

Elections Survey Primer - What CRIC Members Need to Know

With an upcoming federal election rumoured to be called in early August, CRIC is releasing this Elections Survey Primer¹ as a reminder to members of the various federal requirements that apply to election survey or voter contact related work.

There are four main categories of requirements, all stemming from the [Canada Elections Act](#):

- 1) Voter Contact Calling Services
- 2) Publicly Releasing Election Survey Results
- 3) Blackout periods
- 4) Election expenses.

1) Voter Contact Calling Services (Section 348 of the *Canada Elections Act*)

Members conducting “voter contact calling services” by phone (live or IVR) during an election period – from “get out to vote” calls to election survey calls – **need to register with the CRTC’s Voter Contact Registry within 48 hours of their first call** during an election period (i.e., once the writ drops). The registration requirements include providing identifying information and keeping copies of scripts and recordings used to make calls.

The Registry’s intent is to protect Canadians from rogue and misleading telephone calls during federal elections, and to ensure that those who contact voters do so transparently. The Registry does not apply to surveys conducted online or by other means.

For more information on the Voter Contact Registry requirements, visit:

- www.crtc.gc.ca/eng/phone/rce-vcr
- www.crtc.gc.ca/eng/phone/rce-vcr/guidecan.htm#infograph-can
- www.laws-lois.justice.gc.ca/eng/acts/E-2.01/page-45.html#h-206569 [Part 16.1]

2) Publicly Releasing Election Survey Results (Section 326 of the *Canada Elections Act*)

The *Canada Elections Act* sets out a number of requirements related to the transmittal of election survey results to the public. These apply to the **“first person who transmits the results of an election survey to the public during an election period and any person who transmits them to the public within 24 hours after they are first transmitted.”**

The Act defines election surveys as: “a survey respecting whether persons intend to vote at an election or who they voted for or will vote for at an election or respecting an issue with which a registered party or candidate is associated” (see Section 2(1) of the Act).

The Act further states that the following information must be released, together with the survey results:

CRIC member companies already adhere to the highest level of transparency in reporting by complying with the [CRIC Public Opinion Research Standards and Disclosure Requirements](#). These standards serve as an important tool to help the public and the media assess the quality and validity of research that is released into the public domain.

¹ This Primer should not be considered legal counsel. Members are encouraged to do their research or obtain legal counsel to ensure proper compliance with Canadian legislation.

- a) the name of the sponsor of the survey;
- b) the name of the person or organization that conducted the survey;
- c) the date on which or the period during which the survey was conducted;
- d) the population from which the sample of respondents was drawn;
- e) the number of people who were contacted to participate in the survey;
- f) if applicable, the margin of error in respect of the data obtained; and
- g) the address of the Internet site on which a report referred to in subsection (3) is published.

A number of other requirements, listed at Section 327 of the Act, apply to the person or organization that sponsors the election survey, including requiring that “a report on the results of the survey is published and remains for the remainder of that period on an Internet site that is available to the public.”

For more information on the reporting requirements of election surveys, see Sections 326 and 327 of the *Canada Elections Act*:

- www.laws-lois.justice.gc.ca/eng/acts/E-2.01/page-42.html#h-206359

3) Blackout Period (Section 328 of the *Canada Elections Act*)

Related to the publishing requirements set out at Section 326, the Act also prohibits at Section 328 the transmittal of survey results to the public on polling day. Referred to as the “blackout period,” it is **forbidden to release survey results in an electoral district on polling day** before the close of all of the polling stations in that electoral district.

For more information on the blackout period, see Sections 328 of the *Canada Elections Act*:

- www.laws-lois.justice.gc.ca/eng/acts/E-2.01/page-43.html#docCont

4) Election Expenses (Section 349 of the *Canada Elections Act*)

New election expense requirements were introduced in late 2018, to increase transparency of third party and foreign entity involvement in the electoral process. While these put a little more onus on research firms than before, the new provisions in the *Canada Elections Act* are aligned with industry standards around the transparency of polling and contribute to a stronger democracy.

For the most part, the new provisions apply to election surveys sponsored by third parties that intend to use the survey data to inform decisions around partisan activities, such as election advertising, rallies, and door-to-door canvassing. (The Act now makes a distinction between a traditional “election survey” and “election surveys conducted by, or caused to be conducted by, a third party².”)

For traditional election surveys, — i.e., not sponsored by a third party involved in partisan activities — members will need to comply with a few new requirements around transparency and the Voter Contact Registration. For example, calling service providers will now need to keep, for a three-year period, a list of every telephone number called during the election period. As well, sponsors of election surveys will be required to keep published surveys available on a webpage for the entire election period.

² A **third party** means a person or group other than a registered political party or association, a candidate or nomination contestant. It can include a business, a union, interest groups, etc.

For election surveys conducted by, or caused to be conducted by, a third party, several new requirements apply to that third party, which will need to register their activities once the elections are officially underway.

New provisions prohibit foreign entities from spending any money to influence elections, including the funding of third parties to engage in partisan activities, advertising, or election surveys.

For more information on Third Party Election Surveys, see Sections 349 of the *Canada Elections Act*:

- www.laws-lois.justice.gc.ca/eng/acts/E-2.01/page-47.html#docCont

Section 349 of the *Canada Elections Act*:

election survey means an election survey that is conducted by, or caused to be conducted by, a third party — a person or group other than a political party that is registered under an Act of a province — during a pre-election period or an election period and whose results the person or group takes into account

- (a) in deciding whether or not to organize and carry out partisan activities or to transmit partisan advertising messages or election advertising messages; or
- (b) in their organization and carrying out of those activities or their transmission of those messages.

partisan activity means an activity, including canvassing door-to-door, making telephone calls to electors and organizing rallies, that is carried out by a third party — a person or group other than a political party that is registered under an Act of a province — and that promotes or opposes a registered party or eligible party or the election of a potential candidate, nomination contestant, candidate or leader of a registered party or eligible party, otherwise than by taking a position on an issue with which any such party or person is associated. It does not include election advertising, partisan advertising or a fundraising activity.

CRIC members that conduct election surveys should contact Elections Canada and the CRTC for any questions regarding their requirements under the Canada Election Act and the Voter Contact Registry.