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VIA EMAIL

**UNCLASSIFIED LETTER  
WITH TOP SECRET ATTACHMENTS**

December 15, 2023

**To: Shantona Chaudhury  
Lead Commission Counsel  
Public Inquiry into Foreign Interference in  
Federal Electoral Process and Democratic  
Institute**

Dear Ms. Chaudhury:

**Re: National Security Confidentiality Review of 13 Selected Documents**

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The Public Inquiry into Foreign Interference in Federal Electoral Processes and Democratic Institutions (Inquiry) was established in September 2023 following the concurrence of the Government of Canada, the leaders of all recognized parties in the House of Commons, and the Honourable Madam Justice Marie-Josée Hogue on the proposed Terms of Reference.

Upon appointment, the Commissioner was provided an opportunity to review certain information related to the work of the Inquiry. The Inquiry has asked the Government of Canada to review a selection of those documents (the selected documents) to which the Inquiry has access for the purpose of assessing what these documents would look like if used publicly.

The Government has concluded this exercise, and the instant correspondence contains a response in six components: (i) this letter; (ii) the selected documents, redacted as necessary to permit their public disclosure; (iii) the selected documents with see-through highlights which identify the rationale for each redaction; (iv) a classified Annex providing additional information as to the injury that would result from disclosure; (v) a coding guide which identifies the injury associated with each redaction; and (vi) summaries of three Canadian Security Intelligence Service (CSIS) Intelligence Reports from the selected documents prepared for discussion purposes (see below in relation to options going forward). Items (i) and (ii) are unclassified, and the Government consents

to their public disclosure. Items (iii), (iv), (v), and (vi) are classified and cannot be disclosed publicly.

The documents at issue demonstrate in concrete terms one of the most difficult practical constraints that the Inquiry will face in fulfilling its mandate. While public hearings on the challenges, limitations and potential adverse impacts associated with the disclosure of national security information and intelligence to the public are envisioned by paragraph (a)(i)(D) of the Inquiry's Terms of Reference, the current exercise highlights several of the applicable considerations. The Government has proposed certain tools for the Inquiry's consideration, and invites a discussion on these matters at the Inquiry's convenience.

### **Terms related to Classified, Sensitive and Injurious Information**

In particular, it is helpful to clarify, in general terms, certain definitions that apply in respect of the Inquiry's work.

First, the term "classified information" applies to information the unauthorized disclosure of which could reasonably be expected to cause injury to the national interest. Classified information can be categorized as "Confidential", "Secret" and "Top Secret". By way of illustration, the classification "Top Secret" applies to information when unauthorized disclosure could reasonably be expected to cause *exceptionally grave injury* to the national interest.

Similarly, the term "compartmented information" refers to information derived from sensitive sources and methods. Access to compartmented information is limited to Top Secret cleared Canadian citizens who are authorized to access the information after receiving a formal indoctrination. Compartments are implemented by controlling access to information using frameworks known as control systems. Control systems define who may access the information, and under what conditions. Much of this information is also "special operational information" under the *Security of Information Act*.

In addition to these classifications, "sensitive information" is information relating to international relations or national defence or national security that the Government of Canada is taking measures to safeguard. In turn, "injurious information" is information that if it were disclosed to the public, would injure Canada's international relations or national defence or national security.

While various Government policies exist for the protection of classified information, Parliament has established a comprehensive regime for the protection of sensitive and injurious information, found in section 38 of the *Canada Evidence Act*, and adjudicated by the Federal Court of Canada. The Inquiry is bound by these restrictions, and others, in accordance with paragraphs (a)(iii)(E) and (a)(iv) of the Terms of Reference, which include a requirement to protect human sources pursuant to section 18.1 of the *Canadian Security Intelligence Service Act*.

### **Explaining Injury**

The selected documents were drafted for a limited audience of individuals holding the required security clearance. As a result, the documents include a significant amount of highly classified,

sensitive, and injurious information that cannot be disclosed and that must be carefully safeguarded. The result is that a significant proportion of that information could not be released publicly under any circumstance without causing injury to Canada's national security, national defence, or international relations.

By way of illustration, when the Government asserts that disclosure would be injurious to national security, national defence, or international relations, this can mean more specifically that, among other things:

- With respect to *national security*, disclosure would undermine ongoing or future national security operations or investigations, endanger individuals who work or cooperate with the Government's departments and agencies, and enable threat actors to engage in counter-measures. For instance, disclosure may reveal, directly or indirectly:
  - o Interest in individuals, groups or issues, including the existence or non-existence of past or present files or investigations, the intensity of investigations, or the degree or lack of success of investigations;
  - o Methods of operation and investigative techniques;
  - o Relationships with other police, security and intelligence agencies and the information exchanged in confidence with such agencies;
  - o Employees, internal procedures, administrative methodologies, and telecommunications systems; and
  - o Persons who cooperate with or provide information in confidence to Canadian intelligence agencies.
  
- With respect to *international relations*, disclosure would undermine Canada's relationship with important allies. This includes the exchange of information between foreign nations and the ability to conduct such exchanges in an atmosphere of trust to ensure the information is as complete and accurate as possible. Releasing such information would compromise or impair the trust of not only the nation to whom it relates, but of other foreign nations as well. Canada benefits tremendously from these exchanges and it must maintain the trust of all foreign nations to continue to benefit from those. Closely related, the "third party rule" is an understanding among information-sharing partners that information providers maintain control over subsequent disclosure and use. A breach of the third party rule would likely have a negative impact on the parties' relations, the most likely of which would be a cessation or reduction of future information sharing.

In reviewing the selected documents, the Government scrutinized the information at issue, and devoted significant resources to determining the scope of injury that could arise from the public disclosure of that information. The Government would, if necessary, object to any further disclosure of the information contained in the sample documents pursuant to section 38 of the *Canada Evidence Act* were the Inquiry to insist on its public disclosure.

The majority of the selected documents are CSIS documents. Redactions are made within these documents by CSIS, the Communications Security Establishment, Global Affairs Canada, the Royal Canadian Mounted Police, and the Financial Transactions and Reporting Analysis Center of Canada. We note that the result of the exercise is that the CSIS documents are redacted almost in their entirety. Given that the majority of the redactions made within the selected documents are linked to CSIS information, this letter focuses on CSIS information.

### **CSIS Intelligence**

The CSIS documents in question are CSIS products meant to disseminate intelligence to a government readership for use in their own analysis and to inform the decision-making, specific to their department. The documents range from single pieces of intelligence, to comprehensive analytical products that are based on multiple reporting streams, both domestic and foreign. One important commonality among the documents is that they are written solely for a readership that has the appropriate security clearance to access and use the intelligence in question.

CSIS intelligence is not classified and restricted to a small readership because it is intelligence, in and of itself, or simply because it is derived from classified sources. Rather, a security classification and restricted distribution is applied because the release of the intelligence will expose a human or technical source, a methodology, an investigation or investigative gap to adversaries or it will cause harm to international relationships. This is certainly true with respect to intelligence regarding the threat-related activities of foreign governments that have considerable resources at their disposal to conduct counter-intelligence investigations.

Intelligence concerning multiple aspects of the People's Republic of China (PRC) Foreign Interference and Malign Influence activities are of the utmost importance for the government of Canada because of the scope and impact of this threat. These activities involve immediate threats or grave harm to Canada's strategic interests. These are activities on which the Government needs to be fully and comprehensively informed in order to make immediate and effective policy or operational decisions. These activities address those issues which have the highest importance for Canadian interests, carry the highest potential to negatively or positively impact Canadian interests, and have the highest need for distinctly Canadian intelligence insights.

### **Foreign Interference**

The threat of foreign interference in our democratic processes emanates from the PRC and other countries. The public release of Canada's intelligence, particularly *as these products are currently written*, risks exposing CSIS sources, and the extent to which Canada understands, or lacks understanding, of threat activities. This is compounded by the mosaic effect, wherein an adversary tracks and pieces together a large number of individual, possibly disparate, pieces of intelligence, often gathered over long periods of time, from multiple sources, and thereby gains the ability to piece together a picture of our holdings. It may not always be possible to point to a specific piece of information in an individual document and explain why its release would be injurious in and of itself, but when combined with other publicly released information, or that which has been acquired through espionage and data theft, adversaries may be able to draw inferences and

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conclusions regarding CSIS's investigations. That which may be exposed through this effect, and is of high interest to the foreign intelligence services that are active in Canada include investigative interests, intelligence gaps, methods of operation, administrative procedures, employees, foreign partnerships, locations of technical sources and, the identity of CSIS' casual contacts and human sources.

Foreign state actors engaged in foreign interference have significant capabilities to aggregate "big data" and utilize geolocation information and artificial intelligence to piece together information from a variety of different products or reporting streams that have been released over a number of years. For example, media reporting has indicated that the PRC has previously successfully used such capabilities to dismantle the CIA's human source network, resulting in severe consequences, including imprisonment and dozens of lives lost.<sup>1</sup>

The classified Annex attached to this letter uses a specific example from the selected documents to explain the specifics of why it would be injurious to Canada's national security to release that information.

It is also vital to note that foreign interference investigations, like foreign interference itself, often continue over years or decades. Many access points of Canadian intelligence on this issue take long periods of time to develop and remain in place for extended timeframes. Many of the foreign interference investigations that were active in 2019 and 2021, are active investigations today, meaning their exposure will negatively impact current on-going investigations. Critically, if they are in place, disclosures that identify human sources, or allow for their identities to be inferred, risk sources' safety, and the safety of those close to them.

Disclosure would also have longer term negative implications. It is reasonable to assume that foreign officials are following the Inquiry such that disclosure of sensitive information would become known to them. This will likely lead to an immediate loss of access to the intelligence that Canada has deemed to be of the highest priority. This access would take years to replicate and replace (if it could be replaced at all). Finally, such inability to protect human sources, and classified information in general, would likely result in decreased confidence in CSIS by other individuals considering providing information to CSIS, and foreign agency partners, potentially resulting in decreased intelligence received.

### **Resources**

This national security confidentiality (NSC) review of the selected documents was conducted on an expedited basis. To meet the timeframe provided, the government diverted subject matter experts familiar with the specific intelligence contained in the documents from their intelligence collection and analysis roles in order to support the review. This is a deviation from their standard process. In total, personnel spent in excess of 200 person hours on the review of these 13 documents. As you may be aware, the government takes the review process seriously as it can have collateral consequences on other investigations and proceedings, including court

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<sup>1</sup> *China Used Stolen Data to Expose CIA Operatives in Africa and Europe*, [foreignpolicy.com](https://foreignpolicy.com)

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proceedings. The government typically sources all statements made in intelligence work products back to the raw intelligence to confirm, among other things, accuracy of the report and the method of collection. This level of NSC review is not sustainable if replicated over a longer term. It is clear that redactions of documents on a large scale will not be a productive way forward within the timeframe allotted.

### Other Options for the Way Forward

The Government of Canada recognizes the importance of educating the public on the threat of Foreign Interference. In doing so it is vital to protect information that would be injurious to national security if released. We are committed to assisting the Inquiry in achieving its mandate. In that regard we would like to open a dialogue on viable options to help meet the Commissioner's mandate. Part of that dialogue requires a better sense of what type of information the Inquiry is interested in making public, with the understanding that there are very practical limitations on what classified information can be made public. With this in mind, we believe that the following options and/or a combination of these options will help further this process. These options include redactions on a limited number of documents that is sustainable and proportionate, summaries of a limited number of documents or topics (see examples in classified attachments), and/or *ex parte in camera* hearings leading to a public summary.

We are available to meet at your convenience but would like to open this dialogue as soon as possible.

Yours truly,



Greg Tzemenakis, Senior General Counsel  
Barney Brucker, A/Senior General Counsel  
National Litigation Sector

Encls. 13 Selected Documents, redacted (Unclassified)  
13 Selected Documents, highlighted (Classified)  
Annex (Classified)  
Coding Guide (Classified)  
3 Summaries (Classified)

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