, on occasion, the assumptions made to allow KPMG to report given the challenges with the information in the files.

Second, in files predating the electronic era, typed copies of the CL could be found in certain files. These lists would contain the name of the individual whose file was being reviewed. However, a number of other names would also appear on the same page of the list. When KPMG sampled other names on the CL in the specific file being reviewed for completeness, it was determined that KPMG did not have files on all of the individuals listed. The fact that their name appeared on the CL at one point in time is a strong indication that a file should have existed at one point and should possibly still exist. Finally, certain documentation found in the files and ensuing discussions held with Scouts brought the existence of complaint and/or legal files to KPMG's attention. Although these files are considered separate from the suspension and termination files kept by Scouts, it was clear that they may contain documentation relevant to KPMG's mandate.

9.2 Completeness

In order to attempt to fulfill KPMG's mandate of performing a thorough and arm's-length review of all existing termination and suspension files related to incidents of SMAY held by Scouts, KPMG attempted to achieve a reasonable level of assurance that the complete population of SMAY files was included in the review population. A number of steps were taken to ensure reasonable avenues were explored in order to identify any additional existing termination and suspension files related to SMAY.

9.2.1 Location Review

KPMG recommended that Scouts perform a thorough review of all of their records at the National Office in Ottawa, Ontario. Previously, Scouts had only focused on suspension and termination files that were filed as such. Although all potential areas where records may be located should be included in this review, KPMG requested that particular attention be paid to the rooms where corporate records are kept, any other filing areas in the building, staff cubicles and offices, and any off-site storage Scouts may maintain. In addition, when matters go to litigation, become civil cases or are subject to insurance claims, KPMG understands that

a separate file is kept at the National Office. KPMG recommended that a thorough review of all of these files also be completed by Scouts. KPMG has been provided with a letter of attestation confirming that the recommended review of the National Office has been completed. Furthermore, KPMG understands that all resulting files relevant to the review have been turned over to KPMG.

In addition, KPMG requested and Scouts had their 20 Council Offices located across the country complete a thorough review of all their records and forward anything that may be deemed relevant to KPMG's mandate to the National Office. KPMG has been provided with letters of attestation from each Council office confirming that the thorough review of all Council locations has been completed and the resulting files have been forwarded to the National Office. Furthermore, KPMG understands that the National Office has provided KPMG with all relevant files resulting from the reviews performed by each of the Council Offices.

The two steps described above resulted in 96 additional files to review.

9.2.2 Unlisted Names

KPMG also compiled a list of unlisted names. Scouts uses MMS, a database to manage their membership. Within MMS, individuals can be coded as: "*Suspended*", "*Did not complete screening*", or "*Terminated*." If an individual is coded as one of these categories and they attempt to re-register under the same name, a notice will appear telling the person attempting to register this individual to contact the National Office and the system will not let the registration be processed. This is the key control used to keep individuals unsuitable for Scout leadership from registering with Scouts. Therefore, KPMG requested an extract of all individuals coded as one of the three categories above in MMS.

During the course of a review of a specific file, KPMG paid particular attention to any documents that may contain names of other individuals who potentially should have been listed. KPMG would then search the name(s) in question against the contents of the MMS extract to ensure the person was in the system and coded as suspended or terminated. If the results of the search were negative, the name was then added to an ongoing list KPMG dubbed the Unlisted Names (UN) list. Periodically, KPMG would forward a copy of this list to Scouts in order that they could conduct additional efforts to determine any further information on the various unlisted names. In the end, KPMG's total tally of unlisted names was 144.

It is important to note that names are listed for reasons other than SMAY (e.g. theft). However, the reason for listing a name is not included on the list itself. Therefore, a number of the other names found in the files and included in KPMG's UN list may not relate to SMAY. In addition, Scouts' record retention policy changed throughout the years with regard to suspension and termination files and the listing of related names. For example, during a certain period of time, names were allowed to be deleted from the list and the related files were destroyed. This could be one explanation as to why certain names appear to be listed at a point in history but do not appear to be listed today and no file appears to exist.

Of the 144 names collected by KPMG during the file review and included on the UN list:

- 40 names were found to relate to SMAY and files were provided by Scouts to KPMG for review. These names are included in the review population and discussed further in the analysis section of this report.
- 11 names were determined by KPMG to be non-SMAY in nature and are not relevant to KPMG's review.
- 93 names were researched by Scouts but they were unable to locate files or supporting documentation. These names are not included in the review population as no file could be located and thus nothing was available for KPMG to review. KPMG cannot comment on whether or not these names relate to SMAY.

- Scouts, in an abundance of caution, listed all 144 names in MMS and provided proof of this action to KPMG for each of the names in question.

9.3 Observations and Implications

KPMG cannot confirm that no other relevant suspension and termination files exist. However, the steps recommended by KPMG and taken by Scouts did increase the overall review population from the original 350 to 486 names.

It was explained to KPMG that there was no defined filing protocol or process and that in years pre-2001 files were kept and managed by independent Provincial Councils with little input or control nationally. In 2001, when governance was centralized, all past files of this type were to be centralized but clearly this did not happen in all cases.

The state of these important corporate records was surprising to both KPMG and Scouts' current management. It is clear from the state of the files that Scouts was not managing these matters centrally or learning corporately from past mistakes.

The implications to this review of the weaknesses of the files and the filing system and KPMG's ability to draw conclusions in particular matters are noted throughout this report.

10 Analysis and Findings: Governance

10.1 Introduction

According to the Institute on Governance: *“Governance determines who has power, who makes decisions, how other players make their voice heard and how account is rendered.”*²⁷

Governance, if managed appropriately, combines structure, policy, procedures and practices to lead an organisation to a desired result.

10.2 Decentralized

KPMG was advised Scouts started as a grassroots organization with little national perspective and oversight, technically an extension of the Scouting Association of the United Kingdom. Scouts evolved with the philosophy of being a volunteer-led, staff-supported movement. The organisation exists due to the service of volunteers both directly delivering programs and providing governance. They are supported by a limited number of paid staff members.

In the post World War II period encompassing the 1950s through to 2001, Boy Scouts of Canada was an association of 11 provincial and territorial Councils, notionally under the auspices of a National Council. Each of the 11 Councils had its own Board of Directors, created their own policies and employed their own staff. There were national policies and procedures; however, individual Councils chose which policies they wished to follow.

KPMG understands building consensus and implementing policies through each of the independent Councils was a complex and lengthy process, which often led to the elapsed time from inception to enactment taking a number of years. Building clarity in Scouts’ policies on a national basis was often challenging as well, since Provincial/Territorial Councils had the power to enact their own policies as long as theirs did not conflict with any national policies.

10.2.1 Observation and Implications

In hindsight, the governance model in place until approximately 2001 had a profound impact on Scouts’ handling of SMAY during much of the time under review.

There is evidence in various files of confusion within the system as to what suspension and termination policies and practices apply from time to time. In addition, the review of the files leaves the impression that in practice policy was not well understood, was left up to interpretation, changes were not well communicated, and training was not always sufficient. There are also cases where provincial council members are writing, seeking clarification and asking questions as to why a given individual had not been terminated and/or why matters were taking so long.

The contents of the files reviewed indicated the decision making process around how to manage incidents of SMAY varied greatly. The contents of the files were variable and incomplete, the investigative processes (to the extent documented), were inconsistent, the decision making process to suspend or terminate were different, as was the ultimate resolution of a given case. Decisions were made by persons close to the

²⁷ <http://iog.openconcept.ca/en/about-us/governance/governance-definition>

incident reflecting the norms of the community directly impacted. There appeared to be little national involvement on given files other than some high level guidance.

The maintenance of lists, and how quickly people were listed, was also inconsistent with evidence of personal lists, provincial lists and national lists which were not reconciled. Policy, at times, allowed the decision to terminate and place a person on the national CL to be made at a provincial level. This is demonstrated by the quote from the 1972 version of AP3 below.

If the decision is made to terminate the membership, consideration should be given to whether the situation can be handled within the provincial council or whether the person's name should be included in the National Confidential List. The seriousness of the charge, whether the boy [sic] membership or the reputation of Boy Scouts of Canada would be endangered, the likelihood of the person concerned moving from place to place, would affect this issue.²⁸

What is also clear is, for many years, there was little central management of these issues, inconsistent follow up, no audit process nor, generally, a culture of learning from previous issues.

10.3 The Movement to Centralize

By the early 1990s, the Scouting Movement in Canada commissioned a number of studies. In 1998, Boy Scouts of Canada initiated an ambitious reorganization program. Pivotal to this reorganization was the creation of a national Board of Governors in 2001. This body had the sole authority to create policy. Furthermore, all employees came under the jurisdiction of the National Council. Two major bylaw rewrites resulted in the Provincial/Territorial Councils relinquishing their more independent style. The intent of these changes was to centralize the organization and bring about a stronger corporate perspective.

In addition to the broad changes described above, changes in process and practice (among others) were taking place and increased national involvement.

In 1992, Scouts' written policy for the first time included the need to ensure contact with authorities on matters related to allegations of child abuse or a possible criminal act against a child.

In 1996 an electronic version of the list of suspended/terminated individuals was provided to provinces on diskette to supplement the paper-based version. In 2002, with the implementation of a national Member Management System, all registration information was entered into this database which allowed a check against people previously listed.

In 2004, Scouts enacted a national policy on child abuse. Among other things, it notes a duty to report:

In most Canadian jurisdictions, there is a legal duty to report if a child has been or is at risk of being physically or emotionally harmed (including sexually molested) by a person having charge of the child. This is also a duty to report if a child less than 12 years of age has seriously injured another person or caused serious damage to another person's property and is either not appropriately supervised or is not getting the treatment that the child requires.²⁹

²⁸ Page 1 of AP3 revised November 30, 1972.

²⁹ Page 7, By-Laws, Policies & Procedures, Section 7002, March 2011. Bolding exists in original text.

KPMG understands from Scouts that risk management has evolved over the years. From a policy perspective, in September of 2001, 10 new and/or revised risk management policies were enacted. Sometime around 2010, section 13000 dealing with risk management was included in the BP&P. From a staffing perspective, up until approximately 2004, risk management was primarily focused on Scouts' insurance matters and the responsibility fell within the Executive Director of Administration's purview. Around 2004, KPMG understands from Scouts that a dedicated Risk Manager position was created and by 2005 policy required all incidents of SMAY to be reported to him. This position is based in the National Office in Ottawa and expanded the role to not only include insurance but a wider range of risk management matters. Questions about safety, incident reporting, and policy began to be directed to the Risk Manager. This individual also provided coaching and support to staff across the country on any issues related to risk management and insurance. Furthermore, the Risk Manager would receive and manage complaints and work with Scouts' legal counsel on any related matters. Finally, the Risk Manager also provided support to the termination process. The position of Risk Manager was originally filled by an individual with an insurance background, was then held for a short period of time by an individual with a law background and the position has been vacant since early 2012. In February 2012, the position of Director of Child and Youth Safety was created and filled. This position's principle focus is to provide support to the development of policies and programs that enhance Scouts' ability to ensure the safety of members. In addition, the Director of Child and Youth Safety supports the Child and Youth Safety Advisory committee, a committee of outside experts who were recruited to advise Scouts on policies and procedures.

In 1995 Scouts introduced a national policy for screening volunteer members (BP&P Section 3000), and in 1996 a national Screening process was introduced with 11 elements. This process was developed in consultation with Volunteer Canada, the National Education Campaign on Screening, and police agencies and was adopted as a model by other youth-serving agencies when developing their own screening models. Under the new process, Police Records Checks were introduced as a mandatory element. Screening procedures evolved with updates over the years. Most recently, the 2010 revision added a Vulnerable Sector Search against the pardoned sexual offenders' database as a requirement.

10.3.1 Observation and Implications

The standards Scouts set for itself during the post-2001 period when the National Board of Directors was created were high and the positive changes described above were a reflection of efforts to meet these standards. Unfortunately, the evidence in the individual files reviewed indicates Scouts did not always meet the high standards it set for itself.

Files remained inconsistent and decisions continued to be made at the local level, although there is indication of more national involvement.

While there was more involvement by the Risk Manager, this appeared to be more reactive than proactive. There continued to be limited follow up to ensure process was followed, that listings were done in a timely fashion or that senior management was provided with information that would allow them to manage this important risk.

Scouts' policy was to report all cases of suspected sexual abuse to authorities upon Scouts becoming aware of incidents. KPMG identified five cases, since 2001, where evidence in the file indicates Scouts did not appear to have shared information with authorities at the earliest time they had evidence that SMAY had taken place.

- Three of these cases reported to Scouts since 2001 related to incidents that occurred in the 1960s and 1970s. In one of these cases, from 1978, the victim did not know the name of the perpetrator. However, evidence on file indicates Scouts made an effort to identify the leader but was unable to do so.

In the other two cases, Scouts advised the now adult victims to report matters to the police, which is consistent with Scouts' legal advice.

- In one case that occurred in 2010, while Scouts did not report the matter directly to authorities when they first became aware of the incident, they did advise the parents to report, which they did.
- The last relates to a youth on youth matter that led to a discussion with the parents but, ultimately, the matter was not reported to the police.

All five incidents have been reported to the authorities by Scouts in 2012.

Scouts' policy was to list all persons immediately if they were suspected of SMAY. KPMG identified 12 cases since 2001 where individuals were not listed for over 180 days.

As is detailed in Section 12.4, Scouts faced challenges in ensuring the registration process was followed rigorously, particularly around the Police Records Check (PRC) step.

11 Analysis and Findings: Contact with Authorities

11.1 Introduction

KPMG’s findings in this chapter relate to Scouts’ policy of immediately reporting incidents of SMAY to authorities. As is noted in this chapter and elsewhere, Scouts’ policy around this matter evolved over time.

11.2 Requirements for Reporting Child Abuse

KPMG provided at 7.1 a discussion around the “*Evolution of Duty to Report*” in Canada and the time frame of the review.

As noted elsewhere in this report, AP3³⁰ is key to KPMG’s file review. The first inclusion in Scouts’ written policy of the need to ensure contact with authorities is not until the April 1992 revision of AP3. It states that:

If the matter being investigated concerns allegations of child abuse or a possible criminal act against a child, ensure that the appropriate child protection agency, police or other authorities have been notified.

Subsequent revisions to this area of the policy serve to strengthen the requirement to report and identify exactly who at Scouts is responsible for reporting. The next revision in July 1999 specifies that:

*If the matter being investigated concerns allegations of child abuse or a possible criminal act against a child, **the Scout executive must**³¹ ensure that the appropriate child protection agency, police or other authorities have been notified.*

For the purposes of this section, KPMG will consider 1992 (the year the requirement to report first appeared in Scouts’ policy) as the year Scouts was first required to report incidents of SMAY to the authorities.

11.3 Reporting Categories

KPMG reviewed the entire population of files for evidence of any contact with authorities. KPMG’s review determined that each case could be categorized under one of four scenarios:

1 **The authorities were contacted by Scouts**

In order for a case to be assigned to this scenario, evidence must be found on file to indicate that Scouts contacted the authorities at the earliest point of knowledge with regard to the incident(s) of SMAY. The incidents in question involved a Scout Leader but may or may not have involved a Scout Youth.

³⁰ In April 2005, the Council Operating Procedures (COPS) section 401 replaced AP3 but was majorly the same policy.

³¹ Emphasis added by KPMG.

2 Records do not indicate that Scouts contacted authorities

A case is categorized under this scenario when evidence in the file indicates Scouts did not share information with the authorities at the time they first had evidence that SMAY had taken place.

3 The authorities were aware of the incident before Scouts

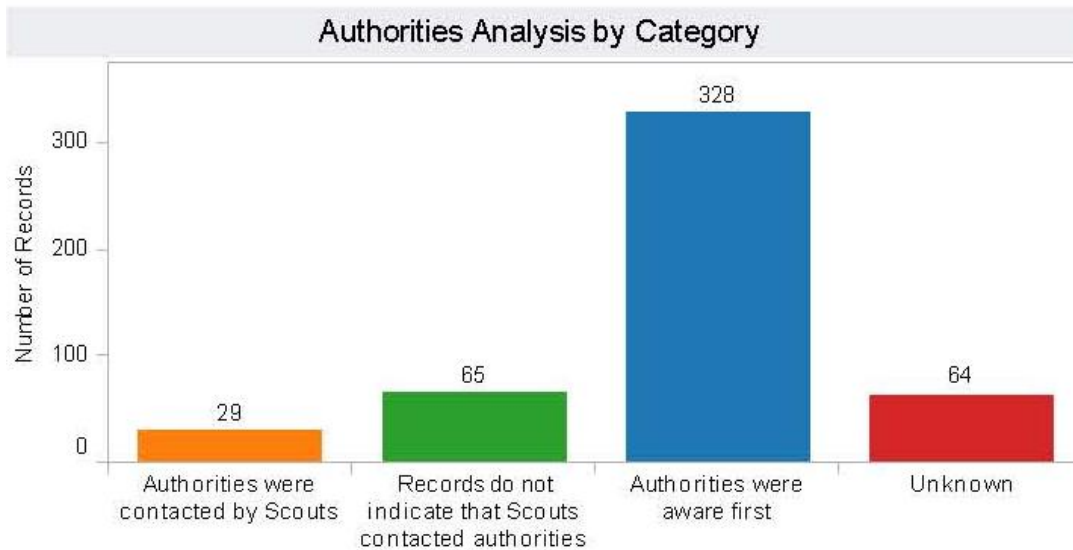
In this scenario, evidence on file indicates that authorities were aware of the incident before Scouts, with no evidence in the file to indicate that Scouts were aware of SMAY prior to the authorities. An example of this would be where the earliest evidence on file is a copy of a newspaper article reporting that an individual has been charged with allegations related to SMAY. The article itself may state that the individual is or was a Scout Leader or an internal Scouts’ memo may be attached stating that the individual in question is/has been a Scout Leader.

4 Unknown

This final scenario occurs when there is no evidence on file to allow KPMG to allocate a given file to any of the three preceding categories. As noted elsewhere in this report, a number of files are incomplete and do not allow KPMG to draw conclusions on particular matters.

11.4 Authorities by Four Scenarios

The table below illustrates the results of the overall review population when broken down into the four scenarios described above. As previously stated, the review population consists of files related to an individual who has been suspended or terminated in the period 1947 to 2011.



As illustrated above, of the 486 cases reviewed, KPMG determined that the authorities were contacted by Scouts in 29 cases. In 65 cases, KPMG determined that Scouts’ records indicate Scouts did not share information with authorities at the time they first had evidence that SMAY had taken place. In 328 cases,

KPMG determined that the authorities appear to have been aware first. Finally, in 64 cases there was no evidence on file to allow KPMG to allocate a given file to any of the three preceding categories.

11.5 Contact with Authorities by Time Period

The following table serves to illustrate the overall population broken down by the four contacts with authorities scenarios and grouped by period according to when Scouts appears to become aware of a given incident.

Authorities Analysis by Year					
Year Found Out (group)	Authorities were contacted by Scouts	Records do not indicate that Scouts contacted authorities	Authorities were aware first	Unknown	Grand Total
Unknown		2	4	10	16
1947-1961	2	14	17	15	48
1962-1971	3	12	34	10	59
1972-1981	1	14	44	4	63
1982-1991	2	10	52	3	67
1992-2001	11	9	101	12	133
2002-2011	10	4	76	10	100
Grand Total	29	65	328	64	486

In terms of mix between the categories, there does not appear to be a significant difference between time periods. Specifically, *“Authorities were aware first”* is always high compared to the other categories.

KPMG notes the observation earlier in this report in the document prepared by the CWLC that, while hard to quantify, *“...research has indicated that the number of children investigated for maltreatment increased dramatically in most jurisdictions since the early 1970s.”*

Details of each category are discussed in the following sections.

11.6 Authorities Were Contacted by Scouts

In order for a case to be assigned to this scenario, evidence must be found on file to indicate that Scouts contacted the authorities at the earliest point of knowledge with regard to the incident(s) of SMAY. The incidents in question involved a Scout Leader but may or may not have involved a Scout Youth.

KPMG identified 29 cases where the file indicates Scouts contacted authorities upon becoming aware of an incident(s) of SMAY.

KPMG has further broken this down into two periods:

	# of Cases
Pre-1992 Before Scouts' policy requires the reporting of sexual abuse against children.	8
Including and Post-1992 After Scouts' policy requires the reporting of sexual abuse against children.	21

11.7 Records Do Not Indicate that Scouts Contacted Authorities

A case is categorized under this scenario when evidence appears in the file that indicates Scouts does not appear to have shared information with the authorities at the earliest time they had evidence that SMAY had taken place.

KPMG has identified 65 such cases.

Of the 65 cases, there are two for which a date Scouts found out cannot be determined. KPMG has further broken down the remaining 63 cases into two periods:

	# of Cases
Pre-1992 Before Scouts' policy requires the reporting of sexual abuse against children.	50
Including and Post-1992 After Scouts' policy requires the reporting of sexual abuse against children.	13

To provide context to the earlier matters, KPMG has broken down the pre-1992 cases by the decade in which the incident was *reported* to Scouts.

Decade	# of Cases
1947-1961	14
1962-1971	12
1972-1981	14
1982-1991	10
Total	50

It is important to understand that often matters are reported to Scouts many years after the alleged incident. KPMG has broken down the 13 'including and post-1992' cases by the decade in which the incident of SMAY actually *took place versus when it was reported to Scouts*.

Decade	# of Cases
1960s	1
1970s	3
1980s	1
1990s	7
2000 or Later	1
Total	13

Of the 13 cases reported to Scouts after 1992 where they did not report them to the authorities, eight actually took place since 1992. The remaining five took place between the 1960s and 1980s.

In the case of the five files where the incidents took place before the 1990s, the person coming forward was an adult when they approached Scouts. In each case, consistent with its legal advice, Scouts advised the now adult victims to report matters to the police.

In one case that occurred after 1992, the matter led to a discussion with the parents but, ultimately, the matter was not reported to the authorities as per the wishes of the parents.

In one other case that occurred after 1992, the matter was youth on youth which led to a discussion with the parents but, ultimately, the matter was not reported to authorities.

Scouts reviewed KPMG's findings on all 65 cases and in all cases concurred. Scouts subsequently reported all 65 cases to the authorities regardless of whether they occurred in the pre-1992 period when Scouts' written policy did not require reporting. All matters are now in the hands of the authorities.

11.8 Authorities Were Aware of the Incident Before Scouts

In this scenario, evidence on file indicates that the authorities were aware of the incident before Scouts. An example of this would be where the earliest evidence on file appears to be a copy of a newspaper article reporting that an individual has been charged with allegations related to SMAY. The article itself may state that the individual is or was a Scout Leader or an internal Scouts' memo may be attached stating that the individual in question is/has been a Scout Leader.

According to the results of the review, the authorities appear to be aware before Scouts in 328 of 486 incidents or just over 67 percent of the overall population.

Of the 328 cases, there are four for which a date Scouts found out cannot be determined. KPMG has further broken down the remaining 324 cases into two periods:

	# of Cases
Pre-1992 Before Scouts' policy requires the reporting of sexual abuse against children.	147
Including and Post-1992 After Scouts' policy requires the reporting of sexual abuse against children.	177

The table below illustrates the 328 incidents where the authorities appear to be aware first, broken down by the time period in which Scouts appear to have found out (first column), then by the time period the incident took place (second column).

The table is further broken down by whether Scout Youth were involved (third to sixth columns). If the evidence in a specific file indicated that the victim was a Scout Youth, the incident would be categorized as yes. Inversely, when the evidence on file indicated that the victim was not a Scout Youth, but perhaps a relative or neighbour of the perpetrator, the incident was categorized as no. Finally, if there was no evidence on file to determine whether the victim was or was not a Scout Youth, the incident was labelled as unknown.

Authorities Aware First, Scout Youth Involved						
Year Found ..	Incident Date (group)	YES	NO	Unknown	Total	
Pre-1992	Unknown			2	2	
	Started 1950s or Prior	1			1	
	Started 1960s	1			1	
	Total	2		2	4	
	1947-1961	Unknown	2	2	2	6
	Started 1950s or Prior	5		3	8	
	Started 1960s	1		2	3	
	Total	8	2	7	17	
	1962-1971	Unknown	6	4	10	20
	Started 1950s or Prior	1			1	
Started 1960s	5	1	4	10		
Started 1970s	3			3		
Total	15	5	14	34		
1972-1981	Unknown	9	1	9	19	
	Started 1960s		1		1	
	Started 1970s	8	2	10	20	
	Started 1980s	1	1	2	4	
	Total	18	5	21	44	
1982-1991	Unknown	3	4	10	17	
	Started 1970s	2	1	1	4	
	Started 1980s	10	4	10	24	
	Started 1990s	4	2	1	7	
	Total	19	11	22	52	
Including and Post-1992	1992-2001	Unknown	7	9	14	30
	Started 1950s or Prior	1			1	
	Started 1960s	6		1	7	
	Started 1970s	7	3	3	13	
	Started 1980s	9	2	5	16	
	Started 1990s	14	4	10	28	
	Started 2000 or Later		2	4	6	
	Total	44	20	37	101	
2002-2011	Unknown	1	7	14	22	
	Started 1960s	5		1	6	
	Started 1970s	5		1	6	
	Started 1980s	5	1	1	7	
	Started 1990s	1	2	2	5	
	Started 2000 or Later	8	7	15	30	
Total	25	17	34	76		
Grand Total		131	60	137	328	

KPMG has analyzed two influencers as to why the authorities knew before Scouts: time elapsed between the incident’s occurrence and when it was reported; and whether the victims are Scout Youth.

11.8.1 Time Elapsed Between the Incident’s Occurrence and Reporting

Any consideration of Scouts’ knowledge of and conduct around a particular incident must consider the time frame the incident took place in relation to the time the incident was reported. As an example, Scouts’ ability to pursue an incident that took place in 1960 but is reported to them in 2011 is significantly different than an event that occurs in and is reported in 2011. This is not to imply that either incident is not important; it is just a fact that time elapsed has an impact. For example, in the decade of 1992 – 2001, a total of 101 incidents were reported. Of those, only 34 are known to relate to incidents that took place and were reported in the

same decade. The remaining 67 cases consist of 37 incidents that took place in prior decades and 30 cases where the date of incident is unknown.

11.8.2 Are the Victims Scout Youth?

Of the 328 incidents for which there is evidence on file to indicate that the authorities appear to have been aware before Scouts, 131 involved Scout Youth, 60 did not involve Scout Youth and in 137 incidents there was no evidence on file that indicated either way.

In the cases where Scout Youth are not involved, based on the contents of the files, KPMG can confirm that a number of these involve Scout Leaders and their conduct away from Scouts. Examples of this range from authorities finding child pornography related to non-Scout Youth found on a Scout Leader's personal computer to an individual who is/was a Scout Leader being accused of SMAY in their capacity as a teacher or a daycare provider.

As previously discussed, the 137 cases categorized as unknown could be due to a lack of documentation and overall poor file management. In addition, in Canada, *"Publication bans must be ordered for witnesses under the age of 18 and all victims of sexual offences to protect their identities if a victim, witness or Crown prosecutor requests the order."*³² KPMG's review has revealed a number of cases where publication bans have caused Scouts to not be able to determine whether a Scout Youth was a victim.

11.8.3 Period of 1992 to 2011

Every incident of child abuse is concerning. For the reasons above and the purposes of this section, KPMG has considered 131 files in which a Scout Leader committed SMAY against a Scout Youth and authorities appear to have been aware first. However, emphasis will be put on incidents known to involve Scout Youth that took place and were reported in recent decades, as these cases would be subject to the systems the organization more currently has in place.

Therefore, the analysis will be on cases in the "Yes" column that fall in the Scouts "Year Found Out" periods of 1992 – 2001 and 2002 – 2011. In addition, within these two periods, the focus will be put on recent incidents (i.e. 1990s – 2011) instead of older incidents (i.e. pre-1990s) that were reported in the period 1992 – 2011. For ease of reference, these are circled in red above and total 23 cases.

In all 23 cases the parents of the victim or a third party who gained knowledge of the incident made the decision to involve the authorities first instead of going directly to Scouts. KPMG notes that there was evidence in the majority of files demonstrating that Scouts cooperated with authorities when they approached Scouts for information pertaining to their investigation. Five of these cases involved incidents that took place between the Scout Leader and Scout Youth outside of Scout related functions. Four of these cases involved incidents that occurred during scouting functions and in the remaining 14 cases, documentation on file was incomplete and therefore there was not enough information to conclude whether the incidents involving Scout Youth occurred during scouting functions.

³² <http://www.justice.gc.ca/eng/pi/pcvi-cpcv/guide/secf.html>

11.9 Unknown

This scenario occurs when there is no evidence on file that allows KPMG to allocate a given file to any of the three categories above.

Consistent with the general observation about poor file maintenance, there were 64 files that are incomplete as relates to authorities being contacted at the time of the incident. KPMG provided each of these files to Scouts for their review. Scouts was unable to provide additional information to allow KPMG to allocate these files to a category. Therefore, these files remain unknown in terms of whether authorities were contacted. The readers should note that unlike the 65 incidents discussed earlier where authorities clearly were not contacted when Scouts first became aware of SMAY, these “*unknown*” files represent situations where the files do not contain enough information for KPMG to be able to ascertain if matters were reported or not by Scouts or when Scouts became aware of an incident.

Out of an abundance of caution, Scouts reported all 64 matters to the authorities for review in 2012.

Of the 64 files, there are 10 for which there is no date as to when Scouts appears to have found out. KPMG has further broken the remaining 54 into two periods:

	# of Cases
Pre-1992 Before Scouts’ policy requires the reporting of sexual abuse against children.	32
Including and Post-1992 After Scouts’ policy requires the reporting of sexual abuse against children.	22

12 Analysis and Findings: Suspensions and Terminations

12.1 Introduction

KPMG's findings in this chapter relate to Scouts' practices around the suspension, termination and listing of Scouts' leaders accused of SMAY.

The treatment of SMAY and the suspension and termination of Scout Leaders is governed by various policies and practices which KPMG detailed in Chapter 7. Scouts have only been able to provide policy documentation starting in 1972. KPMG's analysis of policy has therefore been limited to 1972 onward. However, KPMG has provided observations throughout this report on practices KPMG observed prior to 1972, without comment on specific policy.

While noting that matters evolved over time and there were differences at times, the policies related to SMAY are summarized by KPMG in Chapter 7 as follows:

Scouts' written policy appears to be one of suspend first and investigate after but promptly.

The policy above, with its defined time limit appears to have been designed to force a decision to ensure the termination and listing (on the confidential list) of a person (if appropriate) within the 180 day time frame.

It is noted that the control of the CL is the responsibility of the National Review Board since 1972 and the purpose of the CL is to ensure that a person whose membership has been terminated cannot gain admittance as a member in another location.

Chapter 7 also discussed the change to an electronic system (MMS) in 2002 to manage the CL.

12.2 Issues with the CL

The earliest version of AP3 provided to KPMG states: *"Because of the legal liability which might be incurred, the National Review Board must have clear and adequate evidence before a name can be published on the Confidential List..."*³³ Other than some updates to reflect the current terminology, the most recent version of AP3 provided to KPMG makes the same statement. KPMG has seen two related issues that appear to have caused problems with listing individuals on the CL during the file review. These are: the concern about liability and waiting for adequate evidence.

During the review, KPMG came across a number of examples that demonstrated a pattern of actions by Scouts attempting to avoid individuals coming back and suing them for inappropriate dismissal. There appears, in these cases, to be a trade off between protecting Scout Youth and the potential legal liability of the organization for dismissal of a leader. The balance between the two appears to sway over the years. At times the pattern of behaviour appears to be to list individuals promptly regardless of the circumstances in order to ensure Scout Youth were protected. At other times, the pattern of behaviour appears to be one of waiting for 100 percent certainty prior to listing an individual on the CL. KPMG was informed by Scouts that in 2005 efforts were finalized to improve this matter by declaring that membership was a privilege and not a

³³ Page 2 of AP3 revised November 30, 1972.

right with the intent to provide the ability to deny membership to previous adult members who were ill-suited for their role.

In addition, membership was changed to a yearly basis with mandatory re-registration in September of every year as an extra effort to ease denial of membership to certain individuals. The current BP&P document with respect to Appointment reads: *“All positions are annual appointments. Re-appointments will be based on annual evaluation.”*³⁴

The second issue illustrated by this statement is the interpretation of adequate evidence. Throughout the file review KPMG found several cases where the listing of an individual on the CL was delayed due to the lack of what was perceived as adequate evidence. The most common example of this in the files is waiting for a certificate of conviction. In these cases, this delay existed despite the fact that, in many of these cases, conviction had clearly taken place as evidenced by the media reports and other documents on file.

12.3 Time From Finding Out to Listing

KPMG reviewed the entire population of files for evidence of time elapsed between Scouts finding out about an incident of SMAY and the date the individual’s name appears on a CL as either suspended or terminated.

For the purposes of this analysis, KPMG relied on the following information found within the files:

- 1 On what date did Scouts find out?** – According to the facts on file, the date on which Scouts appear to have first found out about the incident(s) is recorded. Commonly, this date may come from correspondence on file, be it a letter of complaint from a parent or a note to the file with regard to how the information was received. Alternately, the date may be defaulted to the earliest date on the file if no clear indication of exactly when Scouts first found out is present.
- 2 Date that the individual appeared on the CL** – According to the documentation in the file, the date the individual’s name first appears on the CL is recorded. If included in the file, the ideal date is taken directly from a copy of the CL. However, when a copy of the list is not on file, the date stated on other relevant documents was used. If no date appears on file to indicate the date of listing, this field is recorded as unknown.

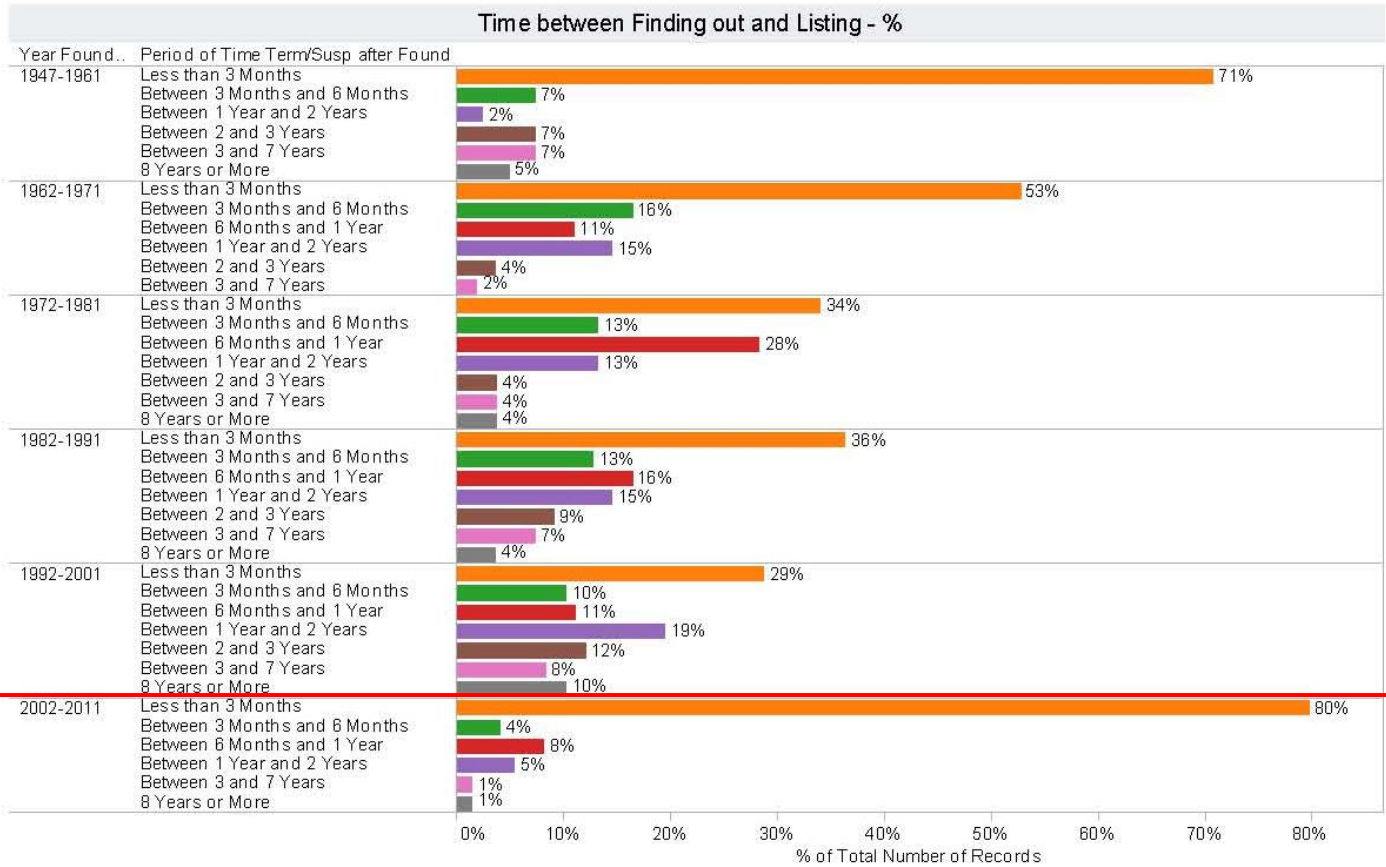
For each case where the two dates above were available, KPMG then calculated the time elapsed between the two. Considering the 90 day increments established by AP3, KPMG then grouped the cases by 90 day (or three month) increments until the maximum suspension length of 180 days (or six months), at which point the periods of time used are progressively longer.

As previously stated, the total review population consists of 486 files related to an individual who appears to have been listed in the period 1947 to 2011. However, KPMG notes that in the case of 100 files, KPMG was unable to determine the date Scouts found out and/or the date the individual was listed and was therefore unable to include these in the time analysis, resulting in 386 files being analyzed for these purposes.

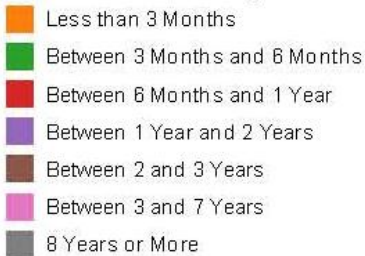
³⁴ Section 4001.1 BP&P.

12.3.1 Time Analysis

The table below illustrates the results of the overall review population when broken down by the time period in which Scouts appear to have found out (first column), then by the period (grouped by three month increments) of time it took until the individual was listed on the CL (second column). Finally, the results are presented by way of coloured bars representing the percentages of the total population.



Period of Time Term/Susp. after Found



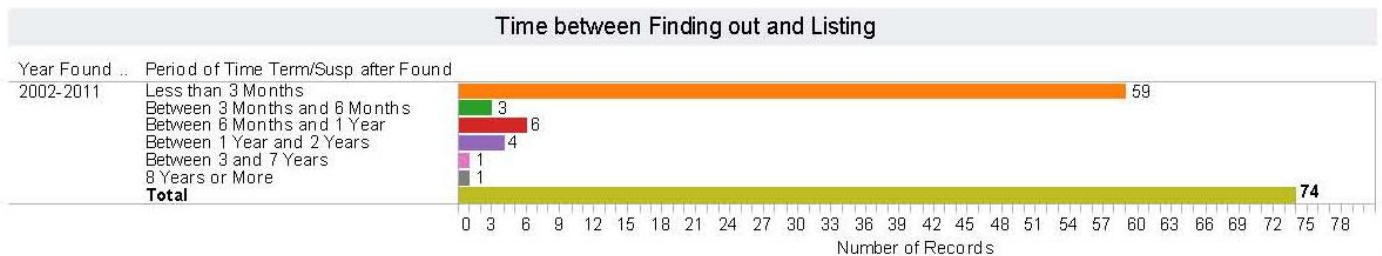
As illustrated above in percentages, of the 386 cases reviewed, KPMG determined that a total of: 186 cases were listed in less than three months; 40 between three to six months; 48 between six months and one

year; 49 between one and two years; 25 between two and three years; 20 between three and seven years; and 18 where it took eight or more years to list.

Given the discussion above, with a few exceptions, KPMG would expect most listings to have occurred within three months (90 days) of Scouts becoming aware of an incident, while noting there was generally policy in place that would allow this to extend to 180 days. Anything longer would generally be an indication the process was not resulting in the timely listing of individuals Scouts ultimately decided to terminate.

The decades from 1947 to 2001 reflect a mixed pattern of how quickly people were listed on the CL and there is little to be drawn by way of distinction between the decades. As discussed throughout this report, the pattern of conduct illustrated above is one of inconsistent adherence to policy, changing rules and a weak governance structure. During this period, in many cases individuals were not listed within 180 days, potentially putting children at risk and, in fact, KPMG saw seven cases where the untimely listing of an individual did allow continued contact with Scout Youth and additional SMAY took place.

The decade 2002 – 2011 reflects a different pattern where 59 of 74 cases are listed within 90 days and a total of 62 of 74 within 180 days. This is likely a reflection of a number of things, including a growing awareness of the issue of SMAY, the introduction of an electronic membership database (MMS), and the change to a more centralized governance model.



There are, however, 12 cases that were not listed within 180 days which are of concern.

- In all cases falling within categories of six months (180 days) or longer, Scouts failed to adhere to their policy of reaching a final decision and listing in a timely fashion (i.e. to reinstate if allegations of SMAY are not true or terminate if allegations of SMAY are true). KPMG notes in one case, Scouts were requested by the Royal Canadian Mounted Police (RCMP) to not suspend the individual to avoid prejudicing their investigation.
- Eight of 12 cases related to instances whereby Scouts issued a suspension letter to the accused leader but did not also list, at that time, the individual on the CL under the suspended category. In all of these cases, the accused leader was eventually listed on the CL but the delay that occurred in placing the individual's name on the CL created a potential risk to Scout Youth in that during the unlisted period, the individual could have applied to be a Scout Leader at another location.
- In four of 12 cases, it appears that Scouts did not obtain approval from the National Review Board/Committee to terminate the individual and list him/her on the CL under the termination category. The policy requires the National Review Board/Committee to approve each termination status, based on the findings from Scouts' internal investigation.

- In one of 12 cases, it appears Scouts violated their policy by indefinitely suspending the accused leader instead of following up the suspension with either a termination (if the allegations of SMAY were found to be true) or a reinstatement (if the allegations of SMAY were not found to be true). An indefinite suspension also ultimately results in not presenting the evidence accumulated from internal investigations to the National Review Board/Committee in order to obtain approval from the Committee to terminate or reinstate the individual.
- In two of 12 cases, the accused leader remained associated with Scouts after knowledge of SMAY occurred. In one of these cases, the individual's status in Scouts allowed contact with Scout Youth after allegations of SMAY were known to Scouts. In the second case, the individual's newly assigned position did not involve direct contact with Scout Youth.
- In addition, these cases highlight issues with regard to Scouts' policy of conducting PRCs. PRCs are an important part of the leadership registration process described below.

12.4 Leadership Registration Process

Registration records are kept separately from the suspension and termination files. KPMG was asked to review the suspension and termination files pertaining to incidents of SMAY. As such, other than the odd registration document that happened to be included in the suspension and termination files, KPMG did not review registration records for the names included in the review population. However, KPMG's review of the files did note specific concerns being expressed about the registration process.

However, KPMG is aware from their review that these processes have evolved over the years. In early years, the leader registration and selection process was quite informal. With Scouts being a very grass-roots organization, leaders were commonly selected based on their reputation as they were known in the community. However, as time moved on and society evolved, word of mouth and reputation were no longer sufficient.

KPMG understands that over the years of the review, an increased societal awareness around child abuse developed. Scouts informed KPMG that in and around the 1990s, talks began about a screening process needing to be put in place for volunteer organizations. In 1995 Scouts introduced a national policy for screening volunteer members (BP&P, section 3000) and in 1996 a national screening process was introduced with 11 elements. It is important to note that this process was developed in consultation with Volunteer Canada, the National Education Campaign on Screening, and police agencies. Furthermore, Scouts' screening process was adopted as a model by other youth serving agencies when developing their own screening models. Under this new model, PRC were introduced as a mandatory element. Screening procedures evolved with updates in 2001, 2005, 2006 and most recently in 2010 with the addition of the Vulnerable Sector Check. The following represents the current Scouts' leadership selection process:

Leadership Selection³⁵

While no current screening techniques exist that can identify every potential danger, we can reduce the risk by learning all we can about an applicant for a leadership position — his or her experience with children and why he or she wants to be a Scout leader.

Our Leader screening Policy establishes a stringent and thorough process with multiple check-points:

³⁵ <http://www.scouts.ca/sites/default/files/files/Scouts-Canada-Youth-Protection-Members-Eng.pdf> (Colour and emphasis included in original text).

- All volunteer members must complete a Police Record Check (PRC), including a Vulnerable Sector Check (which checks specifically for child-related offences);
- All volunteers and staff must provide an updated PRC every three years;
- Prospective volunteers must complete an interview with interviewers trained to look for red flags;
- Three personal references must be provided and are checked;
- Volunteers are not permitted to work with youth until fully screened and the entire process is signed off by the Council Executive Director;
- Occasional volunteers who are not parents or guardians accompanying their registered youth must be fully screened before participating in overnight activities;
- Scouts' 2-Leader policy must be maintained during all group meetings, activities, trips and outings with youth;
- Allegations of any violations of youth protection procedures and guidelines against a volunteer result in immediate suspension pending investigation;
- *We are uncompromising in our adherence to this process.*

The evolution presented above does illustrate various efforts made by Scouts over the years to improve child and youth safety. Examples of these include: the introduction of the 2-Leader policy where one adult should never be left alone with children/youth; the mandatory requirement of PRCs; and personal reference checks.

KPMG reviewed each of the 12 files noted above for compliance with the PRC policy. The results below reflect, at least for this limited sample, a lack of rigor around Scouts' policy concerning PRC. This matter should be reviewed further by Scouts.

- In one case, Scouts are unable to locate the registration records including any PRC, if done.
- In two cases, PRC policy was followed in that PRC were done in accordance to policy, including being done in the time frame required.
- In two cases, the matters related to youth on youth SMAY. Scouts' policy does not require PRCs to be done for youth members.
- In five cases, PRC policy was not followed in that while PRCs at some point were done, they were not done initially and/or on renewal, as required by policy.
- In one case, the individual was a former employee of Scouts. In this case, despite having contact with Scout Youth and functioning as a leader, this individual was not registered as a leader and there was no PRC done.
- In one case, a PRC should have been done according to policy in 1998, 2001 and 2004. Evidence on file indicates there was a PRC done in 2005, although Scouts cannot produce a copy. If the PRCs had been done as noted above, evidence that the individual was involved in a complaint of sexual assault in 1990 should have become known and as of 1998 the leader should never have been registered.

13 Analysis and Findings: Gaps in Policy

13.1 Introduction

KPMG's file review uncovered a number of other instances which would suggest gaps in Scouts' policy and/or practice.

13.2 Communication with Scouts in Other Countries and Other Organizations in Canada

As previously discussed in this report, a Service Inquiry form was introduced in Scouts in 1986. However, according to policy, this form was based upon self-declaration of previous Scouting experience. In practice, whether this form existed or not within Scouts, KPMG's review demonstrated inconsistent practices with regard to communication with Scouting organizations in other countries as well as with other similar organizations within Canada. This inconsistent communication applies both to situations of screening whether an applicant is suited to be a Scout Leader as well as the prevention of an ill-suited person from becoming involved with similar organizations or Scouts abroad. KPMG observed situations ranging from Scouts making no effort, to what appears to be Scouts going to all lengths to ensure individuals were suited for leadership and that ill-suited individuals were not allowed to associate with children and youth anywhere.

13.3 All Volunteers are Screened

KPMG understands that, according to policy, all Scouts' volunteers and staff must be screened and that this includes producing a PRC and Vulnerable Sector Check. KPMG's review identified the fact that certain gaps exist in this policy and/or the application of such. One example is that Scout Youth are not subject to the screening process. On the surface, this might seem logical. However, the fact is that at least two programs include Scout Youth who may be over the age of 16 years. These programs are: Venturer Scouts – aged 14 to 17 years; and Rover Scouts – aged 18 to 26 years. Parents/guardians of registered youth need not be screened. KPMG has been informed that the theory in the instance of parents and guardians is that they are only present to assist their own child. Yet another situation that surfaced during the review is that of individuals who avoid registering altogether but are regularly involved with Scouts. These individuals choose not to take on official leadership roles but still gain regular access to Scout Youth. Finally, occasional volunteers need not be screened unless they are participating in overnight activities. KPMG would recommend Scouts consider whether practical policies can be developed to deal with these issues.

13.4 Resignations

Another gap in policy and practice that became apparent through the review relates to resignations. During the review, KPMG came across a number of examples of individuals resigning before Scouts' suspension and termination procedures could be completed. Some instances related to an individual being given an opportunity by Scouts to resign instead of being suspended and/or terminated. However, most cases related to situations where the individual in question resigned after allegations of SMAY were brought forth or had already resigned before allegations of SMAY were known to Scouts. Regardless, there is evidence in files that indicates a certain level of frustration and confusion by Scout Leaders as to how to proceed when an individual resigns and situations of SMAY exist. Furthermore, documentation recorded complaints about the lack of guidance provided by AP3 for situations of resignation. Moreover, certain cases of SMAY where the individual resigns/is told to leave do not appear to have been made immediately known to Scouts' senior

management or the National Office. These instances only later became known as the matters in question gained media attention and questions were asked within Scouts.

13.5 Status of Membership

Another area of confusion observed during the review relates to the current status of an individual's membership at the time incidents of SMAY become known to Scouts. The files contained evidence of inconsistent practice when it came to listing individuals involved in incidents of SMAY if when Scouts became aware, the individual was not currently a registered member (but had been in the past). According to Scouts' policy, the purpose of the CL is to prevent ill-suited individuals from being involved with Scout Youth. Where an individual has been involved in Scouts in any way, whether an individual is registered or not at the time Scouts finds out about SMAY should not impact a decision to list them.

13.6 Unsanctioned Events

KPMG observed two instances where individuals took advantage of their status as a Scout Leader to hold unsanctioned events where they committed acts of SMAY involving Scout Youth. These unsanctioned events were outside the regularly scheduled meetings and overnight activities. However, due to their role as a Scout Leader, parents did not question the validity of the event. KPMG suggests Scouts develop a policy that ensures parents will be informed directly by Scouts of all relevant Scouts' sanctioned events and that Scout Youth should only attend these sanctioned events.

13.7 Allowed to Remain Active in Scouting

Earlier in this report KPMG discussed the gap whereby individuals are allowed to take part in Scouts activities without being officially registered. However, another gap identified during KPMG's review is when individuals who were suspended or terminated and possibly listed as ill-suited for Scout leadership were allowed to continue to take part in Scouting activities. KPMG observed cases where an individual was suspended by letter but not yet listed. Therefore, the individual and the person who drafted and sent the letter were the only people in Scouts who were aware of the individual's suspension. This permits individuals who are determined to remain involved the opportunity to do so by limiting knowledge of the circumstances to select individuals. Other cases observed by KPMG related to individuals who had been terminated and listed but refused to accept their circumstances and continued to participate in Scouting activities. KPMG identified 11 instances of this prior to 1992 and three instances post-1992.

www.kpmg.ca

© 2012 KPMG LLP, a Canadian limited liability partnership and a member firm of the KPMG network of independent member firms affiliated with KPMG International Cooperative (“KPMG International”), a Swiss entity. All rights reserved. Printed in Canada.

The KPMG name, logo and “cutting through complexity” are registered trademarks or trademarks of KPMG International.