

**Regulatory Compliance in Poll Reporting in the 2004 Canadian Election?**

By

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## Introduction

In May of 2000, several important changes to Canada's *Election Act* took effect. In particular, key provisions concerning the regulation of opinion poll reporting during federal election campaigns became law. For the most part these changes required news publishers to include key methodological information in stories concerning new public opinion poll results. Since these changes were introduced, however, there has been some academic debate about their effectiveness. In past research we have found that the regulatory change seems to have positively affected the quality of election poll reportage. Also, we have argued that the new laws have been only partially effective, and that additional enforcement measures are required to ensure citizen access to full information about how new polls are conducted.<sup>1</sup> Other researchers have suggested in formal and informal settings that the law is quite effective, quite ineffective, or entirely without merit and ought to be replaced.<sup>2</sup>

Leaving aside the issue of whether the new rules ought to have been passed into law, the purpose of this paper is to evaluate the level of compliance with the new regulations by focusing on poll reporting in the course of the 2004 federal election. This paper builds on our past research in this area. However, whereas prior studies tested regulatory compliance through analyzing poll reporting in only a handful of major "papers of record," this study pursues the question in a broad sampling of Canadian newspapers.

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<sup>1</sup> Cristine de Clercy and Peter Ferguson, "The 2000 Canadian Election and the *Elections Act* Poll Reporting Provisions: *Contra* Professor Durand, the Law Has Merit," *Canadian Public Policy*, 29, no. 3 (September 2003): 367-372.

<sup>2</sup> See for example Claire Durand, "Opinion Polls and the Canada Election Act," *Electoral Insight* (January 2005), on line edition at [http://www.elections.ca/eca/eim/article\\_search](http://www.elections.ca/eca/eim/article_search).

We are disheartened to report that the quality of election period poll stories in print is very poor. Moreover, the current state of affairs remains much as it was in 1991, when Guy Lachapelle's Lortie commission study concluded that opinion poll reporting in Canada usually communicated partial and misleading political information to citizens.<sup>3</sup> The current dismal state of media reportage merits our close attention particularly because the May 2000 *Election Act* revisions were specifically designed to improve the quality of news stories about opinion poll results published during election campaigns. The results reported here lead us to wonder what has happened to this promising legislation? Why is Canada's election law being consistently violated by the press, which paradoxically is a key political institution that normally helps ensure free and fair elections occur in advanced democracies?

The paper proceeds first by reviewing the theoretical case for media regulation, and the actual requirements set out in the amended *Elections Act*. Then, a brief discussion of methodology introduces the quantitative content analysis that was performed to assess the level of regulatory compliance in opinion poll reporting extant in 2004 election stories published in the print media. After reviewing the results that are summarized in four basic tables, we conclude by revisiting several standard excuses and justifications that are raised when one asks why the news opinion poll reporting regulations have not been followed or enforced. This discussion leads us to our conclusion that at least concerning election poll reporting in Canada, business interests clearly have superseded the public interest.

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<sup>3</sup> Guy Lachapelle, *Polls and the Media in Canadian Elections: Taking the Pulse*, Royal Commission on Electoral Reform and Party Financing, Volume 16, ( Toronto: Dundurn Press, 1991).

## **The Necessity for Regulating Election Period Opinion Polls**

To explore and explain the benefits found in regulating how the media reports opinion polls during elections, we draw from the rational choice literature, although some other paradigmatic lenses may be employed for the same purpose. In this literature politics is approached as a marketplace when actors exchange political goods and services on the basis of their own self-interest. A common and central assumption in this approach concerns the virtues of competition. As in the economic sphere, competition in the political sphere is held up as necessary for optimal results. Competition among buyers and sellers prevents the sorts of abuses that accompany monopolies or oligopolies, and it is partly as a result of competition that choice and autonomy in the marketplace are secured. In politics as in economics, individuals cherish choice and autonomy.<sup>4</sup>

Rational choice approaches consider the citizen as a consumer of political goods. Citizens in this perspective “buy” goods in the form of public policies as well as material incentives, and “sell” their support through actions expressing support of a political candidate, leader or party. The main method for expressing support is casting a vote. In a democratic political marketplace, citizens must make many decisions and the act of decision-making is facilitated by information. Citizens make decisions that best serve their own self-interest, and the quantity and quality of available information critically relates to the quality of the decisions that are taken. Poor decisions, in other words, result from poor information and the converse also is true: better information produces better decisions, *ceteris paribus*.

Information, in short, is critical to the exchange of goods in the marketplace of politics. While citizens usually do not need to access all possible knowledge on any

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<sup>4</sup> Anthony Downs, *An Economic Theory of Democracy*, (New York, NY: Harper & Row, 1957), 87-88.

given issue to make decisions, they do need some minimum information of reasonable quality to execute decisions that broadly reflect their interests.<sup>5</sup> Political information is generated and disseminated from a number of sources. Political parties, to take one example, are a main source of political information for citizens. During campaigns they spend many thousands of dollars to inform citizens about their policies and plans. Paid professionals, such as party strategists and political scientists, are another source of public information about politics when they choose to supply information via media interviews and other conduits. So, there are many potential sources of political information. However, because it is a commodity, political information may be subject to a variety of market imperfections.

The absence of robust competition to supply information among privately owned media outlets, for example, produces monopolies in interpretation and dissemination. Moreover, the actions of self-interested firms and individuals in generating and communicating political information can contribute to the stock of publicly accessible political information. This exists in many forms and locations, such as newspaper archives and Internet blog sites. This public stock of political information has public goods characteristics such as non-rivalness in consumption and non-excludability. Owing to these two factors—market imperfections in production and dissemination, and its public goods character—public political information often merits government intervention in the form of regulation. In short, in this public choice perspective

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<sup>5</sup> For a provocative public choice perspective on the minimum informational requirements necessary for viable voting behaviour among the mass public see Russell Hardin, “Street-level Epistemology and Democratic Participation,” paper presented to the European Public Choice Society annual meetings, Lisbon, Portugal, April 7-10, 1999.

government clearly has a role to play in regulating political information in the political marketplace to serve individuals' private interest, as well as the public interest.

### ***The Canada Elections Act***

In Canada the federal government regulates political information through the *Elections Act*. Many sections of this act concern the dissemination of political information and a review of some noted court cases highlights this point. Readers well may remember the case of Paul Charles Bryan, who was convicted of having breached section 329 of the *Canada Elections Act* in November of 2000. Bryan transmitted the Atlantic Canada federal election results by posting them on a web site while polling stations remained open in other parts of Canada. The results were thereby available to members of the public in every electoral district in the country, violating the regulation barring anyone from transmitting voting results before the polls closed.<sup>6</sup> In another well-known case, *Thomson Newspapers Co. v. Canada*, the Thompson newspaper chain was charged with violating section 322.1 of the *Election Act*. This section prohibited the broadcasting, publication or dissemination of opinion survey results during the final three days of a federal election campaign, but was struck down by the Supreme Court as violating free speech guarantees set out in the *Charter of Rights and Freedoms*.<sup>7</sup>

Beyond these exemplar court cases, one may easily find many regulatory sections affecting many sorts of political information, such as the posting of lawn signs, the provision of free broadcast time, disclosure of financial expenditures and contributions,

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<sup>6</sup> Supreme Court of British Columbia, *Bryan v. Regina et al.*, 2003 BCSC 1499, available online at <http://www.courts.gov.bc.ca/jdb-txt/sc/03/14/2003bcsc1499.htm>.

<sup>7</sup> Supreme Court of Canada, *Thomson Newspapers Co. v. Canada (Attorney General)*, May 29, 1998, available online at [http://www.lexum.umontreal.ca/csc-ccc/en/pub/1998/vol1/html/1998scr1\\_0877.html](http://www.lexum.umontreal.ca/csc-ccc/en/pub/1998/vol1/html/1998scr1_0877.html).

and third-party advertising. In short, a fair amount of the actual substance of the *Election Act* regulates political information in one way or another. Therefore, the introduction of new amendments regulating the mediated dissemination of opinion poll information merely added more information dissemination activities to those that were already heavily regulated by the federal government.

### **Section 326 of the *Canada Elections Act***

In response to recommendations arising from the Royal Commission on Electoral Reform, and well as the Supreme Court's ruling in the *Thompson Newspapers* case, the federal government introduced Bill C-2 in October of 1999. This set of amendments prohibited the publication of polling information in the last 48 hours of an election campaign, and required a comprehensive public disclosure of survey methodology and sponsorship.<sup>8</sup> These amendments came into effect upon receiving royal assent on May 31, 2000, which was about four months before the federal election held in the fall of that year. For our purposes, most of the interesting new provisions lie in Section 326 of the *Elections Act*. Section 326 (1) states that the first person to transmit the results of a scientific election survey to the public, and every person who transmits them to the public within 24 hours after they are first transmitted, must provide certain additional information along with the results. The specific requirements include: (a) the name of the sponsor; (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

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<sup>8</sup> Canada, Department of Justice, *Canada Elections Act*, <http://laws.justice.gc.ca/en/E-2.01/13590.html>

contacted to participate in the survey; (f) if applicable, the margin of error in respect of the data obtained.

Additionally, in Section 326 (2) the print media are instructed to communicate the wording of survey questions and the means by which more detailed election survey reports may be obtained. Finally, Section 326 (3) directs the sponsors of the election surveys regulated in subsection (1) to supply, upon request, copies of written reports about the survey results. The only exception to these requirements is found in Section 327, which allows that if a reported election poll is not based on recognized statistical methods, then new stories simply must state this fact.

The central provisions of Section 326 address concerns that, without the presence of specific regulations, citizens do not receive adequate methodological information for evaluating opinion poll results. The law aims to standardize the methodological information that is transmitted to citizens as new polls appear, and ensure that consumers are able to retrieve more comprehensive information if they so desire. Much of the law's intent is contained in subsection (1) which regulates the communications of polling organizations as well as the print, electronic and broadcast media. Subsections (2) and (3) support the section's overarching purpose, but are less important in disseminating key evaluative information to the public, along with the release of new polling results.

The enforcement provisions of the Act are not incidental or frivolous. Violations of the sections concerning opinion polls are summary offences, for which the maximum penalty is a \$1000.00 fine, three months imprisonment, or both. As well, where a judge

finds evidence of willful intent to contravene some sections of the opinion survey provisions, the maximum penalty is a \$25,000.00 fine per offence.<sup>9</sup>

With the enactment of the May 2000 amendments, Canada moved from a state of industry self-regulation to governmental regulation concerning opinion poll reporting. The main question we probe in this study asks: has the new regulatory regime achieved its main objective of increasing the quality and quantity of methodological information about opinion poll conduct that is communicated to news consumers during federal elections?

### **Data and Methods**

To measure the quality and quantity of methodological information about opolls made available to Canadian voters, it was necessary to examine the reporting of election poll results from a wide variety of newspaper sources. We must remember that the point of Section 326 is to make the basic information necessary to understand poll results available to as many citizens as possible. Thus, the law requires not only the first media outlet reporting the results of an election poll to disclose basic methodological information but also every media outlet reporting those results during the subsequent twenty four hours to also disclose that information. As the objective of the law is to make this information widely available, we undertook an examination of poll reporting in a wide variety of newspapers across the entire country.

In past research, we examined the level of communication of methodological information by examining reporting in ‘national papers of record’ based on the

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<sup>9</sup> Canada, Elections Canada, *Elections Canada On-Line, Electoral Law and Public Policy*, “Table of Offences: Canada Elections Act, Communications-Offences Under Part 16,” at <http://www.elections.ca/content.asp?section=loi&document=part14&dir=leg/fel/oth&lang=e&textonly=false>

assumption these papers were the most likely to report basic methodological information and thus comply with the law. In part, this decision was based on the (untested) assumption that such papers were the most likely to commission polls and that papers sponsoring polls would be more likely to report information about such polls. However, this choice ignores most consumers of poll information.

The twenty four hour publication window was put into the legislation in recognition that since a single newspaper or a single chain of newspapers often sponsor polls, the vast majority of people reading the results of such polls will actually read about them the day after they are first reported. Newspapers pay for public opinion polls during elections to increase sales – people buy more papers when they contain ‘the latest’ poll results.<sup>10</sup> As such, it is necessary for these results to initially be ‘exclusive’ stories. Most people thus read the results the next day, after their daily paper has ‘picked up’ the election poll story. If the rationale for the law is to provide as much information to as many people as possible, it is therefore necessary to also examine reporting done in the twenty four hours subsequent to the first reporting of an election poll.

Therefore, the data contained in this paper is drawn from newspaper stories reporting the results of election polls in 15 newspapers across Canada during the 2004 federal election. We examined reporting in both the ‘national’ papers: *The Globe and Mail* and the *National Post*. Further, we collected stories from the newspaper with the largest circulation in each of the provincial capital cities as well as the nation’s capital.

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<sup>10</sup> Interview with Bob Peterson, former editor of the Star-Phoenix.

In addition, in order to cast the widest possible net in examining compliance with the law, we added the largest circulation papers from both Vancouver and Montreal.<sup>11</sup>

[Insert Table 1 here]

Stories were collected beginning May 24, 2004, the day after the writ was dropped, until the day of the election June 28, 2004. In each paper, we collected every story that contained any mention of an election-related public opinion poll. Our first coding run excluded stories making only passing reference to poll results, leaving only articles reporting some form of numeric results. We refer to this category as “All Poll Reports” and it contains 682 cases of a poll being reported in a newspaper story. The number of reports ranges between 19 in the *Daily Gleaner* (Fredericton) and 97 in the *Ottawa Citizen*. This works out to an average of 45 reports across the 15 papers under consideration during the election period.<sup>12</sup> Taking into account that almost all the newspapers in our sample publish six days per week, this works out to about 1.5 reports per paper per day over the course of the election period. Remember, these reports all contain information from an election poll but not necessarily from poll results reported within the first twenty four hours of their appearance in the media.

So, our second coding run examines only “New Poll Reports.” These are the reports explicitly regulated by Section 326. This portion of our sample contains 260 instances of poll results first reported in the media or re-reported within twenty-four hours of their first appearance in the media. The number of reports ranges from 5 in *The*

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<sup>11</sup> We coded a second paper in Edmonton to allow a paired comparison of information available in a single city. Data from both Edmonton papers is thus included in this analysis. Owing to difficulties with access to French-language papers in the University’s library, we have not yet concluded coding any of the French language papers in Quebec (it is currently ongoing). The final version of this paper will thus also include data from *Le Journal de Quebec*, *Le Soleil*, and *Le Devoir*.

<sup>12</sup> Our unit of analysis is the reporting of an individual opinion poll, as we are interested in the reporting of methodological information about each poll. There are occasions of multiple polls reported within the same story and, in these instances, each poll is coded separately.

*Guardian* (Charlottetown) to 56 in the *Ottawa Citizen*. We thus examine an average of 17 reports in each of the 15 papers under consideration or an average of a little more than one every other day. Given the substantial number of reports in both of these coding runs, we believe the results provide the most comprehensive examination of poll reporting during any single election period.

Each case of a New Poll Report is examined to determine compliance with the requirements of Section 326. The law requires newspapers to report eight pieces of information regarding an election poll: who sponsored the poll, who conducted it, the dates on which the polling took place, the population the sample was drawn from, the number of people contacted to participate in the poll, the margin of error, the exact wording of questions and some means by which a more detailed methodological report may be obtained. The additional methodological report **must** contain all of the above information as well as information regarding sampling techniques, the size of the sample, the number who refused or were ineligible to participate, recalculation methods (e.g. to account for people that were undecided, didn't answer questions or had no opinion), and any weighting or normalization procedures. So, each case of a poll report was coded for compliance with reporting the eight pieces of methodological information required by the law as well as the five additional pieces of information that must appear in the additional methodological report.

## **Findings**

Overall, the results of our analysis show a surprisingly low level of compliance with the requirements of Section 326 of the *Elections Act*. Our research demonstrates that reporters (and editors) are not in the habit of communicating the basic information

necessary to understand election poll results that appear in their papers. Particularly, our research demonstrates that even when reporting poll results that are hot off the presses in circumstances where there is a legal obligation to disclose a limited amount of basic information, the print media fails their readership. Given these findings, we can only conclude that Section 326 of the Elections Act has failed to produce its desired result.

### *New Poll Reports*

[Insert Table 2 here]

What results should we have found? Simply put, we should have found that all New Poll Reports contain all of the methodological information in question. However, as one can see in Table 2, the actual state of reporting is quite poor. The only one of the eight requirements regularly reported is the name of the firm that conducted the poll. During the 2004 election, of the 260 reports contained in our sample that fall under Section 326, 244 or 94% report this information. None of the other seven requirements are reported even 60% of the time.

While identifying the polling firm is important, it is also helpful to know who paid for the survey in the first place. In this case, the fifteen newspapers we examined only reported poll sponsorship information in 150 of 260 reports, or 58% of the time. Given the potential impact of a variety of different events occurring during an election (such as embarrassing statements or leaders' debates), knowing the dates people in the poll were asked questions would seem informative. However, of the 260 reports in our sample where disclosure of this information is legally mandated, it only appears in 127, or 49%. The results are even worse if one seeks to understand what group it was that was surveyed and what the question was that they were asked. Of the 260 reports covered by

Section 326, 57 (22%) reported the population from which the sample of respondents was drawn while only 47 (18%) reported the wording of even a single question for which results are reported. Strikingly, not one of the 260 reports (0%) contained the required information regarding the number of people who were contacted to participate in the survey.

The results of reporting the final two pieces of information are no more encouraging. The margin of error was reported in only 148 of 260 cases. So, only 57% of the reports of polls covered by the legislation reported the information necessary to actually understand the numbers being reported. We have yet to encounter in print a single source that advances the argument that the margin of error should **not** be reported alongside poll results. This information would seem particularly important when attempting to understand where parties or candidates stand in relation to one and other in an upcoming election. In general, newspaper reporting of this information is poor. Of the 682 reports of polling data that took place across the five week election period during the 2004 federal election (the All Poll Reports dataset), the information appeared only 36% (247 of 682) of the time. This means that while reports covered under Section 326 contained margin of error information 57% of the time, in reports of poll results *not* covered by the law, the margin of error appeared in only 23% of the stories. Any way one looks at the data, the results are on this count are poor. This is particularly egregious, given the extremely close nature of the 2004 election and the media's penchant for 'horserace-style' reporting.

Some analysts have focused on the requirement that newspapers must include information regarding the means to obtain a more detailed "report on survey results" as a

demonstration that the media “respects” the results of the provisions of Section 326.<sup>13</sup>

The story only has to tell the readers where they can get a more complete methodological report. Section 326 (3) contains a requirement that “a sponsor of an election survey shall, at any time during an election period after the results of the survey are transmitted to the public, provide, on request, a copy of a written report on the results of the survey.”<sup>14</sup>

This report must contain the eight pieces of information newspapers are required to disclose as well as five others.<sup>15</sup> Remembering that simply reporting a street, email or website address brings the media into compliance with this requirement, such information appeared in only 13 of 260 reports. Five percent compliance does not seem to us to indicate media respect for the Act.

### ***All Poll Reports***

[Insert Table 3 here]

Putting aside the particular requirements of Section 326, what is the general state of election poll reporting? The data in Table 3, consisting of all 682 instances of a poll being reported in the media from the point at which the writ is dropped through election day, paints a fairly bleak picture. These 682 instances include the 260 reports covered by the legislation as well as 422 additional reports not covered under Section 326. These later reports are instances of newspaper stories that report numeric poll results (not just passing results to ‘the latest polls’) but are do not take place during the first twenty four hours the poll was reported. As with the “new poll” data, information about the firm

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<sup>13</sup> See Durand 2002 and Durand 2005.

<sup>14</sup> Canada Elections Act.

<sup>15</sup> As to these additional five pieces of information, the reporting of which is not required, only the size of the initial sample appears with regularity (in 57% of the reports). Information regarding sampling techniques (4%), refusals (0%), recalculation (3%) and weighting procedures (2%) are rarely mentioned.

conducting the poll was reported most often (90%), followed by sponsorship (45%), margin of error (36%), dates (35%), population characteristics (17%), question wording (10%), means to obtain report (3%) and the number of people contacted (0%). These results are troubling in the face of the case for the provision of this information – that is it helps readers to understand how to interpret poll results. There is no caveat that people only require such information within the first twenty four hours of a particular poll appearing in the media. This information aids understanding of all polls regardless of timing surrounding their reporting, and our results point to the fact that such information is in poor supply.

One could look at the data in Tables 2 and 3 and make the claim that the law has at least a small positive effect because the coverage of methodology information is better in the ‘new poll’ reports than it is in the ‘all poll’ reports. Even if true, the law still falls far short of its objective; in the cases of reporting covered under the legislation, compliance is well under 100%. In addition, there are a number of equally, if not more, plausible competing theories. It seems reasonable to argue that the more recent the poll, the better the provision of information because, for example, it is fresher in the minds of reporters, they have easier access to the information or they think such information is more important at that point. It could also be pure profit motive. If column inches of print trade off with advertising inches, editors may be less inclined to accept methodology information for older polls because it takes up too much space.

### ***Poll Sponsorship***

[Insert Table 4 here]

In fact, we believe sponsorship, not legislation, is responsible for a lot of the ‘improvement’ in methodology reporting. While working on earlier research in this area and coding *The Globe and Mail* poll reporting during prior federal election periods, we noticed that they seemed to do a better job of reporting polls that would have fallen under Section 326 when they were the sponsors of the poll. When examining the data for this paper, we added a category to indicate whether the paper (or chain of papers) that was reporting the poll also sponsored the poll. To examine whether papers sponsoring a poll impacts poll reporting we divided the ‘new poll’ story sample seen in Table 2 between cases where the reporting paper sponsored the poll and where the paper was not the sponsor.

As reported in Table 4, 67 of the 260 stories or 26% were cases where the reporting paper was also the poll sponsor. It appears that sponsorship does play a role in the amount of information provided. Stark differences between reporting in papers that sponsored polls versus papers that did not sponsor polls can be identified in the reporting of sponsorship (99% versus 44%), dates of polling (70% versus 41%) and question wording (54% versus 6%) are apparent. Less noticeable difference can be seen in the name of the firm conducting the poll (100% versus 92%), sample population characteristics (25% versus 21%), while information on margin of error (52% versus 59%) and the means to obtain a further report (4% versus 5%) are actually reported more by non-sponsoring papers.

Thus, we believe sponsorship of polls is what actually drives improvement in poll methodology reporting. Earlier we argued newspapers sponsor polls to drive up sales. In

these cases it appears the extra column inches devoted to explaining the polls is seen as driving sales rather than trading off with advertising space.

It is worth noting that the data in Table 4 draws into question the results of earlier research arguing the law had a positive causal impact on poll reporting.<sup>16</sup> The research efforts arriving at this conclusion have relied on samples of reporting drawn exclusively from the first release reports of poll results by the newspapers that sponsored the polls. As just explained, papers that sponsor polls are the most likely to report methodology information. On the other hand, papers reporting ‘new poll’ results covered under legislation that did not sponsor the poll reported methodology information at close to the same rate as the ‘all stories’ sample, again indicating the lack of legislative impact.

### *The Globe and Mail*

[Insert Table 5 here]

In addition, an examination of even limited time series data indicates any positive effect the law had seems to have faded out after the first election cycle. In prior research, we explored reporting in *The Globe and Mail* during the 1993, 1997 and 2000 federal election periods.<sup>17</sup> Relying on just a single data point after the legislative intervention, we reached two conclusions. First, reporting during the first election after the law fell substantially short of providing the intended methodology information. Second, while not being able to make any kind of causal judgment, we noted a slight improvement in reporting following enactment of Section 326. The data from the 2004 election period reporting in *The Globe and Mail* demonstrates methodology reporting was substantially lower in all eight of the Section 326 information categories. Given even this limited

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<sup>16</sup> See Durand 2002 and Durand 2005.

<sup>17</sup> See Ferguson 2005.

evidence, it appears difficult to sustain a causal argument regarding the law's positive effect on election poll reporting.

Finally, it is worth taking note of reporting in individual newspapers. Contrary to our assumption, the national newspapers did not lead the way in reporting poll information. In terms of 'new poll' reporting, *The Globe and Mail* was better than average in two categories and worse than average in five. The *National Post* was better than average in three categories and worse than average in two. Looking across the rest of the sample, there is no clear winner in reporting. The *Vancouver Sun*, for example, did the best job of the fifteen papers when reporting sponsorship, conducting firm, polling dates and question wording yet did the worst job of providing margin of error and population characteristics. The *Leader-Post* in Regina was the best at providing the margin of error but was otherwise about average in reporting. The *Chronicle Herald* in Halifax and the *St. John's Telegram* were best at indicating the means to obtain a more detailed methodology report but fell to the bottom of the rankings in other categories. It thus appears there is no connection between the quality of reporting and national-level status, circulation or ownership characteristics.

## **Conclusion**

The results of this study indicate the enactment of Section 326 of the Elections Act has failed to result in industry compliance with the requirement to report the basic methodology information for election polls reported during federal elections. Past, self-regulation efforts failed to result in public access to such information.<sup>18</sup> Government

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<sup>18</sup> See Ferguson 2005.

responded to this failure by passing a legal requirement for the provision of this information. However, our research indicates this effort has also failed.

There is little dispute that the information required by Section 326 should appear in stories reporting the results of election polls. On the industry side, a wide variety of associational groups including, for example, the American Association for Public Opinion Research, the Canadian Advertising Research Foundation and the Canadian Association of Marketing Research Organizations all call for the disclosure of certain minimal methodological information regarding polls in all news stories containing poll results (not just election polls newly released during a federal election period).<sup>19</sup> On the academic side, a Royal Commission report concluded this information should be disclosed to the public. On the regulatory side, media organizations, in this case newspapers, are now legally required to include all of this information in each and every story reporting the results of new polling data (within the initial twenty four hour window). And so there is no confusion, the information associations, academics and Elections Canada call for is virtually identical. Finally, from a simple democratic standpoint, it seems difficult to argue against making available to readers the most basic information necessary to make an informed judgment about election poll results. Yet despite this widespread consensus, Canadians still lack access to this information.

What should be done in response to this failure? Here we reiterate our call for Elections Canada to enforcement the law. Following our investigation of reporting during the 2000 election, we noted that unless Elections Canada undertook some form of enforcement effort Canadians would not have access to the poll information all agree

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<sup>19</sup> See de Clercy and Ferguson 2001, p 9-11.

they need.<sup>20</sup> Now that we have again demonstrated industry's failure to deliver this information we reiterate our call on Elections Canada to act. We believe the requirements of the law are clear. We know the information is available. We know it is possible to include the required information in newspaper stories while consuming a minimal amount of print space. We know that self-regulation efforts by the media fail. With another federal election likely over the course of the next year, it appears the best hope for public access to this information is for Elections Canada to announce they intend to enforce the provisions of Section 326 of the Elections Act and then to actually follow through with punishment when the law is violated.

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<sup>20</sup> See de Clercy and Ferguson 2003.

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**Table 1**  
**Newspaper Data Set**  
**2004 Federal Election**

Newspaper (circulation rank)	Ownership	Circulation <sup>21</sup>
1. The Toronto Star	Torstar	3,293,021
2. The Globe and Mail	BCE/Thomson	1,965,991
5. National Post	Southam/Camwest	1,502,649
7. The Vancouver Sun	Canwest	1,170,963
8. The Gazette, Montreal	Canwest	1,023,188
10. Ottawa Citizen	Canwest	990,783
11. The Edmonton Journal	Canwest	943,320
12. Winnipeg Free Press	Thomson	881,320
16. The Chronicle-Herald, Halifax	Halifax Herald	621,537
19. The Edmonton Sun	Quebecor	525,205
21. Times Colonist, Victoria	Canwest	534,751
27. The Leader-Post, Regina	Canwest	305,871
30. The Telegram, St. John's	Groupe GTC Trans	234,989
40. The Daily Gleaner, Fredericton	Brunswick News	157,345
47. The Guardian, Charlottetown	Transcontinental Media	124,662

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<sup>21</sup> 2003 Weekly Circulation Totals, *Canadian Newspaper Association*, based on the annual CAN Circulation Data Collection and Report obtained from ABC Fasfax (Audit Bureau of Circulation) data dated March 31, 2003. <http://www.cna-acj.ca/client/cna/ult.nsf/ccrecords?OpenView&Start=1&count=500>

**TABLE 2**  
**New Poll Reports**

<b>Total Number of Reports</b>	260	
<b>Required Info</b>		
Sponsored Survey	150	58%
Conducted Survey	244	94%
Dates Conducted	127	49%
Population Sample Drawn From	57	22%
Number of People Contacted to Participate	0	0%
Margin of Error	148	57%
Wording of Main Question	47	18%
Means to Obtain Report	13	5%

**TABLE 3**  
**All Poll Reports**

<b>Total Number of Reports</b>	682	
<b>Required Info</b>		
Sponsored Survey	307	45%
Conducted Survey	614	90%
Dates Conducted	236	35%
Population Sample Drawn From	113	17%
Number of People Contacted to Participate	1	0%
Margin of Error	247	36%
Wording of Main Question	67	10%
Means to Obtain Report	22	3%

**TABLE 4**  
**New Poll Reports**  
**Sorted by Poll Sponsorship**

	<b>Paper Sponsored Poll</b>		<b>Paper Did Not Sponsor Poll</b>	
<b>Total Number of Reports</b>	67		193	
<b>Required Info</b>				
Sponsored Survey	66	99%	84	44%
Conducted Survey	67	100%	177	92%
Dates Conducted	47	70%	80	41%
Population Sample Drawn From	17	25%	40	21%
Number of People Contacted to Participate	0	0%	0	0%
Margin of Error	35	52%	113	59%
Wording of Main Question	36	54%	11	6%
Means to Obtain Report	3	4%	10	5%

**TABLE 5**  
***The Globe and Mail***  
**New Poll Reports**  
**2000 & 2004 Federal Elections**

<b><i>The Globe and Mail</i></b>	2000	2004
<b>Total Number of Reports</b>	22	24
<b>Required Info</b>		
Sponsored Survey	86%	62%
Conducted Survey	100%	87%
Dates Conducted	64%	33%
Population Sample Drawn From	41%	4%
Number of People Contacted to Participate	0%	0%
Margin of Error	68%	58%
Wording of Main Question	41%	29%
Means to Obtain Report	27%	0%