

## **Political Databases and Democracy: Incumbency Advantage and Privacy Concerns**

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### **Introduction**

Australia's major political parties operate powerful databases using information contained on the electoral roll about every Australian voter. Starting with the raw data on each constituent provided by the Australian Electoral Commission (AEC), political parties attempt to build a picture including political leanings and interests, for the primary purpose of winning elections.

There has been a lack of oversight or regulation of the development of political databases, and a number of democratic issues are raised by the nature of their operation. This article provides an overview of the way the databases function and the purposes for which the major political parties use them. It shows they impinge negatively on the value of political equality through entrenching incumbency, both of the government of the day and the major parties collectively over competing minor parties. It also analyses the effect on civil liberties of their exemption from privacy laws and freedom of information requests.

### **How political databases function**

Political databases allow major party Members of Parliament (MPs) and candidates to compile information about electors for the purpose of communicating targeted political messages.<sup>1</sup> The resulting targeted political messages assist MPs and candidates in winning elections. MPs allocate electorate office staff (funded by taxpayers) or volunteers to collate and log information about electors in individual member's electorate offices.

The AEC provides an electronic copy of the electoral roll to political parties and MPs, updating the data electronically each month. They are allowed to use that roll, inter alia, for 'any purpose in connection with an election...'<sup>2</sup> The Act bans the use of Electoral Commission data for commercial purposes, which raises questions about the legality of selling software that relies on that data for its fundamental purpose.

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<sup>1</sup> The design and operation of the databases is presented in detail in van Onselen, P. & Errington, W. (2004) 'Electoral Databases: Big Brother or Democracy Unbound?', *The Australian Journal of Political Science*, 39 (2): 349-366. Suggestions for reform are presented in van Onselen, P. & Errington, W. (2004) 'Voter Tracking Software: The Dark Side of Technology and Democracy', *Australian Electronic Governance Conference*, Centre for Public Policy, University of Melbourne, 14-15 April, 2004. The ethical issues surrounding databases are covered in van Onselen, P. (2003) 'Private Information and Public Accountability: Political Parties' Constituent Databases', *The Australian Journal of Professional and Applied Ethics*, 5 (1): 1-13.

<sup>2</sup> Section 91A(2) *Commonwealth Electoral Act 1918 (C'th)*.

The AEC information includes the name, address, age and occupation (an optional entry on enrolment forms) of each elector. The information provided by the AEC is installed on each party's database software. The ALP database is named Electrac, and the Liberal's is named Feedback. These databases use electronic White Pages to incorporate telephone numbers where available. This raw data is supplemented on the databases with additional fields in relation to voting preferences and issues of interest, which are 'tagged' against each constituent when such information is obtained.

Identifying voting preferences and issues of interest is a valuable albeit time consuming practice for political parties. Effective database management results in any contact by a constituent with an electorate office being logged into the system. Contact can be made by telephone, in writing or in person. Electorate officers are trained to open the database system whilst talking with a constituent. Door knocking, telephone canvassing and letters to the editor are additional methods by which information is gathered. The sort of information that is tagged includes issues of interest, for example, health generally or Medicare Gold specifically. Voter preferences recorded in the databases include swinging voter status, minor party or independent leaning, as well as strong or weak Liberal or Labor voter leanings. This information is most valuable in marginal seats.

The information can be used for a number of purposes. Party organisations upload data from all electorates to track key issues and voting trends for use in qualitative polling, advertising and strategy formation. For individual MPs, the most important use is direct mail-outs targeted at the swinging voters. For example, a mail-out on the government's recent campaign commitment of \$100 pa for pensioners can be targeted at voters aged 65 and over, listing 'pensioner' under their occupation, and tagged as 'swinging' or 'leaning'. The mail-out may be reduced to handfuls of voters. The value in this strategy is that the messages can be heavily targeted at the interests of voters, whilst at the same time making the most value out of postal allowances (\$125,000 pa for lower house MPs). Electors can also be tagged as troublesome, so the electorate officer knows to be wary in their dealings. Strongly Labor or Liberal Party identifying voters can be targeted for political donations.

The operation of databases in this manner advantages incumbents. Governments by definition have more MPs and therefore more staff and public funding to operate the systems. They also have the legitimacy of incumbency in addressing constituent concerns. As such they arguably receive the lion's share of correspondence for database entry. Incumbency advantages also exist for both major parties over competing minor parties. Minor parties do not have the kind of lower house representation of major parties. They also lack the resources such representation carries with it. Their electoral disadvantage when compared with major parties is therefore heightened by the operation of databases.

But databases do not only present problems for political equality and a level playing field for political parties—they also present problems for the civil liberties value of citizen privacy. Political parties would not be permitted to collect and collate this information were they not exempted from privacy laws, as will be discussed below.

### **Political party exemptions from the *Privacy Act***

Commonwealth privacy legislation is designed to prevent the misuse of personal information by public or private organisations.<sup>3</sup> This legislation aims, amongst other

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<sup>3</sup> *Privacy Amendment (Private Sector) Act 2000 (C'th)*.

things, to prevent the collection of information without individual consent. Political parties, however, are exempt from the privacy legislation where their activities are 'in connection with an election, a referendum, or other participation in the political process'. Therefore, were the database not controlled by a political party, the collection, logging and use of information as described above would contravene the *Privacy Amendment (Private Sector) Act 2000*. Political party exemption from the aforementioned Act has been described by commentators in the legal community as 'a surprise' given it had 'never previously been raised during the extensive consultations over the legislation'.<sup>4</sup>

Paradoxically, because political parties are private organisations they are exempt from Freedom of Information (FOI) requests which can only be made to government or quasi government organisations. Political parties can log information about voters without their consent, yet they cannot be made to disclose what information has in fact been logged. Clearly this state of affairs violates core principles on which our representative democracy prides itself.

## Conclusion

Political party databases challenge effective representative democracy in Australia in two very important ways: by entrenching incumbency advantage and violating voter privacy. The resources used for databases largely derive from parliamentary entitlements. Staff to operate the systems, telephones to acquire voter information for database entry, and postage allowances to distribute targeted literature, are all examples of the advantage given to the incumbent government and/or local member in operating political databases.

Compulsory registration to vote coupled with compulsory AEC handover of voter information to political parties is also a violation of individual voters' privacy. Political party databases storing voter information are excluded from privacy laws which prohibit the retention of such information by private organisations other than political parties. However they are not subject to freedom of information rules either. Until this situation is remedied, political databases will continue to present a threat to key values of the Australian political system.

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<sup>4</sup> Dixon, T. 2001. 'Australia's New Privacy Legislation.' URL: <[http://www.bakercyberlawcentre.org/Articles/Cyberspace\\_May\\_2001/Privacy\\_2001](http://www.bakercyberlawcentre.org/Articles/Cyberspace_May_2001/Privacy_2001)>. Consulted 21 April 2003.