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Prince Afram
Access to Information and Privacy
Office of the Chief Electoral Officer
257 Slater Street
Ottawa, Ontario
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January 7, 2013

RE: *Access to Information Act* request File number A-2011-00132/PA

Dear Mr. Afram,

I write to you today in response to Michèle Babin's letter dated December 14, 2012 concerning Democracy Watch's *Access to Information Act* (ATI Act) request, file number A-2011-00132/PA for all rulings, decision letters, emails, and other documents sent to anyone who filed a complaint since April 1st, 2004 with the complainant's personal information removed/redacted and the personal information of anyone who was complained about removed/redacted. This was clarified April 13th, 2012 to include copies of all communications sent to every complainant advising them of the final decision regarding their complaint filed since 1997.

Thank you for clarifying that all of the final decisions/rulings letters requested by Democracy Watch were made by the Commissioner of Canada Elections.

However, to clarify the request I made on behalf of Democracy Watch, the request was never limited to rulings on complaints filed during election campaign periods since 1997 -- I also requested rulings on complaints filed in-between elections since 1997. This was clearly acknowledged by Elections Canada in its letter dated September 21, 2012.

As a result, Elections Canada should also be searching for final decision/ruling letters sent to complainants who made complaints in-between elections from 1997 on. Please let us know how long you expect the search for these documents to take.

You state in your letter that concerning records about complaints made during the 37th federal election (in 2000): "Some records have been withheld in their entirety under section 16.3 of the Access to information Act..."

In fact, Elections Canada has to date, as it continues the processing of Democracy Watch's request, indicated that it will refuse to disclose almost all records in their entirety under 16.3, as it has so far only disclosed the Commissioner's final decisions/rulings on eighteen (18) complaints, and those decisions/rulings are all already available on Elections Canada's website,

although the identities of the wrongdoers are kept secret before 2008. As a result, the letter of December 14th has made it clear that Elections Canada is refusing to disclose any more than the 18 decisions/rulings out of the following total number of complaints filed since 1997:

- Hundreds of complaints filed between election day of the 41st election (2011) and the date Democracy Watch filed its request;
- the 1,003 complaints filed during the 41st election (2011) campaign period;
- the 500 complaints filed during the 40th election (2008) campaign period;
- the 329 complaints filed during the 39th election (2006) campaign period;
- the 511 complaints filed during the 38th election (2004) campaign period;
- the 382 complaints filed during the 37th election (2000) campaign period;
- the 257 complaints filed during the 36th election (1997) campaign period;
- the unknown number of complaints filed in between the above elections (unknown because Elections Canada never discloses anything about complaints it receives in-between elections, other than disclosure made since the 2011 federal election).

Again, given that 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, we again appeal to Elections Canada to re-consider its position and recognize 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 -- the Auditor General of Canada, the Commissioner of Official Languages for Canada, the Information Commissioner, 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 right to refuse to disclose since 2007.

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."

We still hope that Elections Canada will re-consider its position, and look forward to hearing back from you with hopefully a changed position, but we will be proceeding to file a complaint with the Information Commissioner of Canada.

Sincerely,

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