



COMMISSIONER OF
CANADA ELECTIONS

Annual Report 2020

Yves Côté, QC
COMMISSIONER OF CANADA ELECTIONS

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Commissioner's Message

I am very pleased to present the 2020 annual report for the Office of the Commissioner of Canada Elections (CCE).

We can't look back on 2020 without acknowledging the world events that had a profound effect on our lives, our work, and our democratic systems over the course of the year. Canadians, and indeed people across the globe, have faced unprecedented health and economic difficulties as a result of the pandemic, and, in far too many cases, the tragedy of having lost loved ones to COVID-19.

At the Office, we had to address a number of pandemic-related difficulties. The work of our Investigations Branch was particularly affected by the changes, especially in the first half of the year: face-to-face interviews could not be conducted as before and investigators were unable to travel. We had to adapt and devise new ways to interact with potential witnesses, and collect the information needed to advance investigations. Thanks to the creativity of our people and the acquisition of new IT tools, we did adjust. At the end of 2020, our productivity on the investigations side was essentially back to where it had been before. And the shift to working almost exclusively from home certainly went much more smoothly than I had anticipated.

Looking ahead to 2021, one of the challenges will be to deal with recent referrals from Elections Canada. We will be doing this through various means. One is to make full use of the power we now have to impose administrative monetary penalties (AMPs) for certain violations. This allows us to deal quickly with cases that, before, were extremely resource-intensive and took a lot of time to resolve, such as illegal voting and late filing of reports. As I have advised members of the Advisory Committee of Political Parties on more than one occasion, it is important that candidates and electoral campaign workers be aware that, with the advent of the AMPs regime, the enforcement regime has changed significantly.

We will also be more selective about whether or not to deal with certain cases that have less of an impact on the integrity of the electoral process, or opt to address them differently (for example, through caution letters). This is precisely what we did throughout 2020: establishing priorities, closing less significant files, and pursuing the more serious ones.

In a minority-government context, a general election can be called at any time. A priority for me is to ensure that the office is ready when the call is made. This requires us to prepare and train our personnel to ensure they have a solid understanding of the numerous contraventions contained in the *Canada Elections Act*. This also requires us to be aware of threats and events which have taken place in other jurisdictions, both here at home and around the world. To that end, we have spent a great deal of time over the past year reaching out to those jurisdictions where elections have taken place to gain a greater understanding of enforcement issues – including those that may be specific to elections during a pandemic. We have continued to strengthen ties and maintain ongoing dialogues with Canadian security and intelligence partners. We have also continued to work hard with social-media platforms to ensure we have solid protocols in place to interact with them during the next campaign.

I referred to the AMPs regime above. There is an important point I would like to make about the current regime: it is not as broad as, in my view, it should be. For example, it does not apply to some types of contraventions that frequently occur during campaigns and for which we should have the tools to manage quickly (e.g., failure to give access to political canvassers during campaigns; failure by employers to give their employees the required time to vote, etc.). I will have more to say about this when our recommendation report comes out later this year, but I thought it was important the point be made here.

I would like to underscore the truly excellent work carried out by our colleagues at Elections Canada who support us in many different areas. This year again, they provided us with an outstanding level of service, and we are deeply grateful for all they did, and continue to do, for us.

In spite of trying times, I believe it has been a successful year for our team. The success of our Office has been, and continues to be, the result of its people and the culture of excellence they work hard to maintain. But it also extends beyond their work and indeed, for several years now, I've been proud of the extremely positive results we have received on the Public Service Employee Survey. This is due to the ongoing efforts of everyone on the team who make it a priority to foster an environment built not only on professionalism, but integrity, inclusivity and respect. This has never been more evident than this year and it continues to be my privilege to lead this impressive group.

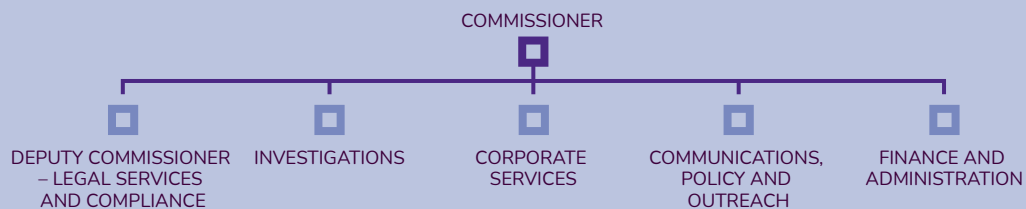
Yves Côté, QC
Commissioner of Canada Elections

About Us

The position of Commissioner of Canada Elections was originally created in 1974. The powers of the Commissioner of Election Expenses (as it was known at the time) were limited to ensuring compliance with, and enforcement of, rules relating to election expenses. In 1977, the Commissioner's powers were significantly expanded to include all provisions of the Act and the position formally became known as the Commissioner of Canada Elections.

Today, the CCE continues to play an important role in safeguarding Canadians' trust in the democratic process. As an independent officer, the Commissioner's dual roles of ensuring compliance with, and enforcement of, the *Canada Elections Act* (the Act) and the federal *Referendum Act*, are carried out with the aim of promoting the integrity of the electoral process.

The Commissioner is supported by approximately 50 people, including federal public servants and independent contractors.



Complaints and Referrals

All complaints received by the CCE are assessed to determine if they fall within the mandate of the Office. The CCE also receives referrals from Elections Canada. In addition, Elections Canada transfers complaints it receives from the public to the CCE when they fall under the Commissioner's mandate. The Commissioner may also look into a matter of his own initiative.

Individuals whose complaints or allegations do not fall under the Commissioner's area of responsibility are advised and, wherever possible, are redirected to the appropriate complaint mechanism.

If, following a preliminary review, the Commissioner concludes that the allegations made in connection with a complaint or referral may have merit, a review or investigation may be conducted to clarify the facts and gather evidence related to the alleged contravention. At all times throughout the process, the Commissioner ensures that decisions are guided by the principles of independence, impartiality and fairness.

Additional information regarding the Commissioner's mandate can be found in the *Compliance and Enforcement Policy of the Commissioner of Canada Elections* available on the CCE's website at: www.cef-cce.ca.



Submitting a Complaint

The CCE receives complaints from a variety of sources. Anyone with a complaint or allegations of wrongdoing under the *Canada Elections Act* may contact the Commissioner's Office:

by web form: www.cef-cce.ca,

by e-mail: info@cef-cce.ca,

by fax: 1-800-663-4906 or 819-939-1801, or

by postal mail:

Commissioner of Canada Elections

30 Victoria Street

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The Year in Review: 2020

The Office of the Commissioner of Canada Elections

Like many other organizations, the CCE spent the early part of the year seized with the impacts of the global health crisis and the abrupt transition to a virtual work environment. Prior to the spring of 2020, and with the exception of interviews with witnesses and suspects, very little of the CCE's work was conducted outside of the office environment. Nonetheless, and thanks in large part to existing infrastructure, the acquisition of new IT tools and the ingenuity of CCE personnel, the Office was able to remain operational, even during the earliest stages of the pandemic. Over the course of the year, additional capabilities were developed and added that allowed employees to more easily advance their work in support of the CCE's compliance and enforcement mandate.

At the same time, and due to the growth of the Office over the last few years, the Commissioner initiated an organizational review in the summer of 2020. The review was designed to evaluate the current structure of the Office, with a view to ensuring the overall efficiency of its operations through the proper alignment of functions across the organization. The review was concluded in the fall of 2020 and full implementation of the changes flowing from the review is ongoing.

Ongoing Work Related to the 43rd General Election

Although a large number of complaints are received by the Office during the election period, the CCE's investigative work continues well beyond polling day.

Whereas the Commissioner favours the use of informal means to achieve compliance during an election period, the years between elections are spent evaluating allegations that may lead to the application of formal compliance and enforcement measures. The nature of this work can vary depending on the complexity and seriousness of the allegations in a given file and the Commissioner's decision to proceed using either penal or administrative avenues.

Administrative measures – both undertakings and administrative monetary penalties – to address instances of non-compliance were first used by the CCE during the 2020 calendar year. These tools grant the CCE greater flexibility to address certain types¹ of contraventions of the Act and to impose meaningful consequences for non-compliance. Details of actions taken by the Commissioner and Deputy Commissioner as part of this new regime are outlined later in this report.

1 The AMPs regime is applicable to: Parts 16 (communications), 17 (third parties) and 18 (political financing), for violations related to illegal voting under the Act, as well as to breaches of conditions contained in compliance agreements or undertakings.



Two areas where the CCE intends to make full use of these new administrative tools are political financing and illegal voting. Unfortunately, in the current context, pandemic-related barriers have prevented or, at the very least significantly delayed, both the transfer of these types of files to the Office as well as the CCE's access to critical information and evidence in support of its existing workload. When coupled with legislated timelines – particularly those related to financial returns and reporting – it is quite possible that referrals may only be received years after the election period. As a result, there is a serious risk that files from the 43rd general election may not be received before the 44th general election is called.

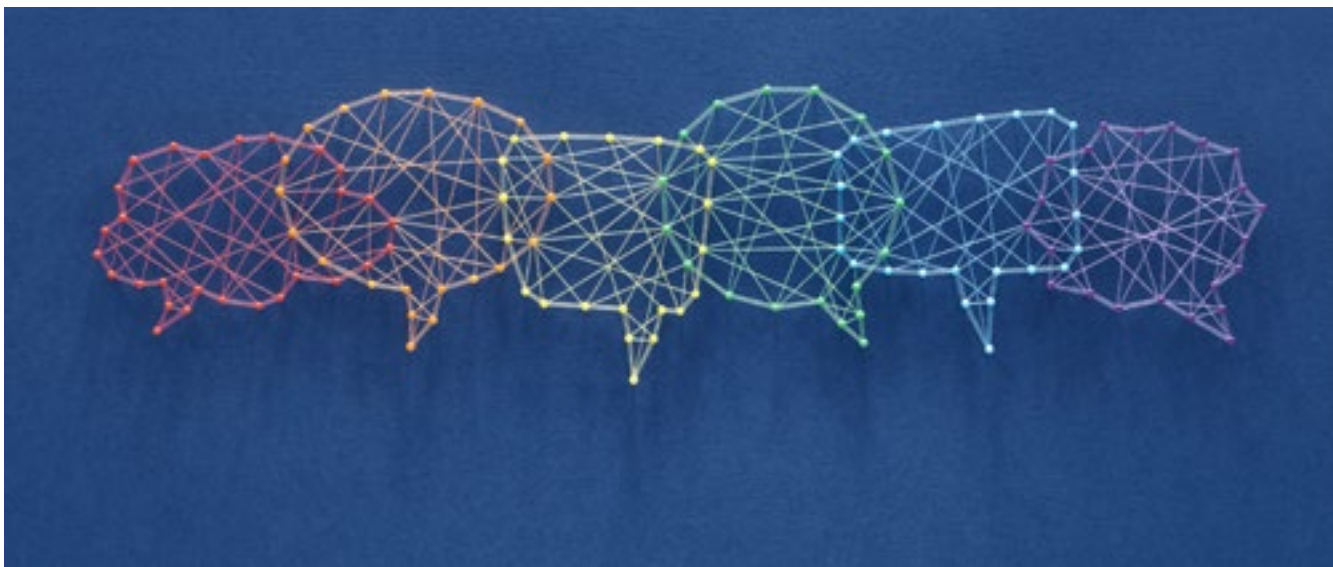
External Engagement & Outreach

Throughout 2020, the CCE continued to build upon its outreach activities by engaging with its counterparts – both provincially and internationally – including stakeholders and various academics. The aim is to raise the profile of the Office and expand its professional network and its expertise and situational awareness of emerging trends in the environment and to benefit from the lessons learned in other electoral contexts.



These efforts helped the Office to be well-positioned to identify risks and adopt measures to mitigate them, and to bolster its preparedness and fulfill its overall mandate in the event of a general election. To that end, employees from the CCE engaged with representatives of provincial and foreign electoral management bodies to exchange and gain a better understanding of enforcement-related issues arising out of elections in those jurisdictions. Similarly, the Office continued to liaise with its counterparts at Elections Canada and other federal government organizations with an interest in electoral integrity, security and other issues – such as disinformation – closely related to elections. CCE employees also resumed work with election security partners, playing an active role in ensuring a coordinated government response in the event of serious foreign or domestic threats to the integrity of the next general election.

The Office also continued its work to foster collaborative relationships with the research community. In 2020, academics were invited to participate in informal discussions surrounding the Commissioner’s recommendation report. These discussions provided an important external perspective to the Commissioner and his personnel. The Office is pleased to have been able to enter into this dialogue and to benefit from their expertise.



Issues of Particular Interest

The Act covers a wide array of matters, some of which pose particular compliance and enforcement challenges for the CCE. Throughout 2020, some issues arose that, while they may not be the subject of a high volume of complaints, need to be highlighted. In some instances, the issues raised below may shape future recommendations for legislative change by the Commissioner to Parliament.

Following the 2019 general election, the CCE implemented most of the changes brought about by Bill C-76. With one exception, the issues highlighted below are related to these new elements.

Third Parties and Collusion

The Act's third-party regime (which appears in Part 17 of the Act) was expanded prior to the 43rd general election to regulate a wider range of activities. One change was to include prohibitions against a political entity and a third party “colluding” with one another—including by exchanging information—for the purpose of influencing the third party's activities.



As they are written, these provisions may lead third parties—or political entities—to believe, erroneously, that the third party carried out activities regulated under Part 17 of the Act (which must have been engaged in independently from political entities), even where the third party coordinated the expense with a political entity. The CCE is of the view that this is impossible.

Where there is coordination between a third party and a political entity, the normal contribution rules (which appear in Part 18) apply. As such, if the activity is not carried out independently by the third party, it constitutes a contribution to the political entity with which the third party coordinated the expense. That type of contribution must be reported by the political entity, not by the third party. In such a case, the contribution from the third party will only be legal if the third party is a Canadian citizen or a permanent resident of Canada, and if the value of the good or service is within the individual's contribution limit. (Rather unhelpfully, the new collusion provisions appear to prohibit eligible individual contributors from making otherwise legal non-monetary contributions.)

In other words, the anti-collusion rules cause confusion because they suggest that a particular transaction can be an independent third-party activity regulated under Part 17 of the Act, despite the fact that the coordination means that a contribution was made to the political entity under Part 18 of the Act. This is not possible under the legislation. The transaction is either the independent expenditure of a third party, or else it is a contribution made to a political entity.

The CCE will address this issue in his forthcoming recommendation report.

Pre-charge Approval

The adoption of Bill C-76 removed the requirement for the Commissioner or someone acting under his direction to seek approval from the Director of Public Prosecution (DPP) prior to laying charges under the Act, while maintaining this requirement for any other person wishing to institute such a prosecution. This change, aimed at improving the transparency of the enforcement system, allows Canadians to be aware of the files in which the Commissioner believes charges are warranted, while still allowing the DPP the flexibility to stay the charges. The change brought about by Bill C-76 was a positive one. That said, in New Brunswick, Quebec and British Columbia, pre-approval by a provincial Crown is required for prosecutions under provincial jurisdiction. The Public Prosecution Service of Canada (PPSC) has agreed to

follow an equivalent process for federal prosecutions. This meant that, in those provinces, the Commissioner continued to seek PPSC approval before instituting a prosecution. However, the CCE examined the relevant provisions of the Act, and concluded that, unlike most, if not all, other federal statutes, Parliament has clearly indicated the circumstances under which the DPP must pre-approve the laying of charges under our Act. As a result, the Commissioner is of the view that anyone acting under his direction need not obtain pre-charge approval for offences under the Act in any province or territory.

Expanded Use of the Administrative Monetary Penalties Regime

As outlined in earlier sections of this report, the CCE has begun making use of the new AMP regime for certain types of violations. While the CCE continues to view the creation of the AMPs scheme as an extremely positive development, the current regime does not encompass all provisions of the Act. As a result, there are areas where the Commissioner or the DPP may believe that a prosecution would not be in the public interest, but where, under current legislation, AMPs may not be used to address the violation.

Provisions related to the secrecy of the vote, for example, are an area not currently covered by the regime. These important provisions protect individuals from being coerced into voting a certain way, using the photograph as evidence of their vote. At this time, these types of cases can only be addressed through prosecutions, which are often lengthy and costly. The ability to impose an AMP for these types of situations would make it possible to address these violations quickly, without adding to the already heavy workload of the provincial criminal courts.

Serious consideration should also be given to expanding the regime to include additional parts of the Act, with a view to bringing about a swifter resolution to other issues of non-compliance and reducing the Office's need to resort to the courts except in the most serious of cases.

The Aggregation and Anonymization of Contributions Intended for Third Parties

During the 43rd general election, media reports surfaced regarding groups that were allegedly collecting contributions with the specific purpose of remitting them to registered third parties. The CCE received complaints from the public alleging that these contributions were then provided to the third parties as a contribution from the group without the identity of the real contributors being revealed. It is important to note that, while a group can contribute money to a third party out of its general revenues, if the group solicits money from contributors to fund third parties, and then provides the money to third parties without the original contributors' information being disclosed, this could constitute a breach of section 368 of the Act. This provision prohibits a person or entity from concealing or attempting to conceal the identity of the source of a contribution governed by the Act, or acting in collusion with another person or entity for that purpose.

Power to Compel

Since 2019, the Commissioner may, in certain circumstances and under strict conditions, apply to a superior court to obtain an order compelling witness testimony. The ability to compel individuals to provide information in relation to investigations ensures that in serious instances of non-compliance, the Commissioner and his staff are able to gather relevant information related to their investigative work. This ability does not, however, include a power to require that an individual who is compelled to provide testimony bring all relevant documents and information in their possession with them at the examination, as is the case for other similar federal regimes. To date, the use of this process by the CCE has been hampered by significant delays and costs, arising from the need to interrupt an examination, seek out a production order from the court to legally obtain the document, and then to resume the examination at a later date. There is also the risk that documents go missing or are destroyed in the time that elapses between the issuance of an order compelling testimony and the request for the production of documents. The CCE will propose further amendments on this issue in his forthcoming recommendations report.

Compliance and Enforcement

The integrity of the electoral process depends in large measure on the good faith of participants and their willingness to follow the requirements set out in Canadian election law. The Commissioner's compliance and enforcement mandate ensures that all participants engaged in the electoral process do so in compliance with the rules. The *Compliance and Enforcement Policy of the Commissioner of Canada Elections*² outlines how the Commissioner exercises his mandate under the Act.

Caution and Information Letters

Caution and information letters are an informal means of encouraging future compliance with the Act. Between January 1, 2020, and December 31, 2020, the Commissioner issued 143 caution letters and 121 information letters. As required under federal privacy legislation, such letters issued to individuals are not made public.

The Act's formal compliance and enforcement scheme provides the Commissioner with a number of tools to address various electoral contraventions. Undertakings, AMPs, compliance agreements and charges are part of the Commissioner's compliance

² *The Compliance and Enforcement Policy of the Commissioner of Canada Elections* is available online at www.ccf-cce.ca.



and enforcement toolkit. Cases resulting in the use of formal means are made public by the Commissioner.

Undertakings

An undertaking is a pledge made by a person or entity who failed to comply with a requirement of the Act. Undertakings are accepted by the Commissioner or the Deputy Commissioner (to whom the Commissioner has delegated the authority to accept certain undertakings) and are aimed at ensuring compliance. An undertaking may be entered into at any time before the person or entity has, or should, in accordance with the Act, have paid an administrative monetary penalty. They contain the terms and conditions that the Commissioner or Deputy Commissioner considers appropriate, including the obligation that an amount be paid.

The provisions enabling the Commissioner or a person to whom he has delegated the power to accept an undertaking came into force in June 2019 and the Office was able to make use of this new tool for the first time in the 2020 calendar year.



Three undertakings were accepted during 2020:

1. On April 15, 2020, the Commissioner accepted an undertaking in relation to an event held in October 2019, during which a [registered third party](#) promoted the New Democratic Party candidate for the electoral district of Elmwood—Transcona. Under these circumstances, the costs incurred by the third party for the event constituted partisan activity expenses under the Act. The third party acknowledged that, having incurred regulated expenses, it failed to consider these particular event costs as having been partisan activity expenses.



2. During the election period for the 2019 federal general election, [a registered provincial political party](#) in Alberta, distributed a free bumper sticker to individuals who requested one. The stickers constituted “election advertising,” since they contained an advertising message opposing the leader of a federal registered party. Provincial political parties are exempt from the provisions of the Act on partisan activities and election surveys, but are not excluded from the application of the third party election advertising rules. The Commissioner accepted an undertaking from the political party in June 2020. As part of the negotiated terms and conditions of the undertaking, the party agreed to register as a third party and to submit its expenses return to Elections Canada within 30 days of having registered.



3. In September 2020, the Commissioner accepted an undertaking from [a cabinet minister](#), to address events that occurred in the lead-up to the 2019 federal general election. During the pre-election period for the 43rd general election, the minister participated in a series of department-supported events in his capacity as Minister of Finance. In addition to community and business leaders, there were prospective Liberal Party of Canada (LPC) candidates in attendance at the events, which were held in the electoral districts of Oakville and Dufferin—Caledon. The minister promoted these prospective candidates, which caused the expenses related to those events to benefit the LPC. Ministers are prohibited from using public resources and funds from their departmental budgets for partisan purposes. Among the terms and conditions of the agreement, the individual agreed to pay the sum of \$300 to the Receiver General for Canada.

The full text of undertakings is made available on the CCE’s website at: www.ccf-cce.ca and links to the information are also shared with the public via the CCE’s social media accounts.

Administrative Monetary Penalties

As indicated above, in 2019, the Commissioner of Canada Elections' compliance and enforcement toolkit was also expanded to include an AMP regime.

AMPs can be imposed by the Commissioner or the Deputy Commissioner to deal with certain contraventions of the Act including those related to or involving:

- Illegal voting
- Communications
- Third parties
- Political financing

AMPs may also be imposed to address non-compliance with a term or condition of a compliance agreement or of an undertaking, or for failing to comply with a requirement of the Chief Electoral Officer made under Parts 16, 17 or 18 of the Act.

The criteria for determining the amount of an AMP are set out in the Act, and the Commissioner's [Policy for the Administrative Monetary Penalty Regime](#), sets out the types of violations as well as the general formulas used to calculate the AMPs.

In order to maintain transparency, and as required by the Act, a short summary is made public on the Commissioner's website following the publication of an AMP. The notice sets out the name of the person or entity that is deemed to have committed a violation, identifies the act or omission or the failure to comply to which the violation relates and sets out the amount of the administrative monetary penalty.

The Office formally began issuing notices of violation (NOV) in late 2020. However, the CCE can only make AMPs public once the violations are deemed to have been committed – either through payment of the AMP, or following the 30-day deadline after the refusal by the Commissioner to accept an undertaking, or after a review decision. At the end of the reporting period, as these conditions had not been met in any of the cases for which NOVs had been issued, no information was available to be shared by the Office.

Compliance Agreements

Compliance agreements are voluntary agreements that set out the terms and conditions necessary to ensure compliance with the Act, and are an alternative to the laying of charges in the criminal courts for a contravention of the Act. As of June 2019, compliance agreements may contain financial consequences for the person or entity that failed to comply with a requirement of the Act. The consequences of non-compliance with the terms and conditions of a compliance agreement may also result in the imposition of an AMP or the laying of charges for the initial offence to which the compliance agreement related.

Between January 1, 2020, and December 31, 2020 the Commissioner entered into four compliance agreements:



1. The Commissioner entered into a compliance agreement with [an official agent](#) on January 10, 2020. In her role as official agent for a candidate of the Canada Party, the Contracting Party accepted an illegal contribution from a corporation and failed to pay the amount of the illegal contribution to the Receiver General within 30 days after she became aware of the ineligibility of the donor. As part of the terms and conditions of the compliance agreement, the Contracting Party agreed to pay \$1,500—an amount equal to the illegal contribution—as well as a sum of \$750. Both amounts were remitted to the Receiver General.



2. On February 6, 2020, the Commissioner entered into a compliance agreement with [a permanent resident](#) for casting a ballot during the 2015 federal general election knowing that, as a permanent resident of Canada, he was not qualified to vote. As part of the terms and conditions of the agreement, the Contracting Party agreed to pay \$750 to the Receiver General for Canada.



3. [An individual](#) entered into a compliance agreement with the Commissioner on March 11, 2020, after acknowledging that, as a canvasser for the candidate for the Liberal Party of Canada in the electoral district of Mount Royal, he removed electoral pamphlets belonging to the Conservative Party of Canada's candidate, from unit door handles in an apartment building. Under the Act, it is illegal to prevent or impair the transmission to the public of an advertising message without the consent of a person with the authority to authorize its transmission. As part of the terms and conditions of the agreement, the Contracting Party agreed to pay \$750 to the Receiver General for Canada.



4. On April 3, 2020, the Commissioner announced a compliance agreement with [a company](#). The compliance agreement came following an investigation that uncovered illegal contributions made to federal political entities between June 19, 2004, and December 31, 2011. The full value of these contributions was reimbursed to the Receiver General of Canada by the registered parties thereby removing the illegal funds from the federal political financing system. As part of the terms and conditions of the agreement, the Contracting Party agreed to pay \$139,660.23 to the Receiver General over a two-year period. This amount corresponds to triple the amount of the illegal contributions made to the federal political entities.

On June 23, 2020, the Commissioner of Canada Elections and the company mutually agreed to postpone the payment due on August 31, 2020, until February 28, 2022. [The full text of the addendum](#) is available on the Commissioner's website.

The full text of the agreements appears on the CCE's website at: www.cef-cce.ca and are communicated to the public via the CCE's social media accounts.

Charges and Prosecutions

If the Commissioner believes on reasonable grounds that an offence has been committed under the Act, he may lay charges. After charges have been laid, the Public Prosecution Service of Canada is responsible for all prosecutions (including appeals).

Charges were laid against eight individuals in 2020.

On February 13, 2020, two charges in relation to the 2015 federal general election were filed in the Ontario Court of Justice, in the City of Toronto against [Ilia Borodov](#). Mr. Borodov was charged with voting knowing that he was not qualified as an elector. He was also charged with applying to register to vote in the electoral district of Toronto Centre knowing that he was not a Canadian citizen. On July 21, 2020, Mr. Borodov pleaded guilty to the first charge and received a \$750 fine, payable within 60 days. The second charge was withdrawn.

As of December 31, 2020, the charges in the following cases were still pending before the courts.

On September 21, 2020, five charges were laid against [Bernard Poulin](#), for illegal contributions made to federal political entities between January 1, 2004, and June 11, 2009. Mr. Poulin, who was the founder and chief executive officer of Groupe S.M. International Inc., was charged with having solicited political contributions from his employees and from an employee's spouse while offering them a reimbursement from his company. Under the Act, it is illegal for anyone other than a Canadian citizen or permanent resident to make a political contribution or to conceal the source of a contribution.

Two charges were filed on September 21, 2020, against [Louis Clément Sénat](#), a candidate during the 42nd federal election for the now deregistered *Forces et Démocratie* political party in the electoral district of Terrebonne. Mr. Sénat is accused of obstructing the work of the Commissioner of Canada Elections and those acting under his direction. He is also accused of making false or misleading statements and producing documents that contained false or misleading information during the course of the Commissioner's investigation.

On September 24, 2020, [Anderanik Pakbegi](#) was charged with voting knowing that he was not qualified as an elector. He was also charged with applying to register to vote in the electoral district of Don Valley East knowing that he was not qualified as an elector.

On October 22, 2020, the Commissioner announced the laying of charges against [David and Daniel Berlin](#). David Berlin, former leader of the deregistered Bridge Party of Canada, was charged with causing the official agent of a Bridge Party candidate in the electoral district of Ottawa West–Nepean, to provide the Chief Electoral Officer with an electoral campaign return containing false or misleading information. Daniel Berlin was charged with obstructing the work of the Commissioner of Canada Elections by knowingly making a false or misleading statement during the course of the Commissioner's investigation.

Both David and Daniel Berlin are facing a joint charge of fraud of more than \$5,000 under the *Criminal Code*.

Four joint charges were laid on December 10, 2020, against [Mario Martel and André Côté](#). An additional charge was also laid against André Côté. All of the charges related to an investigation into Roche Ltd, Consulting Group (currently known as Norda Stelo Inc.), for illegal contributions made by the firm to federal political entities between January 1, 2005 and December 31, 2011. At the time the offences were committed, Mario Martel was the President and chief executive officer of the firm and André Côté was a senior vice-president. Roche Ltd, Consulting Group operated under this name until December 15, 2015. Mario Martel and André Côté left the firm in 2013.

An earlier stage of the investigation resulted in a [compliance agreement with Norda Stelo Inc.](#)

Finally, in addition to the charges outlined above, one file, in which charges had been laid before, was resolved in 2020.

On June 11, 2019, the Commissioner announced the laying of four charges against Stephen Garvey. As the candidate for the Democratic Advancement Party of Canada during the 42nd federal general election of October 2015, Mr. Garvey was charged with circumventing the contribution limit that a candidate was legally allowed to make to his or her electoral campaign. In addition, Mr. Garvey, who was also the leader of the Democratic Advancement Party of Canada, later known as the National Advancement Party of Canada, was charged with knowingly providing the Chief Electoral Officer (CEO) with false or misleading documents relating to the status of the National Advancement Party of Canada, contrary to the Act. Two *Criminal Code* charges for forgery were also laid, and later withdrawn.

On October 6, 2020, [Mr. Garvey pleaded guilty to the charges](#) under the Act. He was sentenced to pay a \$1,000 fine for the charge related to circumventing the contribution limit and a \$10,000 fine for the charge related to providing the CEO with false or misleading documents, contrary to the Act.

Written Opinions, Guidelines and Interpretation Notes

Under the Act, the Commissioner is required to provide comments on draft written opinions, guidelines or interpretation notes proposed by the CEO.

Guidelines and interpretation notes discuss the application of a provision of the Act to registered parties, registered associations, candidates, and/or leadership or nomination contestants (referred to collectively as “regulated political entities”). A guideline or interpretation note is issued for information purposes only and is not binding on regulated political entities. Under the Act, the Commissioner has 45 days to comment on the drafts of these documents. When the guideline or interpretation note is officially issued, the CEO must publish the comments received from the Commissioner on the draft version.



Similar requirements exist when a registered party makes a request to the CEO for a written opinion on the application of any provision of the Act. The Commissioner has 30 days to make comments on a draft opinion, and these comments are published along with the final written opinion. If all material facts submitted with the request were accurate, the final written opinion is binding on the CEO and on the Commissioner with respect to the activity or practice of the registered party that made the request or of its affiliated regulated political entities. The written opinion has precedential value for the CEO and the Commissioner for similar activities or practices of other registered parties and their affiliated entities.

During 2020, the CCE provided official comments on four guidelines and interpretation notes that were circulated for consultation to the registered parties and the Commissioner. These guidelines were as follows:

- [Partisan and Election Advertising on the Internet](#)
- [Political Financing Handbook for Leadership Contestants and Financial Agents](#)
- [Regulated Fundraising Events](#)
- [Irregular Transfers Between Affiliated Political Entities](#)

It should be noted that, in recent years, the CCE has been consulted in the development of guidelines and interpretation notes. As such, comments from the Commissioner as part of the formal consultation process would only be needed to the extent that the CEO and the Commissioner did not agree on the content prior to the start of the formal consultations. Should such divergences of opinion exist, however, the Commissioner would place them on the public record, as required by the Act.



Looking Ahead

Recommendation Report

As part of the amendments contained in Bill C-76, which came into force in 2019, the Commissioner is now mandated, after each general election, to produce a report to the CEO containing recommendations for legislative amendments that, in his view, are desirable to ensure better compliance with, and enforcement of, the Act. The CEO is to include separately in his post-general election report the proposed legislative changes recommended by the Commissioner.

Continued Electoral Readiness

Given the minority parliament context, the CCE will continue to build its readiness capabilities in order to ensure it is prepared for an electoral event prior to 2023. Part of this work includes communicating with representatives from digital platforms to seek commitments from them to doing everything within their power to facilitate the work of the Office, particularly as it relates to the gathering of all relevant evidence needed to carry out its investigations.

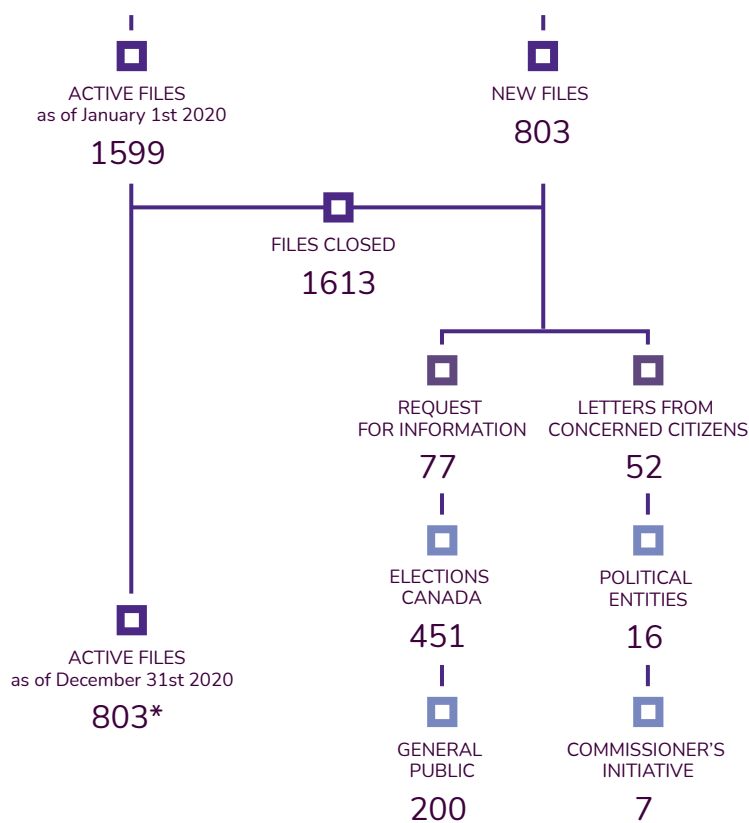
Changing Public Environment

Over the course of the last number of years, questions surrounding the security and integrity of electoral processes have continued to be top of mind. The CCE is very mindful of the role it plays in maintaining Canadians' trust in their democratic system. To that end, over the coming year, the Office is committed to undertaking renewed efforts to engage with stakeholders – both old and new – and work with them to broaden awareness of the Office, better understand and identify threats to elections and to assist the CCE in effectively executing its mandate.



Appendix A – Disposition of Cases

(January 1 to December 31, 2020)



* The difference of 14 files can be explained by administrative corrections. Administrative corrections can include adjustments associated with duplicate files and/or file numbers, and file-splitting (in cases involving multiple issues or complainants.)

Comparison of active files:

	2015-2016	2016-2017	2017-2018	2018-2019*	2020
Active files	489	311	587	1599	803

* Reporting covers an extended period between April 1, 2018 to December 31, 2019.

Most common referrals from Elections Canada:

- 179 referrals were received regarding the failure of a candidate's official agent to provide the CEO with an electoral campaign return and other required documents;
- 79 files were referred regarding the failure on the part of a candidate's official agent to file the electoral campaign return and required documents within four months after polling day;
- The CCE received 75 referrals about the failure of the financial agent of a nomination contestant to file a nomination campaign return and provide required documents; and
- 53 files were referred as a result of possible irregularities and inconsistencies related to illegal voting. These may include, but are not limited to, possible cases involving voting more than once, illegal voting, and requesting an additional ballot.

Appendix B – Financial Tables

(January 1 to December 31, 2020)

2020			
	Appropriation	Unappropriated Funds – CRF	
	Indeterminate Positions	Other	Total
Salaries*	\$3,295,437	\$1,555,947	\$4,851,384
Expenditures		\$1,801,309	\$1,801,309
			\$6,652,693

* Employee Benefits Plan (EPB) are included as part of unappropriated spending.

** There remained a number of employee pay files that had not been transferred to the Office of the Chief Electoral Officer during the reporting period. Further, salary recoveries recorded late in the year may skew the actual salary expenditures for this period. As a result, salary information represents estimated figures only.