

**INTERPRETATION
BULLETIN NO.**

ESKIB-2015/01

DATE: DECEMBER 28, 2015

SUBJECT

**PROVISION OF BIRTH DATE INFORMATION ON ELECTION PERIOD
LISTS OF VOTERS PRODUCED FOR POLITICAL PARTIES, CANDIDATES
AND ELECTION OFFICERS**

REFERENCE

**SECTIONS 18.7(3)(c), AS MODIFIED BY SECTIONS 18.6(3) AND 18.7(4) OF
*THE ELECTION ACT, 1996***

Introduction

This bulletin reports on the results of a review undertaken by the Chief Electoral Officer concerning privacy implications associated with new requirements for voters' birth date information to be included on lists of voters for the 28th Saskatchewan provincial general election. These lists are to be produced from a newly created permanent register of voters, as per legal amendments¹ made to *The Election Act, 1996*.

The birth date information associated with every registered voter is, according to section 18.7(3)(c), to be disclosed on voters lists provided during the election period to registered political parties, candidates for election and election officers administering voting. However, sections 18.6(3) and 18.7(4) of the Act also provide the Chief Electoral Officer with discretionary ability to remove information contained on lists of voters to protect against potential misuse of voter registration information and to protect the personal privacy and security of voters.

Context

The requirement for the election period lists of voters to include the birth date of each voter is found in section 18.7(3) of the Act:

- 18.7(3) The voters list must only contain the following voter data for each voter:
- his or her surname, given name and middle name, if any;
 - his or her occupation;
 - his or her date of birth;** *[emphasis added]*
 - the residential address, including the postal code, of the residence of the person, and the mailing address, including the postal code, if the mailing address is different from the residential address;
 - his or her permanent unique identifier assigned by the Chief Electoral Officer pursuant to subsection 18.2(5)

¹ Bill 139, *The Election Amendment Act, 2014* was passed by the Legislative Assembly on May 14, 2014 and was proclaimed in force effective December 8, 2014.

Sections 18.6(3) and 18.7(4) provide the Chief Electoral Officer with broad discretionary authority to take actions in order to protect the privacy and security of voters.

18.6(3) The Chief Electoral Officer may remove information on the register of voters or a voter's list to protect the security or privacy of a voter.

18.7(4) The Chief Electoral Officer shall take all reasonable steps to protect against any use of a votes' list other than a use authorized by this Act.

Distribution of Voters Lists

Personal information about each registered voter is widely shared twice during an election period: on the preliminary list of voters issued at the start of the election and on the revised list of voters produced just prior to the start of advance voting that begins six days before election day.

All six of the registered political parties are entitled to receive electronic copies of both lists for all 61 constituencies within the province and to make use of this information in their campaigning efforts. As well, each of the anticipated 200+ candidates for election are entitled to receive both printed and electronic versions of both lists for their constituency and to have their volunteer supporters actively use them for campaigning purposes and for scrutinizing voting procedures at advance and election day polls. Returning Officers and their staff have access to both of these lists for the purposes of answering voter queries and administering mail-in voting and voting at the returning office, and the deputy returning officers and poll clerks receive and make use of the constituency revised list for each advance poll and the polling division revised list at each of the 3,000+ polling stations established on election day. Rigorously controlling access to the information contained on these semi-public lists is very difficult given their extremely wide distribution and temporary use within the election period.

Privacy and Security Concerns

Individual citizens, election officials from across Saskatchewan, senior election administrators from across Canada, the Saskatchewan Information and Privacy Commissioner, and the chief official agents of the province's six registered political parties have all expressed their opinions to the Chief Electoral Officer about the new legal requirements for placing 700,000+ registered voters' birth date information on the electronic and printed lists of voters that are required, by law², to be issued to thousands of political candidates' campaign workers and political party volunteers and thousands of temporary election workers during a province-wide general election.

² List distribution requirements are discussed in section 26 of *The Election Act, 1996* with regard to preliminary lists; section 18.8 with regard to revised lists.

By far, voices of concern about the great potential for severe loss of personal privacy and adverse threats to personal security have dominated this discussion. Much of this discourse has focused on the urgent need to limit opportunities for identity theft which currently affects 1 in 6 Canadians annually and is deemed by the RCMP to be the fastest growing crime in the world³. An individual's full date of birth is one of the most sought-after pieces of information targeted by identity thieves and is one of the most common data elements used to commit identity theft. A wide array of institutions, including government offices, banks, and health care providers rely on the full date of birth as a common verification question to prove identity. Given the number of voters lists that must be broadly distributed, in both printed and electronic forms, in order to successfully and transparently carry out a provincial general election, the Chief Electoral Officer is deeply concerned about the potential for widespread misuse of voter registration information if the legal names and address details of registrants are to be accompanied with individuals' full birth date information on lists of voters.

The consequences of identity theft are broad. There are significant tangible impacts including financial loss, legal problems and credit issues for the individuals affected. Less tangible, but no less important, are emotional and cognitive impacts on the victims. The potential negative impact of privacy and security issues related to birth date information appearing on lists of voters could also significantly erode the public's trust in the election system.

Electoral Integrity Concerns

The Chief Electoral Officer recognizes that information about an individual's date of birth could provide value for election officers and political representatives scrutinizing voting. In situations where two voters have the exact same name and the exact same residential address, there may not be an easy way to differentiate between these individuals on the voters list⁴. In many cases, the only way to do so with the information found on the voters list would be to rely on birth date data. Not including this information could result in confusion as to who has voted or not voted, or who is eligible to vote during an election.

Chief Electoral Officer's Interpretation

The Chief Electoral Officer has sought the opinion of electoral stakeholders, privacy and security experts, and professional colleagues on this matter.

In correspondence with Elections Saskatchewan, the Saskatchewan Information and Privacy Commissioner has provided his opinion that birth date information should not be included on lists of voters.⁵

³ See RCMP National Identity Crime Strategy, available online at: <http://www.rcmp-grc.gc.ca/pubs/cc-dc/strat/index-eng.htm>

⁴ An evaluation of the content of the Saskatchewan provincial voter registry as of mid-December 2015 indicated there were 114 pairs of individuals who had identical names and lived at the same residential address. This represents less than 0.05% of all provincially registered voters.

⁵ Information and Privacy Commissioner to Chief Electoral Officer. Correspondence, Privacy Implications of Birth Date on Voters' List. December 18, 2015.

Based on research information obtained and advice received regarding the issue of birth dates appearing on lists of voters, the Chief Electoral Officer has carefully interpreted his responsibilities under *The Election Act, 1996*.

The following three policy decisions are a direct result of this interpretation:

1. **Preliminary voters lists used by returning officers and their staff, and revised voters lists that are used by election officers** (returning officers, deputy returning officers and poll clerks) in absentee, advance, mobile and regular polling day voting procedures **will not contain birth date information as part of the information recorded for each registered voter**. However, in cases where there are two or more persons that live at the same residential address, and these persons are registered as voters with the same surname, given name and middle name, the year of birth for each respective registrant will be shown on the list. This provision will clearly distinguish between different individuals having the same names and living at the same address.

For example, if 43 year old William Dickson is registered at 235 Maple Street within a particular polling division, and his 19 year old son William also lives and is registered as a provincial voter at that same address, their respective information on the voters list will be displayed to include the year of birth along the lines of the following example:

Dickson, William	1972	235 Maple Street
Dickson, William	1996	235 Maple Street

2. **Candidates and their campaign volunteers (including candidate representatives)** who will have access to electronic or printed election period voters lists **will have the exact same list information as used by the constituency returning officers and election officers**. Birth year information will be displayed for those multiple registered voters with identical names that share the same physical address of residence. This will be the case on both preliminary lists of voters that are issued at the start of the election period, and revised lists of voters which are used to scrutinize the administration of voting. Electronic or printed lists will be provided to candidates, or their agents, only upon their signed agreement to follow the conditions contained in Forms E-293 and E-295, attached to this bulletin for reference.
3. **Province-wide electronic voters lists that are provided to registered provincial political parties during the election period of the 28th general election will have the same data content as lists issued to constituency candidates and election officers**. This will be the case for both the preliminary and revised lists that are produced during the election period, but the provincial list will be a sequenced combination of all 61 constituencies in the province. These provincial voters lists will be provided to the chief official agents of registered political parties, or their delegated agents, only upon their signed agreement to follow the conditions contained in Forms E-293 and E-295, attached to this bulletin for reference.

Following the conclusion of the election period, a 'final' voters list will be produced reflecting information for all voters who were registered for the general election, including those who registered or updated their registration at the time of voting. This list will be made available in electronic form to those registered political parties that have entered into an agreement with the Chief Electoral Officer as required by section 177(4) of the Act, which will include appropriate assurances that the party will apply best practice protection of the privacy and security of information about registered voters in the province. **The final list provided to the registered political parties following the election will contain the birth year for each registered voter.**

Following the 28th provincial general election, scheduled to be held on April 4, 2016, Elections Saskatchewan will undertake a comprehensive review of all privacy and security measures related to the Permanent Register of Voters and provisions related to accessing both election period and non-election lists of voters. This may result in changes to the policy approach outlined in this bulletin or identify a need for additional policies and procedures to be implemented.

A handwritten signature in blue ink that reads 'Michael D. Boda'.

MICHAEL D. BODA, D.PHIL., PH.D.
CHIEF ELECTORAL OFFICER
PROVINCE OF SASKATCHEWAN

ATTACHMENTS: DECLARATION TO PROTECT THE LIST OF VOTERS (E-293), AND
 DECLARATION TO SECURE THE LIST OF VOTERS (E-295)



Declaration to Protect the List of Voters

E-293
The Election Act, 1996
(Revised September 2015)

For any person who has access to information from the List of Voters for Saskatchewan

Person Making Declaration (Please Print)

Family Name		Given Name(s)	
Address		Telephone Number	

Constituency requested _____

- I am a nominated candidate for _____
- I am a business manager for _____
- I am a registered political party representative for _____

In accordance with the provisions of *The Election Act, 1996* as amended, I acknowledge, undertake and agree as follows with respect to the information I obtain, directly or indirectly, from the List of Voters for Saskatchewan including any "voter information", whether the voter information is in printed or electronic format or examined in either format without obtaining a copy:

- (a) I will use the voter information only for electoral purposes.
- (b) I will not use the voter information, or permit the voter information to be used, for any other purpose (including for commercial purposes).
- (c) I accept responsibility for the use, safety and security of the voter information. Access to the voter information by any other person will be on need-to-know basis only, restricted to those for whom the voter information is necessary for the performance of their work in relation to electoral matters, and only after obtaining from the other person his or her agreement in writing to protect the privacy and security of the voter information to the same extent as provided in this Declaration.
- (d) Printed and electronic copies of the voter information will be secured and protected from loss, disclosure or unauthorized access by industry standard methodologies and tools.
- (e) Reasonable policies and procedures will be enforced to maintain administrative, technical and physical safeguards as will protect against reasonably anticipated threats or hazards to the security of, loss of, or unauthorized access to the voter information.
- (f) If there is reason to believe that any voter information has been compromised or in the event of lost or unaccounted for printed or electronic copies of all or any portion of the voter information, I will immediately contact Elections Saskatchewan and report the breach.
- (g) It is understood and agreed, in the case of voter information provided during an election, that Form E-295 will be declared and delivered at the completion of the election event (confirming steps to secure or destroy the voter information) and in any other case that the voter information will be retained only for as long as necessary for the purposes identified above and will thereafter be securely destroyed or disposed of in a manner that will protect the confidentiality of the voter information.

Declared Before Me

At the _____ of _____ this _____ day of _____ 20__
--

Name (Please Print)

Name (Please Print)

Signature of Commissioner, etc.

Signature of Person Making Declaration



Declaration to Secure the List of Voters

E-295
The Election Act, 1996,
(Revised September 2015)

To be completed after an electoral event by persons who have received an electronic and/or paper copy of the List of Voters

Person Making Declaration (Please Print)

Family Name	Given Name(s)
Address	Telephone Number

In accordance with the provisions of *The Election Act, 1996* as amended, I acknowledge the following regarding the copies of the List of Voters for Saskatchewan that were obtained for:

Election Event _____

Constituency details _____

- All paper and electronic copies of the List of Voters that have been distributed during the election have been collected and are being retained only for electoral purposes and only for so long as necessary for those purposes, following which they will be securely destroyed or disposed in a manner that will protect the confidentiality of the voter information.
- All paper and electronic copies of the List of Voters that have been distributed during the election have been collected and securely destroyed.
- All paper and electronic copies of the List of Voters that have been distributed during the election have been collected and returned to the Returning Officer.
- All paper and electronic copies of the List of Voters that have been distributed during the election have been collected and returned to the Office of the Chief Electoral Officer.

Declared Before Me

At the _____ of _____
this _____ day of _____ 20__

Name (Please Print)

Name (Please Print)

Signature of Commissioner, etc.

Signature of Person Making Declaration