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Ms. Suzanne Legault
Information Commissioner of Canada
Place de Ville, 3rd Floor, Tower B
112 Kent Street
Ottawa, Ontario
K1A 1H3

January 7, 2013

Dear Ms. Legault:

On March 19, 2012, on behalf of Democracy Watch, I submitted a request under the *Access to Information Act* for:

All rulings, decision letters, emails, and other documents sent to anyone who filed a complaint since April 1, 2004, with complainants' personal information removed and the personal information of anyone who was complained about removed. We are seeking the date the complaint was received, what the complaint alleged, when the complaint was investigated, summary of evidence gathered, ruling that was issued, and the ruling.

We clarified this further in a letter dated April 13, 2012, requesting “copies of all communications sent to every complainant advising them of the final decision to complaints filed since 1997.”

From the letters we have exchanged with Elections Canada concerning the request, most specifically the final letter from Elections Canada dated December 14th (see enclosed), we have concluded that Elections Canada refuses to disclose all records in their entirety under section 16.3 of the *Access to Information Act* and has thus far only disclosed final decisions/rulings on eighteen (18) complaints and those decisions/rulings are all available on Elections Canada's website.

You can download the previous letters Democracy Watch and Elections Canada exchanged concerning the request on the following webpage:

<http://democracywatch.ca/20121119-elections-canada-claims-commissioner-may-look-bad/>

In addition, please see enclosed Democracy Watch's letter to Elections Canada dated January 7, 2013 clarifying the request (as Elections Canada misinterpreted the request in its letter dated

December 14, 2012) and requesting re-consideration of Elections Canada's decision to refuse to disclose the documents under section 16.3 of the *Act*. As you know, section 16.3 reads,

Subject to section 541 of the Canada Elections Act, the Chief Electoral Officer may refuse to disclose any record requested under this Act that contains information that was obtained or created by or on behalf of a person who conducts an investigation, examination or review in the performance of their functions under the Canada Elections Act.

Section 16.3 allows disclosure of all the final decisions/rulings on all of the complaints, and given the final decision/ruling letters have been made public already by sending them to each complainant, and given that as a law enforcement agency Elections Canada has a duty and obligation to enforce, and be seen to enforce, the law properly, fairly, and effectively, and that it is in the public interest entirely that Elections Canada disclose the final decisions/rulings on all of the complaints.

As well, other Officers of Parliament – including yourself, the Auditor General of Canada, the Commissioner of Official Languages for Canada, the Privacy Commissioner, and the Commissioner of Lobbying, are all required under 16.1 or 16.2 to disclose final decisions/rulings, and Elections Canada has only had the discretionary right to refuse to disclose since 2007 after the Conservatives weakened the *Act* by adding section 16.3.

In addition, the purpose of the *Access to Information Act* is "to provide a right of access to information in records under the control of a government institution in accordance with the principles that government information should be available to the public, that necessary exceptions to the right of access should be limited and specific . . ." and that the *Act* "is not intended to limit in any way access to the type of government information that is normally available to the general public."

The other exemption Elections Canada claims under the *Act* (section 19 personal information) is irrelevant as Democracy Watch has made it very clear in all of its requests that it is not requesting disclosure of anyone's personal information, and that severing/redacting the personal information of the complainant or others from every document disclosed is entirely fine with Democracy Watch.

We request that you investigate this situation and issue a public statement strongly encouraging Elections Canada to comply with the spirit of the *Act*, and with principles that all democratic good government watchdog agencies should uphold, by disclosing the documents Democracy Watch has requested. We also request that this statement strongly recommend the amendment of section 16.3 of the *Act* to align it with the requirements to disclose in sections 16.1 and 16.2.

Sincerely,

Tyler Sommers, Coordinator of Democracy Watch
On behalf of the Board of Directors of Democracy Watch