

March 2, 2026

Canada Growth Council
c/o McKercher LLP
800 - 1801 Hamilton Street
Regina, SK S4P 4B4
Attn: Daniel P. Kwochka

Re: Election ads placed by the Canada Growth Council

Before the last Manitoba general election, the Canada Growth Council (CGC) distributed a text message critical of the NDP and Wab Kinew.

The text message was in two parts. The first part, in straight text, read:

Hey it's Jen from the Canada Growth Council. Did you get this in the mail?

It's a reminder to everyone who loves Manitoba to avoid electing Wab Kinew (a convicted criminal) and the NDP this fall.

Wab Kinew and the NDP are in an alliance with Justin Trudeau and Jagmeet Singh.

And we can't afford 4 years of their woke policies that will lead to more crime, higher taxes and the NDP driving our economy into the ground...just like last time!

We can't trust Wab, Justin and Jagmeet to run our Province.

Spread the word!

Authorized by the Canada Growth Council Inc. | 1-800-883-1810

The text was followed by a picture of an ad, a copy of which is attached at the end of this report. The ad made the following statements:

Wab Kinew's NDP means more Justin Trudeau and Jagmeet Singh policies in Manitoba.

Higer taxes (14 tax hikes including lying about PST last time)

More carbon taxes

Massive deficits leading to higher inflation

Anti-development

We can't afford more NDP and Liberal policies.

A second column in the ad read:

WAB KINEW AND THE NDP'S "PUBLIC SAFETY" PLAN

FREE HEROIN AND HARD DRUGS FOR CRIMINALS

"NDP PUSHES FOR SAFE CONSUMPTION SITES" Winnipeg Free Press, Nov 1, 2022

DEFUNDING THE POLICE

"Uzoma Asagwara speaks at Defund the Police Rally" CBC News, June 23, 2020

OPPOSING STRICTER BAIL REFORM

"NDP MLA and Lawyer Mark Wasyliv supports Canada's current bail system" CBC News, March 22, 2023

It's a recipe for Disaster just like we're seeing under the NDP in Vancouver. Don't let it happen here

I should say at the outset that although CGC was clearly opposed to the Manitoba NDP, I have seen no evidence that it was in any way associated with the PC Party of Manitoba or that the PC Party approved of its messaging.

The complaints

The text message generated a number of complaints. There were allegations that CGC was spreading "misinformation and lies", was "spreading false and misleading information about Wab Kinew", was "trash", and was a "vicious attack on Wab Kinew". One complainant pointed out that the article relating to a safe consumption site said nothing about the government giving away free heroin or hard drugs, that she had been at the Defund the Police rally referred to in the ad and Uzoma Isagwara had not spoken there, and that the article referenced did not support a claim that the NDP was opposed to stricter bail reform. Finally, a number of the complainants did not know how the CGC acquired their telephone number and suspected it might have improperly accessed the voting list prepared by Elections Manitoba. Some complainants referred me to specific sections in *The Elections Act*.

My jurisdiction is limited to investigating potential breaches of *The Elections Act* and *The Election Financing Act*. Our investigation, therefore, focussed on the following allegations that relate to potential breaches of *The Elections Act* (the Act)¹.

1. that false statements were made about Mr. Kinew's character, in breach of section 181(2) of the Act;
2. that the same statements amounted to false pretenses, contrary to section 179(2) of the Act;

¹ The Act was amended as of January 1 of this year, so references to the Act in this report refer to the version that was in force at the time of the alleged offences.

3. that CGC had used the voters list, contrary to 183(6) of the Act, to get the cell phone numbers which were used to send the texts.

I am not satisfied that section 179(2) is relevant in this case, but it was referenced in at least one of the complaints, so I have included it in the discussion below.

Section 181(2)

Section 181(2) provides:

False statement of candidate's character

181(2) A person who, during an election period, knowingly makes, distributes or publishes a false statement of fact about a candidate's character or conduct for the purpose of influencing the election is guilty of an offence.

Section 181(2) is restricted to false statements made about “a candidate’s character or conduct”. I understand that to be different from statements about a party’s platform, or a candidate’s views on the issues. Statements about a candidate’s views might indirectly reflect on his or her character, but I do not believe the legislature intended the Commissioner of Elections to be reviewing every such statement for its accuracy. I believe section 181(2) was intended to apply to obvious and direct attacks on an individual.

The number of complaints I received about the text message from CGC suggest that many people found them to be misleading and offensive. But most of the content of the text message, in my view, consists of statements about the NDP’s platform and not statements about any individual’s conduct or character. I therefore do not consider them to be in breach of section 181(2).

There is one statement in the text message, however, that deserves separate consideration and that is the statement that Mr. Kinew is a criminal. That is a personal attack on him and clearly is intended as a statement about his character.

In an earlier report, I noted that the Manitoba King’s Bench has found that there is an onus on the party alleging a breach of section 186(1) to prove that the person who made, distributed or published the statements in question, knew them to be false. In that report, I also reviewed newspaper reports from CBC, CTV and the Winnipeg Free Press, and concluded that calling Mr. Kinew a criminal, though perhaps unfair and misleading, would nevertheless have been, if the reports were accurate, at least literally true as Mr. Kinew had, when he was in his 20’s, been convicted of a crime. In the circumstances, I concluded that a prosecution under section 181(2) could not succeed.

Section 183(6)

Section 183(6) provides:

Misuse of voters list

183(6) A person who uses all or any part of a voters list for a purpose not authorized under subsection 63.9(3) or (4) is guilty of an offence.

CGC says they did not obtain the complainants' cell phone numbers from the voters list, and our investigation has found no evidence to the contrary. In fact, there are good reasons, in addition to the fact they deny it, to conclude that the voters list was not used.

Firstly, the voters list does not contain cell phone numbers for every voter and some of the complainants' cell phone numbers were not on the list.

Secondly, the copies of the text messages sent with the complaints do not include the names of the recipients. This suggests that the messages are more likely in the nature of the "Robo-calls" and automated text messages that we are all now used to receiving.

On all of the evidence, therefore, it seems unlikely that CGC used the voters list.

Section 179(2)

I have concluded that CGC's advertisements did not breach section 181(2) of the Act. Some of the complaints, however, also referenced section 179:

Force and intimidation

179(1) A person is guilty of an offence who,

(a) directly or indirectly, uses or threatens to use force or violence or threatens to inflict an injury, damage, harm or loss, upon another person

(i) to induce or compel the other person to vote or refrain from voting, or

(ii) because that person voted or refrained from voting; or

(b) impedes or prevents an eligible voter from exercising the right to vote.

Use of false pretenses

179(2) A person who uses false pretenses to induce a voter to vote or refrain from voting, or to vote or refrain from voting for or against a particular candidate, is guilty of an offence.

Secrecy of the vote

179(3) Using false pretenses includes representing that the ballot or the manner of voting is not secret.

A false pretense can include a false statement, and so 179(2) might be thought to apply to any false statement at all that is intended to induce a voter to vote against a particular candidate, including a false statement about a party's or candidate's position on the issues. I am not aware of any Manitoba cases that have considered this section. There are cases in other jurisdictions that have found similar sections to have had a broad ambit, but the context of those sections in the acts under consideration was different and so the cases are not, in my view, especially helpful here.

Considering 179(2) in the context of the entire Act, it is my conclusion that the section was not intended to be read to cover misstatements about a party's platform. First, section 181(2) also deals with false statements, but restricts them to statements that are about a candidate's conduct or character and that are made during an election period. That section would be unnecessary, and inexplicable, if 179(2) was intended to include any false statement at all. Secondly, section 179 as a whole appears to address offenses that deal with the mechanics and process of voting itself and with conduct that interferes with someone's ability to vote for the candidate of their choice. In my view, 179(2) should be understood in that context and should not be expanded to include statements about a candidate's or party's position on the issues.

On the basis of these considerations alone, I am satisfied that 179(2) was intended to have a restricted application. But my conclusion is reinforced by the (relatively) recent legislative history of section 179.

In the 1970 version of the Elections Act, which remained in force until 1980, the predecessor of section 179 was section 129, which read:

UNDUE INFLUENCE AT ELECTIONS

Using restraint on voters prohibited.

129(1) Any person who, directly or indirectly, himself or by any person on his behalf, uses or threatens to use force, violence, or restraint, or inflicts or threatens to inflict injury, damage, harm, or loss, or in any manner practises intimidation upon or against a voter, in order to induce or compel him to vote or refrain from voting, or on account of his having voted or refrained from voting, or who by abduction, duress, or false or fraudulent pretence, device or contrivance impedes, prevents, or otherwise interferes with the free exercise of the franchise of a voter, or thereby compels, induces, or prevails upon a voter to vote or refrain from voting is guilty of an election offence, and is liable, on summary conviction, to a fine of two hundred dollars or to imprisonment for a term not exceeding one year.

Am. S.M., 1968, c. 20, s. 4; am.

False representation that vote not secret.

129(2) It is a false pretence within the meaning of this section to represent to a voter directly or indirectly that the ballot to be used or the mode of voting at an election is not secret.

R.S.M., c. 68, s. 134; am.

In 1980, the government passed a new Elections Act. When the bill first came before the house section 129 had been renumbered, but was essentially unchanged from the 1970 act. In addition, the government had added a section 155(1) which read as follows:

False Statements

155(1) Every person who during an election for the purpose of influencing the results of the election publishes any false statement of material fact relating to:

- (a) any candidate in the election; or
- (b) any political party endorsing a candidate in an election; or
- (c) any measure or proposal proposed or supported by a candidate in the election or by a political party endorsing a candidate in the election;

is guilty of an offence.

Section 155(1) clearly encompassed false statements about a party's platform, and there was a considerable uproar in the house about a third party being able to censor what candidates might say during election campaigns. In the result, the government agreed to withdraw that section. The wording of the former section 129, however, remained in the act without any objection. It appears, therefore, that everyone involved thought that section 129 said something quite different than section 155(1) and that what section 155(1) said was anathema to the House.

The wording of the old section 129 remained in force until 2005 when the government decided to create a "plain language" version of the Act. As part of that process, 129(1) was split into two parts and took the form that it had until the amendments in January of 2026. A few adjustments were made to the wording but none, in my view, that could have been intended to change the import of the section in any significant way.

I also note that in the revisions to the Elections Act that took effect in January of this year, a series of sections have been added dealing with false statements. All of them are restricted to statements made during an election period and none of them include false statements about party's or candidate's policies or positions.

In conclusion, I add only this. If I am mistaken, and section 179(2) *was* intended to apply to any false statement that was intentionally made, CGC may well have breached it. The statement that the NDP planned to give out free heroin is quite clearly false. I understand CGC claims that they believed it to be the case, and perhaps that is just possible. But such a remarkable claim should be verified, and a failure to do so suggests a reckless disregard for the truth, one that a court might well find is a sufficient intention to ground a conviction. For the reasons I have tried to

outline, however, I do not believe section 179(2) applies and so I will be closing my file and taking no further steps in this matter.

Yours truly,



Bill Bowles
Commissioner of Elections for Manitoba

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