

Protecting our electoral system from criminal activity

Submission to ERRE: Special Committee on Electoral Reform

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Summary: Given the unsolved “Robocall” electoral crimes of 2008 and 2011, we need to make our voting system resilient against the manipulation of small vote margins that was at the root of these crimes. We can achieve this by introducing proportionality to our electoral system.

In Guelph, the robocall affair involved what many would consider the toolkit of organized crime: burner cell phones, proxy servers, cash-loaded credit cards, fake names and false e-mail addresses. The fact that Elections Canada was not able to get to the bottom of this sophisticated and pre-meditated crime would indicate that we are light years away from being able to guarantee secure, tamper-free, on-line voting.

Vote Suppression in Saanich-Gulf-Islands in 2008:

The 2008 and 2011 Federal Elections saw unprecedented attacks on the integrity of our electoral system.

In 2008 in Saanich-Gulf-Islands, a recorded phone message was sent out on the eve of the Federal Election encouraging voters to support Julian West, an NDP candidate who had withdrawn from the race, but whose name was still on the ballot. The phone number was “spoofed” to appear as if it was coming from the phone of then NDP riding association president, Bill Graham.

Despite comprehensive reports and affidavits submitted to Elections Canada and the RCMP, the perpetrators were never apprehended or charged. In spite of recent allegations made under oath by Senator Mike Duffy that Conservative Party Headquarters was involved in that crime, the Commissioner of Elections Canada, Yves Cote, refused to re-open the investigation.

<http://www.cbc.ca/news/politics/mike-duffy-conservatives-mp-win-robocalls-vancouver-1.3360120>

<http://thetyee.ca/News/2016/09/08/Duffy-Election-Fraud-Allegations/>

Details of the Saanich-Gulf-Islands crime are chronicled in an article by Globe and Mail journalist , Lawrence Martin, in an article entitled, “The Curious Case of Saanish-Gulf-Islands”.

<http://www.theglobeandmail.com/news/politics/the-curious-case-of-saanich-gulf-islands/article550187/>

The 2008 robocall crime has been widely viewed as “ground zero” for the nation-wide assault that took place less than three years later.

2011 Vote Suppression:

The 2011 Federal Election saw an unprecedented level of vote suppression activity in 261 ridings across the nation. Research compiled by University of Guelph Professor Emeritus, Michael Keefer, suggests that there could have been in excess of 1.1 million misdirection and harassment calls.

<http://rabble.ca/blogs/bloggers/mkeefe/2015/09/dimensions-2011-voter-suppression-fraud>

Federal Court Judge, Justice Mosley, made a finding that vote suppression took place in the ridings of Yukon, Vancouver Island North, Saskatoon-Rosetown-Biggar, Elmwood-Transcona, Winnipeg-South-Centre and Nipissing-Temiskaming.

<https://www.canlii.org/en/ca/fct/doc/2013/2013fc525/2013fc525.html?resultIndex=1>

[244] *I am satisfied that it has been established that misleading calls about the locations of polling stations were made to electors in ridings across the country, including the subject ridings, and that the purpose of those calls was to suppress the votes of electors who had indicated their voting preference in response to earlier voter identification calls.*

In Section [241] of his ruling on *McEwing v. Canada*, Justice Mosley wrote: ***The conduct was aimed at “swing ridings” such as the six that are the subject of these proceedings, as the margin of victory in those was likely to be narrow.***

Justice Mosley further wrote in Section [253]: *Canadians have confidence in the integrity of our electoral procedures. The sanctity of the poll and the ballot box in this country is reflected in the frequent invitations Canada receives to provide independent observers to supervise foreign elections. There may have been isolated instances of electoral misbehaviour in the past but, as noted above, incidents of voter suppression of the nature discussed in these reasons have not been known in this country prior to the 41st General Election. For that reason, I don’t doubt that the confidence rightfully held by Canadians has been shaken by the disclosures of widespread fraudulent activities that have resulted from the Commissioner’s investigations and the complaints to Elections Canada.*

In Section [245] Justice Mosley pointed to the Conservative database as the source of the calls: *I am satisfied, however, that the most likely source of the information used to make the misleading calls was the CIMS database maintained and controlled by the CPC, accessed for that purpose by a person or persons currently unknown to this Court. There is no evidence to indicate that the use of the CIMS database in this manner was approved or condoned by the CPC. Rather the evidence points to elaborate efforts to conceal the identity of those accessing the database and arranging for the calls to be made.*

The individuals who accessed the Conservative database in the six ridings which were the subject of the *McEwing v. Canada* case have never been identified or apprehended. Likewise, in Guelph, it was established that Michael Sona never once used the CIMS database. However, the list that was uploaded to RackNine exactly matched the non-supporter list in the CIMS database. While Justice Hearn found evidence presented in court established that Michael Sona did not act alone, the investigation has been closed without getting to the bottom of the matter.

Protection through proportionality:

No electoral system can be made completely safe from premeditated criminal activity, however I believe that proportionality would help to mitigate the impacts of this kind of vote suppression. While a win in a given riding could be manipulated by a small margin, proportionality would minimize the impact on the overall result.

In an on-line article posted shortly after the 2011 election, two writers suggested that the difference between a Conservative minority and the Conservative majority in 2011 boiled down to 6,201 individual votes in key swing ridings.

<http://rabble.ca/news/2011/05/tallying-conservative-win-14-ridings-6201-reasons-be-frustrated>

A caution against on-line voting:

Given the shocking criminal activity that came to light in Guelph and elements of the crime which remain unsolved, I am completely against on-line voting. Proxy servers were used to mask the identity of computers interacting with RackNine, the cell phone company and Pay Pal. Participants in the crime used fake names and false e-mail addresses. We now know there was a group of people ready to subvert our democratic process and rig the outcome of at least two elections. Elections Canada did not have the resources, or perhaps the expertise to solve these crimes. We need to protect the security and integrity of our electoral system by continuing to use paper ballots.