



Public Inquiry Into Foreign Interference
in Federal Electoral Processes and
Democratic Institutions

Enquête publique sur l'ingérence étrangère
dans les processus électoraux et les
institutions démocratiques fédéraux

Overview Report:

Other reviews and investigations of foreign interference

Prepared by: Commission Counsel

Summary of Report

This overview report summarizes reviews and investigations into foreign interference by the Independent Special Rapporteur, parliamentary committees, government oversight bodies, the Commissioner of Canada Elections and an interdepartmental task force.

Note to Reader

Pursuant to Rules 42-44 of the Commission's *Rules of Practice and Procedure*, the following Overview Report contains a summary of background facts and documents relating to the Commission's mandate.

Overview Reports allow facts to be placed in evidence without requiring those facts and related documents to be presented orally by a witness during the public hearings. The Overview Report may be used to assist in identifying issues relevant to the Commission, make findings of fact and enable recommendations to be made by the Commission.

Parties have been provided an opportunity to comment on the accuracy of this Overview Report. Commission Counsel and the Parties may call evidence from witnesses at the Inquiry that casts doubt on the accuracy of the content of the documents underlying this Overview Report. The Parties may also make submissions regarding what, if any, weight should be given to the Overview Report and the cited documents.

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1. Introduction

- [1] In addition to the Foreign Interference Commission, several reviews and investigations into foreign interference in Canada have been, or are being, done by other Canadian entities.
- [2] This overview report summarizes the foreign interference-related mandates and work of these other entities, including the Independent Special Rapporteur, parliamentary committees, government oversight bodies, the Commissioner of Canada Elections and an interdepartmental task force.
- [3] The inclusion of sources in this Overview Report does not represent any expression by the Commission that contents of those sources are true or false and are not admitted into evidence for the truth of their contents. Further, no parliamentary committee testimony may be used to cross-examine or discredit a witness before the Commission.¹

2. Independent Special Rapporteur

2.1 Background

- [4] On March 15, 2023, the Government of Canada appointed The Honourable David Johnston as “Independent Special Rapporteur on Foreign Interference” (ISR). His mandate had three aspects.²
- [5] First, assess the extent and impact of foreign interference in Canada’s electoral processes by:
 - a. reviewing the Government of Canada’s information and actions about the threat of foreign interference to Canada’s electoral processes, historically, and for the 2019 and 2021 general elections;

¹ *Gagliano v Canada (Attorney General) (F.C.)*, 2005 FC 576.

² Privy Council Office, Democratic Institutions, “Independent Special Rapporteur on Foreign Interference” (May 23, 2023), **COM0000102(EN)/COM0000190(FR)** .

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- b. determining what the Canadian Security Intelligence Service (CSIS), Privy Council Office (PCO), Critical Election Incident Public Protocol and any other agencies and officials found out about foreign interference in the 2019 and 2021 elections and recommended be addressed;
 - c. determining what agencies and officials communicated to the Prime Minister and his Office (PMO), other ministers and Cabinet about electoral interference by agencies and officials and what they recommended to address it; and
 - d. determining what the PMO, ministers, Cabinet and government departments and agencies did to defend against or otherwise deal with electoral interference.³
- [6] Second, consider the foreign interference issues that the National Security and Intelligence Committee of Parliamentarians (NSICOP) and the National Security and Intelligence Review Agency (NSIRA) were reviewing (see further below) and raise any questions of public interest or answers needed to ensure public confidence about foreign interference during the 2019 and 2021 elections, beyond those answered by NSICOP and NSIRA.⁴
- [7] Third, consider innovations and improvements in public agencies and their coordination to combat foreign interference in federal elections, including changes in institutional design and coordination of government assets to address it.⁵
- [8] The Government authorized the ISR to review classified and unclassified records, including some protected by Cabinet confidence.
- [9] The ISR met with the chairs of NSICOP and NSIRA to understand the extent of their work on foreign interference. He also met with the PCO, the PMO, CSIS, the Royal

³ Privy Council Office, Democratic Institutions, “Independent Special Rapporteur on Foreign Interference – Terms of reference” (March 21, 2023), **COM0000103(EN)/COM0000191(FR)**.

⁴ Privy Council Office, Democratic Institutions, “Independent Special Rapporteur on Foreign Interference – Terms of reference” (March 21, 2023), **COM0000103(EN)/COM0000191(FR)**.

⁵ Privy Council Office, Democratic Institutions, “Independent Special Rapporteur on Foreign Interference – Terms of reference” (March 21, 2023), **COM0000103(EN)/COM0000191(FR)**.

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Canadian Mounted Police (RCMP), Communications Security Establishment (CSE), Security and Intelligence Threats to Elections Task Force, the Critical Election Incident Public Protocol and political parties.⁶ Interested persons also submitted written submissions on his mandate.⁷

2.2 Definition of foreign interference

- [10] For his definition of foreign interference, the ISR relied on the definition of foreign influenced activities that are threats to the security of Canada in section 2 of the *Canadian Security Intelligence Service Act*, RSC 1985, c C-23 (“CSIS Act”). These are “foreign influenced activities within or relating to Canada that are detrimental to the interests of Canada and are clandestine or deceptive or involve a threat to any person”.⁸ His definition of foreign interference also required state, or state proxy, action.

2.3 ISR Report

- [11] The ISR issued his First Report on May 23, 2023 (“ISR Report”).⁹ In summary, he concluded foreign governments are attempting to influence Canadian candidates and voters and these efforts are ubiquitous, especially from China.¹⁰ However, there was “no reason to question the validity of the 2019 or 2021 general elections.”¹¹ The elections

⁶ Privy Council Office, Democratic Institutions, “Independent Special Rapporteur on Foreign Interference – Terms of reference” (March 21, 2023), **COM0000103(EN)/COM0000191(FR)**.

⁷ Canada, Independent Special Rapporteur, *First Report: The Right Honourable David Johnston, Independent Special Rapporteur on Foreign Interference* (Ottawa: May 23, 2023), **COM0000104(EN)/COM0000105(FR)** at 6-10.

⁸ Canada, Independent Special Rapporteur, *First Report: The Right Honourable David Johnston, Independent Special Rapporteur on Foreign Interference* (Ottawa: May 23, 2023), **COM0000104(EN)/COM0000105(FR)** at 10.

⁹ Canada, Independent Special Rapporteur, *First Report: The Right Honourable David Johnston, Independent Special Rapporteur on Foreign Interference* (Ottawa: May 23, 2023), **COM0000104(EN)/COM0000105(FR)**. As explained further below, the ISR resigned before completing the second, public, phase of his mandate.

¹⁰ Canada, Independent Special Rapporteur, *First Report: The Right Honourable David Johnston, Independent Special Rapporteur on Foreign Interference* (Ottawa: May 23, 2023), **COM0000104(EN)/COM0000105(FR)** at 29.

¹¹ Canada, Independent Special Rapporteur, *First Report: The Right Honourable David Johnston, Independent Special Rapporteur on Foreign Interference* (Ottawa: May 23, 2023), **COM0000104(EN)/COM0000105(FR)** at 29, 43-49.



were well protected by sophisticated mechanisms. Reports of leaked intelligence¹² materials, considered in full context, were misconstrued, specific instances of interference were “less concerning” than media reports suggested and sometimes the full story was “quite different” from the media’s version.¹³

[12] The ISR found as follows:

- a. attempts at foreign interference are ubiquitous, especially from China, and federal governments have known about it for years. Activities had increased in the past several years;
- b. media reports about foreign interference created an unfair narrative about the Government by raising questions about its response, which resulted in public misapprehension about the extent and impact of foreign interference in the 2019 and 2021 elections;
- c. limited intelligence indicated China intended funds be sent to 11 federal candidates, political staff and (possibly unwittingly) an Ontario Member of Provincial Parliament, but there was no intelligence suggesting money went to the federal candidates and it was uncertain if any money went to staff or the provincial member;
- d. China leveraged proxy agents and tried to influence many federal candidates in subtle ways;
- e. the Prime Minister was repeatedly briefed in a general way, including in June 2017, about foreign interference threats;

¹² Canada, Independent Special Rapporteur, *First Report: The Right Honourable David Johnston, Independent Special Rapporteur on Foreign Interference* (Ottawa: May 23, 2023), **COM0000104(EN)/COM0000105(FR)** at 2.

¹³ Canada, Independent Special Rapporteur, *First Report: The Right Honourable David Johnston, Independent Special Rapporteur on Foreign Interference* (Ottawa: May 23, 2023), **COM0000104(EN)/COM0000105(FR)** at 29.



- f. there was no evidence the Prime Minister or his staff ignored any recommendations about an Ontario provincial cabinet minister with alleged ties to China's Toronto consulate;
- g. there were irregularities with Han Dong's nomination as Liberal Party of Canada ("Liberal Party") candidate for Don Valley North in 2019, and there was well-grounded suspicion these irregularities were tied to China's consulate in Toronto, but there was no evidence China orchestrated Mr. Dong's nomination or that Mr. Dong was aware of the irregularities or China's potential involvement;
- h. there was an unconfirmed indication that a very small number of Chinese diplomats expressed a preference for the Liberal Party over the Conservative Party of Canada ("Conservative Party") in the 2021 election, but no indication China had a plan to orchestrate a minority Liberal Party Government in 2021 or was determined the Conservative Party should not win;
- i. China's intention during the 2021 election appears to have focused on helping pro-China candidates and marginalizing anti-China candidates. China is generally party agnostic;
- j. Chinese Canadian members of Parliament, including Kenny Chiu, were, and remain, of particular interest to China. There was online misinformation about Mr. Chiu's proposed foreign agent registry bill, but this could not be traced to a state-sponsored source;
- k. CSIS was aware of allegations that China encouraged donors to give campaign contributions to candidates it favoured, with the political campaigns illegally returning part of the contribution. CSIS had not uncovered intelligence showing this activity was occurring;
- l. Mr. Dong did not advise the Chinese consulate to extend the detention of the "Two Michaels";

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- m. there were indications Chinese officials contemplated action directed at Chinese Canadian members of Parliament, including Michael Chong, and their family members in China and tried to build profiles on them and others. However, there was no intelligence indicating China took steps to threaten Mr. Chong's family;
- n. there were serious shortcomings in how security agencies communicated and processed intelligence to government;
- o. there were no instances of the Prime Minister, ministers or their offices either knowingly or negligently, failing to act on intelligence, advice or recommendations or instances where they made decisions based on partisan considerations;
- p. the Government and its intelligence agencies regularly told the public about the growing threat of foreign interference and Government put mechanisms in place to counter it; and
- q. there was a real risk of racist backlash against diaspora communities, which are victims of foreign interference and not its instruments.¹⁴

[13] The ISR made his findings public. He concluded care must be taken in assessing allegations of foreign interference and the Government's response to it.¹⁵ He also concluded Canada requires a more sophisticated approach to national security, designed for the current challenges. This included having a less politicized environment in which to discuss national security issues.¹⁶

¹⁴ Canada, Independent Special Rapporteur, *First Report: The Right Honourable David Johnston, Independent Special Rapporteur on Foreign Interference* (Ottawa: May 23, 2023), **COM0000104(EN)/COM0000105(FR)** at 19-43.

¹⁵ Canada, Independent Special Rapporteur, *First Report: The Right Honourable David Johnston, Independent Special Rapporteur on Foreign Interference* (Ottawa: May 23, 2023), **COM0000104(EN)/COM0000105(FR)** at 29.

¹⁶ Canada, Independent Special Rapporteur, *First Report: The Right Honourable David Johnston, Independent Special Rapporteur on Foreign Interference* (Ottawa: May 23, 2023), **COM0000104(EN)/COM0000105(FR)** at 30.

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- [14] The ISR believed a public process was necessary to address foreign interference issues but recommended against a federal commission of inquiry.¹⁷
- [15] Instead of a commission of inquiry, the ISR said he would hold public hearings and hear from diaspora communities and other Canadians, government officials (including retired civil servants), experts and other interested parties about foreign interference and its effects on diaspora communities. He would then produce policy and governance recommendations.¹⁸
- [16] The ISR asked the Prime Minister to refer his First Report and its confidential annex to NSIRA and NSICOP.¹⁹
- [17] The ISR announced his resignation in early June 2023. In his resignation letter, he said his role had become too mired in political controversy for him to continue and given the highly partisan atmosphere around his appointment and work, he could not achieve his objective to help build trust in Canadian democratic institutions.²⁰
- [18] On June 26, 2023, the ISR completed his work and delivered a final classified report to the PCO. He asked the Government to send it to NSICOP and NSIRA.²¹

¹⁷ Canada, Independent Special Rapporteur, *First Report: The Right Honourable David Johnston, Independent Special Rapporteur on Foreign Interference* (Ottawa: May 23, 2023), **COM0000104(EN)/COM0000105(FR)** at 30, 50-55.

¹⁸ Canada, Independent Special Rapporteur, *First Report: The Right Honourable David Johnston, Independent Special Rapporteur on Foreign Interference* (Ottawa: May 23, 2023), **COM0000104(EN)/COM0000105(FR)** at 50, 54-55.

¹⁹ Canada, Independent Special Rapporteur, *First Report: The Right Honourable David Johnston, Independent Special Rapporteur on Foreign Interference* (Ottawa: May 23, 2023), **COM0000104(EN)/COM0000105(FR)** at 50.

²⁰ Darren Major, CBC, Politics, “David Johnston resigning as special rapporteur on foreign interference” (June 9, 2023), **COM0000075**.

²¹ Darren Major, CBC, Politics, “Johnston delivers classified final report on foreign interference, officially steps down” (June 26, 2023), **COM0000119**.



3. Standing Committee on Access to Information, Privacy and Ethics (ETHI)

3.1 Background

- [19] On December 7, 2022, ETHI adopted a motion to study “foreign interference and the threats to the integrity of democratic institutions, intellectual property and the Canadian state itself that arise from this foreign interference”.²²
- [20] The Committee studies matters related to the Office of the Information Commissioner of Canada, the Office of the Privacy Commissioner of Canada and the Office of the Commissioner of Lobbying of Canada and certain issues related to the Office of the Conflict of Interest and Ethics Commissioner.²³
- [21] As a parliamentary committee exercising parliamentary privilege, ETHI can compel witness testimony and document production.
- [22] ETHI held eight public meetings and heard from 23 witnesses between March and June 2023.²⁴ The Committee’s study of election interference aimed to avoid duplication with

²² House of Commons, Standing Committee on Access to Information, Privacy and Ethics, *Report 10: Foreign Interference and the Threats to the Integrity of Democratic Institutions, Intellectual Property and the Canadian State* (October 24, 2023) (Chair: John Brassard), **COM0000089(EN)/COM0000090(FR)** at 7.

²³ House of Commons Standing Order 108(3)(h). See webpages: House of Commons\Committees\ETHI\Home, **COM0000087(FR)/COM0000088(EN)** and House of Commons\Committees\ETHI\About\Mandate, **COM0000085(FR)/COM0000086(EN)**.

²⁴ House of Commons, Standing Committee on Access to Information, Privacy and Ethics, *Report 10: Foreign Interference and the Threats to the Integrity of Democratic Institutions, Intellectual Property and the Canadian State* (October 24, 2023) (Chair: John Brassard), **COM0000089(EN)/COM0000090(FR)** at 7.

The hearings were held on March 10, 31, April 21, 28, May 2-3, 9, June 2, 13, September 25, 27 and October 4, 2023: House of Commons, 44th Parliament, 1st Session, Standing Committee on Access to Information, Privacy and Ethics, Evidence, Nos:

061 (March 10, 2023) **COM0000218(EN)/COM0000219(FR)**,
063 (March 31, 2023) **COM0000220(EN)/COM0000221(FR)**,
065 (April 21, 2023) **COM0000222(EN)/COM0000223(FR)**,
067 (April 28, 2023) **COM0000224(EN)/COM0000225(FR)**,
068 (May 2, 2023) **COM0000226(EN)/COM0000227(FR)**,
069 (May 3, 2023) **COM0000228(EN)/COM0000229(FR)**,

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work by the House of Commons Standing Committee on Procedure and House Affairs (PROC) and other reviews.²⁵

3.2 Definition of foreign interference

[23] Like the ISR, ETHI used the elements of foreign influenced activities considered threats to the security of Canada in the *CSIS Act* to define foreign interference, with the added requirement that foreign interference activities be those done to advance foreign states' strategic objectives.²⁶ Under this definition, foreign interference can refer to a range of deliberately covert, malicious, clandestine and deceptive hostile activities orchestrated by a foreign state to further its strategic interests.²⁷ Foreign states target federal, provincial, territorial and municipal governments, politicians, journalists and others using clandestine methods.²⁸

070 (May 9, 2023) **COM0000230(EN)/COM0000231(FR)**,
074 (June 2, 2023) **COM0000232(EN)/COM0000233(FR)**;
House of Commons, 44th Parliament, 1st Session, Standing Committee on Access to Information, Privacy and Ethics, Minutes of Proceedings, Meetings Nos:
77 (June 13, 2023) **COM0000235**,
81 (September 25, 2023) **COM0000236**,
82 (September 27, 2023) **COM0000237**,
83 (October 4, 2023) **COM0000238**.

A list of witnesses is included as Appendix A in ETHI Report 10.

²⁵ House of Commons, Standing Committee on Access to Information, Privacy and Ethics, *Report 10: Foreign Interference and the Threats to the Integrity of Democratic Institutions, Intellectual Property and the Canadian State* (October 24, 2023), (Chair: John Brassard), **COM0000089(EN)/COM0000090(FR)** at 7-8.

²⁶ House of Commons, Standing Committee on Access to Information, Privacy and Ethics, *Report 10: Foreign Interference and the Threats to the Integrity of Democratic Institutions, Intellectual Property and the Canadian State* (October 24, 2023), (Chair: John Brassard), **COM0000089(EN)/COM0000090(FR)** at 9.

²⁷ House of Commons, Standing Committee on Access to Information, Privacy and Ethics, *Report 10: Foreign Interference and the Threats to the Integrity of Democratic Institutions, Intellectual Property and the Canadian State* (October 24, 2023), (Chair: John Brassard), **COM0000089(EN)/COM0000090(FR)** at 1.

²⁸ House of Commons, Standing Committee on Access to Information, Privacy and Ethics, *Report 10: Foreign Interference and the Threats to the Integrity of Democratic Institutions, Intellectual Property and the Canadian State* (October 24, 2023), (Chair: John Brassard), **COM0000089(EN)/COM0000090(FR)** at 9.

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3.3 ETHI Report

- [24] In October 2023, ETHI issued its report, *Foreign Interference and the Threats to the Integrity of Democratic Institutions, Intellectual Property and the Canadian State* (“ETHI Report”).²⁹ The Committee concluded Canada is not immune to foreign interference.³⁰
- [25] The ETHI Report outlined how foreign interference impacts trust in Canada’s democratic institutions; how it has led to a rise in xenophobia and illicit disclosures of national security intelligence; the risk that technological advances may enhance or increase foreign interference attempts; targets and tactics of foreign interference by China and Russia; and proposed measures to counter foreign interference.
- [26] The Committee also studied allegations that a donation to the Pierre Elliott Trudeau Foundation was foreign interference. Four of the eight Committee meetings looked at this issue, but ETHI could not come to any definitive conclusion about a connection with foreign interference activities.³¹
- [27] ETHI recommended the Government of Canada do as follows:
- a. improve declassification of historical records;
 - b. establish and implement clearer classification guidelines for national security records;
 - c. amend the *Access to Information Act*, RSC 1985, c A-1, to clarify its system is based on a culture of openness and transparency;

²⁹ House of Commons, Standing Committee on Access to Information, Privacy and Ethics, *Report 10: Foreign Interference and the Threats to the Integrity of Democratic Institutions, Intellectual Property and the Canadian State* (October 24, 2023) (Chair: John Brassard), **COM0000089(EN)/COM0000090(FR)**.

³⁰ House of Commons, Standing Committee on Access to Information, Privacy and Ethics, *Report 10: Foreign Interference and the Threats to the Integrity of Democratic Institutions, Intellectual Property and the Canadian State* (October 24, 2023), (Chair: John Brassard), **COM0000089(EN)/COM0000090(FR)** at 1.

³¹ House of Commons, Standing Committee on Access to Information, Privacy and Ethics, *Report 10: Foreign Interference and the Threats to the Integrity of Democratic Institutions, Intellectual Property and the Canadian State* (October 24, 2023), (Chair: John Brassard), **COM0000089(EN)/COM0000090(FR)** at 35-47.



- d. increase and regularize CSIS's sharing of information with the public to increase national security literacy;
- e. strengthen rules and penalties governing illicit disclosure of national security intelligence;
- f. ensure any legislative mechanisms to combat foreign interference consider how they might affect victimized or targeted individuals and communities and include these communities in developing measures to counter the impacts of interference on them;
- g. review and update Canada's national security policy to include rules allowing CSIS to directly warn members of Parliament about threats related to foreign interference and include a policy on threats posed by artificial intelligence (AI) controlled by foreign actors;
- h. make full use of existing legislation such as the *Security of Information Act*, RSC 1985, c O-5, and other relevant Acts as enforcement resources and tools;
- i. invest in Canada's digital literacy and capabilities to improve the ability to detect and counter foreign interference activities by AI;
- j. have CSIS give more training and information to members of Parliament and public servants on threats posed by foreign interference and the tactics used;
- k. establish a foreign interference awareness program for academic and research institutions;
- l. establish rigorous mechanisms to ensure contractual arrangement between Canada and foreign suppliers do not create high risks to national security;
- m. work with minority-language communities affected by foreign interference activities in Canada to provide them with reliable information on the Canadian democratic process;

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- n. include criminal penalties in the *Criminal Code*, RSC 1985, c C-46, covering all foreign interference operations, including harassment and intimidation by a foreign state;
- o. clarify the purpose of *Security of Information Act* provisions to counter foreign interference operations and implement a policy enabling Canadians to better understand how the Act protects Canada from foreign interference;
- p. hold online platforms accountable for publishing false or misleading information and develop policies to support the media ecosystem in communities, including linguistic minority communities, not represented by mainstream media;
- q. explore the possibility of imposing targeted sanctions against Canadian companies exporting or selling technology to countries that use it to engage in foreign interference;
- r. establish a foreign influence registry as soon as possible;
- s. amend the *National Security and Intelligence Committee of Parliamentarians Act*, SC 2017, c 15 (“*NSICOP Act*”), to require its annual report include a yearly review of foreign interference threats in Canada;
- t. create a Cabinet committee on national security;
- u. strengthen reporting mechanisms for victims of harassment or intimidation by foreign entities; and
- v. consult communities affected by foreign interference in Canada in any inquiry into foreign interference.³²

³² House of Commons, Standing Committee on Access to Information, Privacy and Ethics, *Report 10: Foreign Interference and the Threats to the Integrity of Democratic Institutions, Intellectual Property and the Canadian State* (October 24, 2023), (Chair: John Brassard), **COM0000089(EN)/COM0000090(FR)** at 3-6.

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4. Standing Committee on Procedure and House Affairs (PROC)

4.1 Background

- [28] PROC studied foreign election interference between November 2022 and May 2023 and investigated alleged intimidation of a member of Parliament by a foreign agent between May 2023 and February 2024.
- [29] PROC studies and reports on the rules and practices of the House of Commons and its committees, electoral matters, questions of privilege, member of Parliament conflicts of interest, internal administration of the House and services and facilities for members of Parliament.³³
- [30] As a parliamentary committee, PROC relies on parliamentary privilege to summon witnesses and demand document production.³⁴

4.2 Definition of foreign interference

- [31] The Committee has not explicitly stated its definition of foreign interference, but many of the witnesses before PROC were former and current security and intelligence officials who applied the *CSIS Act* definition of foreign-influenced activities that are a threat to the security of Canada to their work on foreign interference.

4.3 Study of foreign interference

- [32] From November 1, 2022, until May 30, 2023, PROC held 17 meetings and heard from 74 witnesses about foreign election interference.³⁵

³³ Standing Order 108(3)(a). See webpages: House of Commons\Committees\PROC\Home, **COM0000182(FR)/COM0000183(EN)** and House of Commons\Committees\PROC>About\Mandate, **COM0000180(FR)/COM0000181(EN)**.

³⁴ House of Commons, 44th Parliament, 1st Session, Standing Committee on Procedure and House Affairs, Evidence No 096 (November 23, 2023), **COM0000318(EN)/COM0000319(FR)** at 5, 7; House of Commons, Committees, PROC>About\Mandate, **COM0000180(FR)/COM0000181(EN)**.

³⁵ House of Commons, Committees, Standing Committee on Procedure and House Affairs, Work: Foreign Election Interference, **COM0000325(EN)/COM0000326(FR)**. See: House of

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- [33] Expert witnesses from CSIS, the RCMP, CSE, Global Affairs Canada (GAC), Public Safety Canada, the PCO and the PMO described foreign interference activities by different states, efforts to protect the 2019 and 2021 elections and government processes to counter foreign interference. Some former senior officials from these departments also testified.³⁶
- [34] The Commissioner of Canada Elections spoke about the role of her Office during the 2019 and 2021 elections. She reported on complaints her Office received about foreign

Commons, 44th Parliament, 1st Session, Standing Committee on Procedure and House Affairs, Evidence, Nos:

037 (November 1, 2022) **COM0000256(EN)/COM0000257(FR)**,
 038 (November 3, 2022) **COM0000258(EN)/COM0000259(FR)**,
 041 (November 22, 2022) **COM0000260(EN)/COM0000261(FR)**,
 047 (December 13, 2022) **COM0000262(EN)/COM0000263(FR)**,
 050 (February 7, 2023) **COM0000264(EN)/COM0000265(FR)**,
 051 (February 9, 2023) **COM0000266(EN)/COM0000267(FR)**,
 055 (March 1, 2023) **COM0000268(EN)/COM0000269(FR)**,
 056 (March 2, 2023) **COM0000270(EN)/COM0000271(FR)**,
 061 (April 14, 2023) **COM0000272(EN)/COM0000273(FR)**,
 063 (April 18, 2023) **COM0000274(EN)/COM0000275(FR)**,
 065 (April 25, 2023) **COM0000276(EN)/COM0000277(FR)**,
 066 (April 25, 2023) **COM0000278(EN)/COM0000279(FR)**,
 067 (April 27, 2023) **COM0000280(EN)/COM0000281(FR)**,
 070 (May 9, 2023) **COM0000282(EN)/COM0000283(FR)**,
 071 (May 9, 2023) **COM0000284(EN)/COM0000285(FR)**,
 072 (May 11, 2023) **COM0000286(EN)/COM0000287(FR)**,
 075 (May 18, 2023) **COM0000290(EN)/COM0000291(FR)**.

³⁶ House of Commons, 44th Parliament, 1st Session, Standing Committee on Procedure and House Affairs, Evidence, Nos:

037 (November 1, 2022) **COM0000256(EN)/COM0000257(FR)**,
 038 (November 3, 2022) **COM0000258(EN)/COM0000259(FR)**,
 047 (December 13, 2022) **COM0000262(EN)/COM0000263(FR)**,
 050 (February 7, 2023) **COM0000264(EN)/COM0000265(FR)**,
 051 (February 9, 2023) **COM0000266(EN)/COM0000267(FR)**,
 055 (March 1, 2023) **COM0000268(EN)/COM0000269(FR)**,
 056 (March 2, 2023) **COM0000270(EN)/COM0000271(FR)**,
 061 (April 14, 2023) **COM0000272(EN)/COM0000273(FR)**,
 063 (April 18, 2023) **COM0000274(EN)/COM0000275(FR)**,
 065 (April 25, 2023) **COM0000276(EN)/COM0000277(FR)**,
 067 (April 27, 2023) **COM0000280(EN)/COM0000281(FR)**,
 072 (May 11, 2023) **COM0000286(EN)/COM0000287(FR)**.

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interference and discussed potential improvements to the *Canada Elections Act*, SC 2000, c 9.³⁷

- [35] The Chief Electoral Officer explained his role, said the integrity of the 2019 and 2021 elections was maintained and described the cyber security measures in place. He said social medial companies should be transparent about their policies to address election advertising and misinformation about the electoral process.³⁸
- [36] Politicians, academics, non-governmental organizations and diaspora communities also shared their experiences and concerns about foreign interference.³⁹
- [37] On March 8, 2023, PROC tabled its first report on foreign election interference in Parliament.⁴⁰ It called on the Government to launch a national public inquiry into allegations of foreign interference in Canada's democratic system, including but not

³⁷ House of Commons, 44th Parliament, 1st Session, Standing Committee on Procedure and House Affairs, Evidence, Nos 037 (November 1, 2022) **COM0000256(EN)/COM0000257(FR)**, 056 (March 2, 2023) **COM0000270(EN)/COM0000271(FR)**. Her Deputy Commissioner and Chief Legal Counsel also testified about his work during the 2019 and 2021 elections: House of Commons, 44th Parliament, 1st Session, Standing Committee on Procedure and House Affairs, Evidence, No 037 (November 1, 2022) **COM0000256(EN)/COM0000257(FR)**.

³⁸ House of Commons, 44th Parliament, 1st Session, Standing Committee on Procedure and House Affairs, Evidence, Nos 037 (November 1, 2022) **COM0000256(EN)/COM0000257(FR)**, 041 (November 22, 2022) **COM0000260(EN)/COM0000261(FR)**, 056 (March 2, 2023) **COM0000270(EN)/COM0000271(FR)**, 075 (May 18, 2023) **COM0000290(EN)/COM0000291(FR)**.

³⁹ House of Commons, 44th Parliament, 1st Session, Standing Committee on Procedure and House Affairs, Evidence, Nos:
038 (November 3, 2023) **COM0000258(EN)/COM0000259(FR)**,
050 (February 7, 2023) **COM0000264(EN)/COM0000265(FR)**,
065 (April 25, 2023) **COM0000276(EN)/COM0000277(FR)**,
066 (April 25, 2023) **COM0000278(EN)/COM0000279(FR)**,
067 (April 27, 2023) **COM0000280(EN)/COM0000281(FR)**,
070 (May 9, 2023) **COM0000282(EN)/COM0000283(FR)**,
071 (May 9, 2023) **COM0000284(EN)/COM0000285(FR)**,
072 (May 11, 2023) **COM0000286(EN)/COM0000287(FR)**,
075 (May 18, 2023) **COM0000290(EN)/COM0000291(FR)**.

⁴⁰ House of Commons, Standing Committee on Procedure and House Affairs, Twenty-fifth Report, *Study: Foreign Election Interference* (March 2, 2023), **COM0000040(EN)/COM0000188(FR)**.

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limited to, allegations of interference in general elections by foreign governments.⁴¹

Parliament adopted PROC's motion on March 23, 2023.⁴²

- [38] On May 31, 2023, PROC tabled a second report. PROC reaffirmed its support for a national public inquiry and called on the Government to consult with recognized parties within 24 hours with a view to launching a commission of inquiry within two weeks.⁴³

4.4 Study of intimidation of Michael Chong

- [39] On May 10, 2023, the House of Commons referred a question of privilege⁴⁴ to PROC.⁴⁵ It was about “the prima facie contempt concerning the intimidation campaign orchestrated by Wei Zhao against the member for Wellington-Halton Hills and other

⁴¹ House of Commons, Standing Committee on Procedure and House Affairs, Twenty-fifth Report, *Study: Foreign Election Interference* (March 2, 2023), **COM000040(EN)/COM0000188(FR)**; House of Commons, 44th Parliament, 1st Session, Standing Committee on Procedure and House Affairs, Evidence, No 056 (March 2, 2023), **COM0000270(EN)/COM0000271(FR)**.

⁴² House of Commons, *Journals*, 44th Parliament, 1st Session, No 172 (23 March) at 1883-1885, **COM0000100**.

⁴³ House of Commons, Standing Committee on Procedure and House Affairs, Forty-fourth Report, *Study: Foreign Election Interference* (May 25, 2023), **COM0000041(EN)/COM0000189(FR)**.

⁴⁴ The House of Commons raises claims about infringement of parliamentary privilege or contempt of Parliament by a “question of privilege”: Marc Bosc and André Gagnon, eds, *House of Commons Procedure and Practice*, 3d ed (2017), **COM0000128(FR)/COM0000186(EN)**. If the Speaker of the House rules there is a *prima facie* question of privilege, then they will put a motion to the House. After debate, the House can adopt or defeat the motion. If the Speaker's motion is to refer the matter to a House committee, the House can adopt the motion and refer it to committee or defeat the motion.

⁴⁵ House of Commons, Committees, Standing Committee on Procedure and House Affairs, Work, Order of Reference, **COM0000184(FR)/COM0000185(EN)**; House of Commons, 44th Parliament, 1st Session, Standing Committee on Procedure and House Affairs, Evidence No 096 (November 23, 2023), **COM0000318(EN)/COM0000319(FR)** at 1.

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members”.⁴⁶ In response, in May, June, October and November 2023 and early 2024,⁴⁷ the Committee heard more testimony about foreign interference.

[40] To understand how the intimidation campaign was orchestrated, PROC wanted access to classified documents.⁴⁸ In June, the Committee asked the PMO and the Liberal Party for documents, including classified documents.⁴⁹ It is not clear what documents PROC

⁴⁶ House of Commons, Committees, Standing Committee on Procedure and House Affairs, Work, Order of Reference, **COM0000184(FR)/COM0000185(EN)**; House of Commons, 44th Parliament, 1st Session, Standing Committee on Procedure and House Affairs, Evidence No 096 (November 23, 2023) **COM0000318(EN)/COM0000319(FR)** at 1.

⁴⁷ House of Commons, 44th Parliament, 1st Session, Standing Committee on Procedure and House Affairs, Evidence, Nos:

074 (May 16, 2023) **COM0000288(EN)/COM0000289(FR)**,
077 (May 30, 2023) **COM0000292(EN)/COM0000293(FR)**,
078 (May 30, 2023) **COM0000294(EN)/COM0000295(FR)**,
079 (June 1, 2023) **COM0000296(EN)/COM0000297(FR)**,
080 (June 6, 2023) **COM0000298(EN)/COM0000299(FR)**,
081 (June 8, 2023) **COM0000300(EN)/COM0000301(FR)**,
082 (June 13, 2023) **COM0000302(EN)/COM0000303(FR)**,
083 (June 13, 2023) **COM0000304(EN)/COM0000305(FR)**,
084 (June 15, 2023) **COM0000306(EN)/COM0000307(FR)**,
085 (June 20, 2023) **COM0000308(EN)/COM0000309(FR)**,
088 (October 17, 2023) **COM0000310(EN)/COM0000311(FR)**,
089 (October 19, 2023) **COM0000312(EN)/COM0000313(FR)**,
090 (October 24, 2023) **COM0000314(EN)/COM0000315(FR)**,
091 (October 26, 2023) **COM0000316(EN)/COM0000317(FR)**,
096 (November 23, 2023) **COM0000318(EN)/COM0000319(FR)**.

Testimony was finished at the time of completion of this Overview Report but PROC had not yet issued its report on the matter: House of Commons, 44th Parliament, 1st Session, Standing Committee on Procedure and House Affairs, Minutes of Proceedings, Meetings Nos 102 (January 30, 2024) **COM0000239**, 103 (February 1, 2024) **COM0000240**, 104 (February 6) **COM0000241**, 105 (February 8) **COM0000242**.

⁴⁸ House of Commons, 44th Parliament, 1st Session, Standing Committee on Procedure and House Affairs, Evidence No 096 (November 23, 2023) **COM0000318(EN)/COM0000319(FR)** at 1-2.

⁴⁹ House of Commons, 44th Parliament, 1st Session, Standing Committee on Procedure and House Affairs, Evidence No 096 (November 23, 2023) **COM0000318(EN)/COM0000319(FR)** at 2.

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may have received in response, but some members of PROC were dissatisfied with the Government's refusal to provide certain classified documents.⁵⁰

- [41] At the June and October PROC hearings, current and former senior government officials testified about, among other things, how security and intelligence information flows within government and the media leaks of intelligence reported on in early 2023.⁵¹ They also spoke about Parliament's ability to compel document production and testimony, which states were involved in foreign interference in Canada, what the RCMP does to counter foreign interference and GAC's efforts to protect the integrity of the 2023 federal by-elections.⁵²
- [42] The ISR also appeared before PROC, answering questions about his First Report and alleged connections to the Liberal Party.⁵³
- [43] Also in October, Bill Blair, Minister of National Defence and former Minister of Public Safety and Emergency Preparedness, answered questions about the threats made against Mr. Chong.⁵⁴

⁵⁰ House of Commons, 44th Parliament, 1st Session, Standing Committee on Procedure and House Affairs, Evidence No 096 (November 23, 2023) **COM0000318(EN)/COM0000319(FR)** at 1-2, 4, 6. See also Evidence No 096 (November 28, 30, December 5, 2023).

⁵¹ House of Commons, 44th Parliament, 1st Session, Standing Committee on Procedure and House Affairs, Evidence, Nos:
079 (June 1, 2023) **COM0000296(EN)/COM0000297(FR)**,
080 (June 6, 2023) **COM0000298(EN)/COM0000299(FR)**,
081 (June 8, 2023) **COM0000300(EN)/COM0000301(FR)**,
082 (June 13, 2023) **COM0000302(EN)/COM0000303(FR)**,
083 (June 13, 2023) **COM0000304(EN)/COM0000305(FR)**,
084 (June 15, 2023) **COM0000306(EN)/COM0000307(FR)**,
088 (October 17, 2023) **COM0000310(EN)/COM0000311(FR)**,
089 (October 19, 2023) **COM0000312(EN)/COM0000313(FR)**,
090 (October 24, 2023) **COM0000314(EN)/COM0000315(FR)**.

⁵² House of Commons, 44th Parliament, 1st Session, Standing Committee on Procedure and House Affairs, Evidence, Nos 081 (June 8, 2023) **COM0000300(EN)/COM0000301(FR)**, 082 (June 13, 2023) **COM0000302(EN)/COM0000303(FR)**.

⁵³ House of Commons, 44th Parliament, 1st Session, Standing Committee on Procedure and House Affairs, Evidence, No 80 (June 6, 2023) **COM0000298(EN)/COM0000299(FR)**.

⁵⁴ House of Commons, 44th Parliament, 1st Session, Standing Committee on Procedure and House Affairs, Evidence, No 90 (October 24, 2023) **COM0000314(EN)/COM0000315(FR)**.

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- [44] Erin O'Toole spoke about his briefing by CSIS relating to foreign interference directed at him when he was a member of Parliament. Mr. O'Toole also criticized the government's Critical Election Incident Public Protocol.⁵⁵
- [45] On January 30 and February 1, 6, 8, 27, 29, 2024, the Committee considered its draft report on the question of privilege *in camera*.⁵⁶ At the time of completion of this Overview Report, PROC had not yet issued its report.

5. National Security and Intelligence Committee of Parliamentarians (NSICOP)

5.1 Background

- [46] NSICOP has studied aspects of foreign interference since shortly after its formation in 2017. Further, in March 2023, the Prime Minister asked NSICOP to review the issue of foreign interference in Canada's federal democratic processes, with a focus on elections.⁵⁷
- [47] NSICOP is a statutory, not parliamentary, committee governed by the *NSICOP Act*.⁵⁸ It reviews government intelligence operations, including the legislative, regulatory, policy, administrative and financial framework for national security and intelligence. It also reviews the activity of any government department relating to national security or intelligence (unless it is an ongoing operation, and the minister determines a review

⁵⁵ House of Commons, 44th Parliament, 1st Session, Standing Committee on Procedure and House Affairs, Evidence, No 091 (October 26, 2023) **COM0000316(EN)/COM0000317(FR)**.

⁵⁶ House of Commons, 44th Parliament, 1st Session, Standing Committee on Procedure and House Affairs, Minutes of Proceedings, Meetings Nos 102 (January 30, 2024) **COM0000239**, 103 (February 1, 2024) **COM0000240**.

⁵⁷ Prime Minister of Canada Justin Trudeau, "Taking further action on foreign interference and strengthening confidence in our democracy" (Ottawa: March 6, 2023), **COM0000176(EN)/COM0000178(FR)**.

⁵⁸ *National Security and Intelligence Committee of Parliamentarians Act*, SC 2017, c 15. Section 4(3) says NSICOP is not a parliamentary committee.



would be injurious to national security) and it investigates any matter a minister refers to it about national security or intelligence.⁵⁹

- [48] The Committee has not more than eight members from the House of Commons and three from the Senate.⁶⁰ Ministers of the Crown, ministers of state and parliamentary secretaries cannot sit on NSICOP, and the governing party can have no more than five members.⁶¹ Members are appointed by the Governor in Council on the recommendation of the Prime Minister and hold office until Parliament is dissolved.⁶²
- [49] Committee members can review classified materials. All NSICOP members have Top Secret security clearances and are permanently bound to secrecy under the *Security of Information Act*. Members swear an oath or solemn affirmation that they will obey and uphold the laws of Canada and not communicate or inappropriately use information obtained in confidence because of their membership on NSICOP.
- [50] The *NSICOP Act* gives the Committee access to any information under the control of a federal department related to the fulfilment of the Committee's mandate, including information protected by litigation and solicitor-client privilege.⁶³ However, NSICOP's right to information is subject to listed exceptions as follows:
- a. Cabinet confidences defined in the *Canada Evidence Act*, RSC 1985, c C-5, s 39(2);
 - b. information protected under the *Witness Protection Program Act*, SC 1996, c 15;
 - c. the identity, or any information allowing an inference of identity, of a confidential source of information, intelligence or assistance to the government or any state allied with Canada; and

⁵⁹ *NSICOP Act*, s 8.

⁶⁰ *NSICOP Act*, s 4(1), (2).

⁶¹ *NSICOP Act*, s 4(2).

⁶² *NSICOP Act*, s 5.

⁶³ *NSICOP Act*, ss 13(1), (2).



d. information about an ongoing investigation by a law enforcement agency that may lead to prosecution.⁶⁴

[51] A minister may also refuse to disclose special operational information⁶⁵ if doing so would be injurious to national security.⁶⁶

[52] NSIRA can give information to NSICOP related to the Committee's mandate if it does not fall outside the scope of information the Committee is authorized to receive. NSICOP can also provide information to the NSIRA in certain circumstances.⁶⁷

5.2 Definition of foreign interference

[53] NSICOP defines foreign interference as foreign state action meeting the three requirements of foreign influenced activities from the *CS/S Act*.⁶⁸ Foreign interference occurs when foreign states use clandestine or deceptive methods to influence or manipulate Canadian immigrant communities, political parties and government officials.⁶⁹

5.3. Annual and special reports addressing foreign interference

[54] Every year, NSICOP must submit a report to the Prime Minister about its work during the preceding year.⁷⁰ It may also submit special reports to the Prime Minister and the

⁶⁴ *NSICOP Act*, s 14.

⁶⁵ Defined in section 8(1) of the *Security of Information Act*.

⁶⁶ *NSICOP Act*, s 16.

⁶⁷ *NSICOP Act*, s 22(1), (2).

⁶⁸ NSICOP, *Annual Report 2018* (Ottawa: December 21, 2018), **COM0000154(EN)/COM0000160(FR)** at 26; NSICOP, *Annual Report 2019* (Ottawa: August 30, 2019), **COM0000155(EN)/COM0000161(FR)** at 55; NSICOP, *Annual Report 2020* (Ottawa: December 18, 2020), **COM0000156(EN)/COM0000162(FR)** at 17, 20.

⁶⁹ NSICOP, *Annual Report 2018* (Ottawa: December 21, 2018), **COM0000154(EN)/COM0000160(FR)** at 26; NSICOP, *Annual Report 2020* (Ottawa: December 18, 2020), **COM0000156(EN)/COM0000162(FR)** at 17, 20.

⁷⁰ *NSICOP Act*, s 21(1).

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minister concerned.⁷¹ The Prime Minister must put NSICOP's reports before each House of Parliament.⁷²

Special report on the 2018 Prime Minister's official visit to India

- [55] On December 3, 2018, the Prime Minister tabled NSICOP's special report on the allegations associated with the Prime Minister's official visit to India in February 2018.⁷³ Over April and May 2018, the Committee looked at allegations relating to foreign interference in Canadian political affairs, risks to the Prime Minister's security and inappropriate uses of intelligence related to the Prime Minister's trip.⁷⁴ The Committee's findings about specific allegations of foreign interference were redacted from its public report.⁷⁵
- [56] Based on its findings, the Committee made two recommendations about foreign interference.
- [57] One, members of the House and Senate should be briefed when sworn-in and briefed regularly afterwards on the risks of foreign interference and extremism in Canada. Also, Cabinet ministers should be reminded of the expectations in the Government's *Open and Accountable Government* policy, including exercising discretion in who they meet or associate with, clearly distinguish between official and private media messaging and be reminded that public office holders must always prioritize the public interest.⁷⁶

⁷¹ NSICOP Act, s 21(2)

⁷² NSICOP Act, s 21(6).

⁷³ NSICOP, *Special Report into the allegations associated with Prime Minister Trudeau's official visit to India in February 2018* (Ottawa: October 12, 2018), **COM0000149(EN)/COM0000159(FR)** .

⁷⁴ NSICOP, *Special Report into the allegations associated with Prime Minister Trudeau's official visit to India in February 2018* (Ottawa: October 12, 2018), **COM0000149(EN)/COM0000159(FR)** at 27; Canada, NSICOP, *Annual Report 2018* (December 21, 2018), **COM0000154(EN)/COM0000160(FR)** at 15-16.

⁷⁵ NSICOP, *Special Report into the allegations associated with Prime Minister Trudeau's official visit to India in February 2018* (Ottawa: October 12, 2018), **COM0000149(EN)/COM0000159(FR)** at 8.

⁷⁶ NSICOP, *Special Report into the allegations associated with Prime Minister Trudeau's official visit to India in February 2018* (Ottawa: October 12, 2018), **COM0000149(EN)/COM0000159(FR)** at 8.

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[58] Two, the Minister of Public Safety and Emergency Preparedness should consider including a more formal role for the Prime Minister's National Security and Intelligence Advisor in a government process (which NSICOP did not name in the Report).⁷⁷

Annual Report 2018

[59] On April 9, 2019, the Prime Minister tabled NSICOP's *Annual Report 2018* in Parliament.⁷⁸ This was the Committee's first annual report. The Report described the security and intelligence review apparatus in Canada and the history and mandate of NSICOP.⁷⁹ It also described the Canadian security and intelligence community.⁸⁰ It then reviewed government's process for setting intelligence priorities⁸¹ and Department of National Defence and Canadian Armed Forces intelligence activities.⁸²

[60] The 2018 Annual Report summarized what key members of the security and intelligence community told NSICOP about the most significant national security

⁷⁷ NSICOP, *Special Report into the allegations associated with Prime Minister Trudeau's official visit to India in February 2018* (Ottawa: October 12, 2018), **COM0000149(EN)/COM0000159(FR)** at 8.

⁷⁸ NSICOP, *Annual Report 2018* (Ottawa: December 21, 2018), **COM0000154(EN)/COM0000160(FR)** .

⁷⁹ NSICOP, *Annual Report 2018* (Ottawa: December 21, 2018), **COM0000154(EN)/COM0000160(FR)** at 1, Chapter 1.

⁸⁰ NSICOP, *Annual Report 2018* (Ottawa: December 21, 2018), **COM0000154(EN)/COM0000160(FR)** at 1, Chapter 2.

⁸¹ NSICOP, *Annual Report 2018* (Ottawa: December 21, 2018), **COM0000154(EN)/COM0000160(FR)** at 1, Chapter 3.

⁸² NSICOP, *Annual Report 2018* (Ottawa: December 21, 2018), **COM0000154(EN)/COM0000160(FR)** at 1, Chapter 4.

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threats.⁸³ These were terrorism,⁸⁴ espionage and foreign influence,⁸⁵ cyber threats,⁸⁶ major organized crime⁸⁷ and weapons of mass destruction.⁸⁸

- [61] CSIS told the Committee that the threat of espionage and foreign interference was growing in Canada and would likely require a more significant response in the years ahead.⁸⁹
- [62] NSICOP concluded that the public was not very aware of threats of organized crime or foreign interference in domestic politics.⁹⁰ It decided to review the issue of foreign interference in 2019. Other states were taking increasingly aggressive measures to influence Canadian political processes and institutions and Canadians should be vigilant against these efforts.⁹¹
- [63] The Committee heard cyber threats were another significant national security problem, with Russia and China among the most active states seeking to gain access to government networks, communications of government officials and influence democratic processes.⁹²

⁸³ NSICOP, *Annual Report 2018* (Ottawa: December 21, 2018), **COM0000154(EN)/COM0000160(FR)** at 24.

⁸⁴ NSICOP, *Annual Report 2018* (Ottawa: December 21, 2018), **COM0000154(EN)/COM0000160(FR)** at 24-26.

⁸⁵ NSICOP, *Annual Report 2018* (Ottawa: December 21, 2018), **COM0000154(EN)/COM0000160(FR)** at 26-27.

⁸⁶ NSICOP, *Annual Report 2018* (Ottawa: December 21, 2018), **COM0000154(EN)/COM0000160(FR)** at 27-28.

⁸⁷ NSICOP, *Annual Report 2018* (Ottawa: December 21, 2018), **COM0000154(EN)/COM0000160(FR)** at 28.

⁸⁸ NSICOP, *Annual Report 2018* (Ottawa: December 21, 2018), **COM0000154(EN)/COM0000160(FR)** at 29.

⁸⁹ NSICOP, *Annual Report 2018* (Ottawa: December 21, 2018), **COM0000154(EN)/COM0000160(FR)** at 27.

⁹⁰ NSICOP, *Annual Report 2018* (Ottawa: December 21, 2018), **COM0000154(EN)/COM0000160(FR)** at 23.

⁹¹ NSICOP, *Annual Report 2018* (Ottawa: December 21, 2018), **COM0000154(EN)/COM0000160(FR)** at 110.

⁹² NSICOP, *Annual Report 2018* (Ottawa: December 21, 2018), **COM0000154(EN)/COM0000160(FR)** at 27-28.



Annual and Special Reports 2019

- [64] The NSICOP *Annual Report 2019* included a special report on the Committee's review of the Government's response to foreign interference. The review included the Canada Border Service Agency, CSIS, CSE, GAC, the PCO, Public Safety Canada and the RCMP.⁹³ The review did not look at activities directed at the 2019 federal election or at cyber threats. The Committee focused on materials produced between January 1, 2015 and August 31, 2018.⁹⁴
- [65] The Committee explained the breadth and scope of the threat of foreign interference to Canadian security, including the primary threat actors.⁹⁵ It then described government's efforts to respond to this threat.⁹⁶
- [66] NSICOP noted foreign interference had received minimal media and academic coverage in Canada and was not part of wider public discourse. It contrasted this to Canada's allies, notably, Australia, New Zealand and the United States, which had identified foreign interference as a substantial threat and where foreign interference was the subject of significant public discussion and academic research.⁹⁷
- [67] In summary, in its Annual Report 2019, NSICOP said "government must do better"⁹⁸ and made the following recommendations for the Government of Canada:

⁹³ NSICOP, *Annual Report 2019* (Ottawa: August 30, 2019), **COM0000155(EN)/COM0000161(FR)** at 2, 55-110.

⁹⁴ NSICOP, *Annual Report 2019* (Ottawa: August 30, 2019), **COM0000155(EN)/COM0000161(FR)** at 57.

⁹⁵ NSICOP, *Annual Report 2019* (Ottawa: August 30, 2019), **COM0000155(EN)/COM0000161(FR)** at 2, 58-77.

⁹⁶ NSICOP, *Annual Report 2019* (Ottawa: August 30, 2019), **COM0000155(EN)/COM0000161(FR)** at 2, 58, 78-107.

⁹⁷ NSICOP, *Annual Report 2019* (Ottawa: August 30, 2019), **COM0000155(EN)/COM0000161(FR)** at 56.

⁹⁸ NSICOP, *Annual Report 2019* (Ottawa: August 30, 2019), **COM0000155(EN)/COM0000161(FR)** at 107.

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- a. develop a comprehensive strategy to counter foreign interference and build institutional and public resiliency (the Committee provided a list of what such a strategy should do⁹⁹);
- b. support the strategy by implementing centralized leadership and coordination (for example, like the Australian National Counter Foreign Interference Coordinator); and
- c. brief members of the House and Senate when they are sworn in, and regularly thereafter, on the risks of foreign interference and extremism in Canada, and Cabinet ministers should be reminded of the expectations in the *Open and Accountable Government* policy and the requirement for public office holders to always place the public interest first.¹⁰⁰

[68] The Committee concluded states, including China and Russia, posed a risk to Canadian institutions, rights, freedoms and values because Canada was the target of significant and sustained foreign interference activities.¹⁰¹ Those activities included: using deceptive means to cultivate relationships with elected officials and others perceived as having political influence; seeking to influence reporting by media outlets; seeking to

⁹⁹ The specifics were as follows: “a) identify the short- and long-term risks and harms to Canadian institutions and rights and freedoms posed by the threat of foreign interference; b) examine and address the full range of institutional vulnerabilities targeted by hostile foreign states, including areas expressly omitted in the Committee’s review; c) assess the adequacy of existing legislation that deals with foreign interference, such as the *Security of Information Act* or the *CSIS Act*, and make proposals for changes if required; d) develop practical, whole-of-government operational and policy mechanisms to identify and respond to the activities of hostile states; e) establish regular mechanisms to work with sub-national levels of government and law enforcement organizations, including to provide necessary security clearances; f) include an approach for ministers and senior officials to engage with fundamental institutions and the public; and g) guide cooperation with allies on foreign interference.”: NSICOP, *Annual Report 2019* (Ottawa: August 30, 2019), **COM0000155(EN)/COM0000161(FR)** at 109.

¹⁰⁰ NSICOP, *Annual Report 2019* (Ottawa: August 30, 2019), **COM0000155(EN)/COM0000161(FR)** at 109. This recommendation was also made in NISCOP’s Special Report 2018.

¹⁰¹ NISCOP, *Annual Report 2019* (Ottawa: August 30, 2019), **COM0000155(EN)/COM0000161(FR)** at 2, 55, 77, 107-108.

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affect elections; and coercing or inducing diaspora communities to advance foreign interests in Canada.¹⁰²

- [69] The Committee found states tried to control messages and influence decision-making by government primarily by targeting and manipulating ethnocultural communities by flattery, bribery, threats, harassment, detention of family members abroad and refusing to issue travel documents or visas. They also co-opted individuals outside of these communities.¹⁰³ The Committee found these states targeted electoral and political processes at national and sub-national levels,¹⁰⁴ They also targeted media¹⁰⁵ and academic institutions.¹⁰⁶
- [70] NSICOP reviewed the Government's response to foreign interference across different government organizations¹⁰⁷ and government engagement with the public and other countries.¹⁰⁸
- [71] While foreign interference historically received less attention than other Canadian security threats, the Committee found this was beginning to change with the Government starting to focus on "hostile state activities."¹⁰⁹
- [72] However, NSICOP was concerned there was no common understanding of the threat of foreign interference among security and intelligence organizations (like CSIS, the

¹⁰² NSICOP, *Annual Report 2019* (Ottawa: August 30, 2019), **COM0000155(EN)/COM0000161(FR)** at 55.

¹⁰³ NSICOP, *Annual Report 2019* (Ottawa: August 30, 2019), **COM0000155(EN)/COM0000161(FR)** at 62.

¹⁰⁴ NSICOP, *Annual Report 2019* (Ottawa: August 30, 2019), **COM0000155(EN)/COM0000161(FR)** at 64-66.

¹⁰⁵ NSICOP, *Annual Report 2019* (Ottawa: August 30, 2019), **COM0000155(EN)/COM0000161(FR)** at 67-69.

¹⁰⁶ NSICOP, *Annual Report 2019* (Ottawa: August 30, 2019), **COM0000155(EN)/COM0000161(FR)** at 70-71.

¹⁰⁷ CSIS, the RCMP, Global Affairs Canada, the Privy Council Office and Public Safety Canada.

¹⁰⁸ NSICOP, *Annual Report 2019* (Ottawa: August 30, 2019), **COM0000155(EN)/COM0000161(FR)** at 78, 96.

¹⁰⁹ NSICOP, *Annual Report 2019* (Ottawa: August 30, 2019), **COM0000155(EN)/COM0000161(FR)** at 108.

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RCMP and the PCO), including about the gravity of the threat and its most common manifestations in Canada.¹¹⁰ Also, unlike CSIS, the RCMP, which is responsible for criminal investigations of foreign interference, did not distinguish between espionage and foreign interference.¹¹¹ Further, security and intelligence organizations had focused in recent years on cyber threats and not longstanding and widespread mechanisms of traditional foreign interference.¹¹²

- [73] The NSICOP special report noted the mandates of individual departments were significant in shaping government's responses to foreign interference. This was because the Canadian system of ministerial accountability means departments are individually responsible for determining when and how threats should be addressed.¹¹³ The Committee was concerned this meant considerations related to each organization's mandate may take precedence over other considerations.¹¹⁴ Also, *ad hoc* coordination on specific instances of foreign interference risked government not considering broader challenges to ethnocultural groups and fundamental institutions and not considering all available tools and options.¹¹⁵
- [74] Thus, as noted above, NSICOP recommended the Government develop a comprehensive, whole of government strategy to counter foreign interference and build institutional and public resiliency.¹¹⁶

¹¹⁰ NSICOP, *Annual Report 2019* (Ottawa: August 30, 2019), **COM0000155(EN)/COM0000161(FR)** at 102-103, 108.

¹¹¹ NSICOP, *Annual Report 2019* (Ottawa: August 30, 2019), **COM0000155(EN)/COM0000161(FR)** at 102.

¹¹² NSICOP, *Annual Report 2019* (Ottawa: August 30, 2019), **COM0000155(EN)/COM0000161(FR)** at 103.

¹¹³ NSICOP, *Annual Report 2019* (Ottawa: August 30, 2019), **COM0000155(EN)/COM0000161(FR)** at 104, 108.

¹¹⁴ NSICOP, *Annual Report 2019* (Ottawa: August 30, 2019), **COM0000155(EN)/COM0000161(FR)** at 104, 108.

¹¹⁵ NSICOP, *Annual Report 2019* (Ottawa: August 30, 2019), **COM0000155(EN)/COM0000161(FR)** at 104.

¹¹⁶ NSICOP, *Annual Report 2019* (Ottawa: August 30, 2019), **COM0000155(EN)/COM0000161(FR)** at 109.



[75] NSICOP said there was minimal government interaction with sub-national levels of government and civil society on foreign interference.¹¹⁷ It was essential government engage with the public and fundamental institutions, including at sub-national levels, to raise awareness of the threat of foreign interference.¹¹⁸

Annual Report 2020

[76] NSICOP dissolved before the 2019 general election and reconstituted in February 2020.¹¹⁹ The Committee's *Annual Report 2020* updated NSICOP's 2018 threat assessment.¹²⁰ NSICOP described each threat, its evolution since 2018, implications from the pandemic and key conclusions.¹²¹

[77] CSIS told the Committee hostile state actors posed the "greatest danger" to Canada's national security.¹²² The threat of espionage and foreign interference was still growing in Canada and its allies.¹²³ Foreign interference was still a significant threat to the security of Canada and foreign states, including China and Russia, were using direct and indirect contact to influence democratic and electoral institutions and processes by manipulating the media, ethnocultural communities and persons in positions of authority or influence.¹²⁴

¹¹⁷ NSICOP, *Annual Report 2019* (Ottawa: August 30, 2019), **COM0000155(EN)/COM0000161(FR)** at 108.

¹¹⁸ NSICOP, *Annual Report 2019* (Ottawa: August 30, 2019), **COM0000155(EN)/COM0000161(FR)** at 105, 108.

¹¹⁹ NSICOP, *Annual Report 2020* (Ottawa: December 18, 2020), **COM0000156(EN)/COM0000162(FR)** at 1.

¹²⁰ NSICOP, *Annual Report 2020* (Ottawa: December 18, 2020), **COM0000156(EN)/COM0000162(FR)** at PDF 7-8, 1-2, 5.

¹²¹ NSICOP, *Annual Report 2020* (Ottawa: December 18, 2020), **COM0000156(EN)/COM0000162(FR)** at 7.

¹²² NSICOP, *Annual Report 2020* (Ottawa: December 18, 2020), **COM0000156(EN)/COM0000162(FR)** at 17.

¹²³ NSICOP, *Annual Report 2020* (Ottawa: December 18, 2020), **COM0000156(EN)/COM0000162(FR)** at 7, 21.

¹²⁴ NSICOP, *Annual Report 2020* (Ottawa: December 18, 2020), **COM0000156(EN)/COM0000162(FR)** at 17, 20-21.

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- [78] The Committee concluded espionage and foreign interference were the most significant long-term threats to Canada's sovereignty and prosperity.¹²⁵ Cyber threats, including foreign interference activities, were a significant risk in 2020, with Russia, China, Iran and North Korea most actively targeting Canadian government systems.¹²⁶
- [79] Broad cyber threat trends most closely related to national security and intelligence were: information theft for espionage purposes; compromise of critical infrastructure networks; online foreign influence campaigns through coordinated manipulation of social media and opinions; and cyber-enabled tracking and surveillance of dissidents and individuals.¹²⁷
- [80] The Committee learned advanced cyber threat actors had refined their ability to conduct online disinformation campaigns to amplify societal differences, sow discord and undermine confidence in fundamental governmental institutions.¹²⁸ According to CSE, the number of states doing this had grown since January 2019 and state-sponsored online activity would likely continue to target Canadian political discourse, especially around elections. However, Canada's 2019 federal election did not appear to have been a significant target of online influence and misinformation.¹²⁹

Annual Report 2021

- [81] In 2021, NSICOP completed a review of Canada's cyber defenses and began reviewing GAC's security and intelligence activities.¹³⁰ The Committee noted the Government had

¹²⁵ NSICOP, *Annual Report 2020* (Ottawa: December 18, 2020), **COM0000156(EN)/COM0000162(FR)** at 21.

¹²⁶ NSICOP, *Annual Report 2020* (Ottawa: December 18, 2020), **COM0000156(EN)/COM0000162(FR)** at 23-24.

¹²⁷ NSICOP, *Annual Report 2020* (Ottawa: December 18, 2020), **COM0000156(EN)/COM0000162(FR)** at 24.

¹²⁸ NSICOP, *Annual Report 2020* (Ottawa: December 18, 2020), **COM0000156(EN)/COM0000162(FR)** at 27.

¹²⁹ NSICOP, *Annual Report 2020* (Ottawa: December 18, 2020), **COM0000156(EN)/COM0000162(FR)** at 27.

¹³⁰ NSICOP, *Annual Report 2021* (Ottawa: May 18, 2022), **COM0000150(FR)/COM0000157(EN)** at 1.

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not yet responded to its 2019 recommendation to have a whole-of-government strategy to address foreign interference in Canada.¹³¹

Special report on Canada's framework and activities to defend cyber attacks

- [82] On February 14, 2022, the Prime Minister tabled another NSICOP special report in Parliament: *Special Report on the Government of Canada's Framework and Activities to Defend its Systems and Networks from Cyber Attack*.¹³² The review spanned the years 2001 to 2021.¹³³ It looked at government's framework and activities to defend its systems and networks from cyber attacks and included CSE, Shared Services Canada, Treasury Board of Canada Secretariat and Public Safety Canada.¹³⁴
- [83] The Committee said cyber attacks are foreign interference when done by foreign states targeting government policies and policymaking, security and intelligence information and operations and systems integrity.¹³⁵
- [84] According to NSICOP, cyber threats were a significant and pervasive risk to Canada's national security and governments were highly attractive targets for cyber attacks.¹³⁶ China and Russia were the most sophisticated cyber threat actors targeting the government. Iran, North Korea and a state (which NSICOP did not name in the Report)

¹³¹ NSICOP, *Annual Report 2021* (Ottawa: May 18, 2022), **COM0000150(FR)/COM0000157(EN)** at 8.

¹³² NSICOP, *Special Report on the Government of Canada's Framework and Activities to Defend its Systems and Networks from Cyber Attack* (Ottawa: August 11, 2021), **COM0000152(FR)/COM0000324(EN)**.

¹³³ NSICOP, *Special Report on the Government of Canada's Framework and Activities to Defend its Systems and Networks from Cyber Attack* (Ottawa: August 11, 2021), **COM0000152(FR)/COM0000324(EN)** at 6.

¹³⁴ NSICOP, *Special Report on the Government of Canada's Framework and Activities to Defend its Systems and Networks from Cyber Attack* (Ottawa: August 11, 2021), **COM0000152(FR)/COM0000324(EN)** at 5.

¹³⁵ NSICOP, *Special Report on the Government of Canada's Framework and Activities to Defend its Systems and Networks from Cyber Attack* (Ottawa: August 11, 2021), **COM0000152(FR)/COM0000324(EN)** at 13-16.

¹³⁶ NSICOP, *Special Report on the Government of Canada's Framework and Activities to Defend its Systems and Networks from Cyber Attack* (Ottawa: August 11, 2021), **COM0000152(FR)/COM0000324(EN)** at 1, 121.

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had moderately sophisticated capabilities and other states posed less sophisticated threats.¹³⁷

Annual Report 2022 and special report on GAC's activities

- [85] In 2022, NSICOP finished its review of GAC's national security and intelligence activities.¹³⁸ The Committee reviewed GAC's contributions to the Government's response to state-sponsored malicious cyber activity and foreign interference.¹³⁹ NSICOP referred to its 2019 conclusion that GAC's responsibility for managing Canada's bilateral and multilateral relationships made it a key decision maker when government determines how to respond to foreign interference in Canada.¹⁴⁰

5.4 Further review of foreign interference

- [86] On March 6, 2023, the Prime Minister asked NSICOP to review the issue of foreign interference in Canada's federal democratic processes, with a focus on elections.¹⁴¹
- [87] On March 8, 2023, NSICOP announced it would: (1) look at the state of federal election processes; (2) continue its previous work reviewing the Government's response to foreign interference from 2015 to 2018; (3) examine the state of foreign interference in Canada's democratic processes since 2018; and (4) consider the third party review of

¹³⁷ NSICOP, *Special Report on the Government of Canada's Framework and Activities to Defend its Systems and Networks from Cyber Attack* (Ottawa: August 11, 2021), **COM0000152(FR)/COM0000324(EN)** at 22-26.

¹³⁸ NSICOP, *Annual Report 2022* (Ottawa: May 12, 2023), **COM0000153(FR)/COM0000158(EN)**.

¹³⁹ NSICOP, *Special Report on the National Security and Intelligence Activities of Global Affairs Canada* (Ottawa: June 27, 2022), **COM0000151(EN)/COM0000163(FR)**. This review is also summarized in NSICOP, *Annual Report 2022* (Ottawa: May 12, 2023), **COM0000153(FR)/COM0000158(EN)**.

¹⁴⁰ NSICOP, *Special Report on the National Security and Intelligence Activities of Global Affairs Canada* (Ottawa: June 27, 2022) **COM0000151(EN)/COM0000163(FR)** at 33.

¹⁴¹ Prime Minister of Canada Justin Trudeau, "Taking further action on foreign interference and strengthening confidence in our democracy" (Ottawa: March 6, 2023), **COM0000176(EN)/COM0000178(FR)**.

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the Critical Election Incident Public Protocol during the 2021 election (discussed below).¹⁴²

- [88] The Committee said it would engage with other review bodies, as required, to avoid duplication as it developed its terms of reference.¹⁴³ The Committee has not yet produced its report.

6. National Security and Intelligence Review Agency (NSIRA)

6.1 Background

- [89] On March 9, 2023, NSIRA initiated a review of foreign interference. At the time of publication of this overview report, there was no publicly available date of completion for NSIRA's review.¹⁴⁴
- [90] The *National Security and Intelligence Review Act* (“*NSIRA Act*”) created NSIRA in July 2019.¹⁴⁵ NSIRA is an independent and external review body reporting to Parliament, not the Government. It reviews and investigates government national security and intelligence activity to ensure it is lawful, reasonable and necessary. It also investigates public complaints about key national security agencies and activities.¹⁴⁶
- [91] The *NSIRA Act* gives NSIRA access to all relevant information for its reviews. It is entitled to access “in a timely manner” any information held by or under the control of any government department, including information protected by litigation or solicitor-

¹⁴² NSICOP, Media Room, “National Security and Intelligence Committee of Parliamentarians launches review of Foreign Interference in Canada’s Democratic Processes” (March 8, 2023), **COM0000130(FR)/COM0000145(EN)**.

¹⁴³ NSICOP, Media Room, “National Security and Intelligence Committee of Parliamentarians launches review of Foreign Interference in Canada’s Democratic Processes” (March 8, 2023), **COM0000130(FR)/COM0000145(EN)**.

¹⁴⁴ NSIRA, Ongoing Reviews, “NSIRA Review of the Government of Canada’s production and dissemination of intelligence on foreign interference in the 43rd and 44th Canadian federal elections” (June 7, 2023), **COM0000166(EN)/COM0000167(FR)**. The review is under ss 8(1)(a), (b) of *NSIRA Act*. On March 9, 2013, NSIRA announced the review.

¹⁴⁵ *National Security and Intelligence Review Agency Act*, SC 2019, c 13.

¹⁴⁶ *NSIRA Act*, s 8.

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client privilege.¹⁴⁷ It is also entitled to receive, from the deputy head or employees of a department, any documents and explanations the Agency deems necessary to exercise its powers and perform its duties and functions.¹⁴⁸ Like NSICOP, it is not entitled to access Cabinet confidences as defined in section 39 of the *Canada Evidence Act*.¹⁴⁹

[92] NSIRA can give information to NSICOP related to the Committee's mandate if it does not fall outside the scope of information NSICOP is authorized to receive. NSICOP can also provide information to the NSIRA in certain circumstances.¹⁵⁰

6.2 Definition of foreign interference

[93] The Agency has not explicitly stated its definition of foreign interference, but it reviews government security and intelligence activities, and these agencies consider foreign interference to be foreign influenced activities that are threats to Canada as defined in section 2 of the *CSIS Act*.

6.3 Review of foreign interference

[94] The Agency has said it will investigate how intelligence on foreign interference in federal democratic institutions and processes was produced and disseminated from September 2018 to March 2023, including communication of intelligence within and across agencies, departments and other groups in the government. The review covers CSIS, CSE, RCMP, GAC, Public Safety Canada and the PCO.¹⁵¹

[95] Methods of review may include requesting documents, oral briefings and/or interviews, site visits, accessing relevant databases and information repositories and requesting written responses to questions and/or clarifications. NSIRA will give all implicated

¹⁴⁷ *NSIRA Act*, s 9.

¹⁴⁸ *NSIRA Act*, s 11.

¹⁴⁹ *NSIRA Act*, s 12.

¹⁵⁰ *NSIRA Act*, ss 14, 15; *NSICOP Act*, s 22(1), (2).

¹⁵¹ NSIRA, Ongoing Reviews, "NSIRA Review of the Government of Canada's production and dissemination of intelligence on foreign interference in the 43rd and 44th Canadian federal elections" (June 7, 2023), **COM0000166(EN)/COM0000167(FR)**. The review is under ss 8(1)(a), (b) of *NSIRA Act*. On March 9, 2013, NSIRA announced the review.

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departments and agencies a copy of its report and publish a redacted version on its website.¹⁵²

- [96] NSIRA acknowledged its review overlaps with NSICOP's ongoing review and the ISR's First Report but has said its work has a different scope and follows its own methodology, as set out in the Terms of Reference.¹⁵³

7. Commissioner of Canada Elections (CCE)

7.2 Background

- [97] In January 2023, the Commissioner of Canada Elections (CCE) announced her intention to review allegations of foreign interference in the 2019 and 2021 elections.¹⁵⁴ At the time of completion of this Overview Report there was no more information available about her review.
- [98] The CCE is responsible for ensuring compliance with, and enforcement of, the *Canada Elections Act*, and the *Referendum Act*, SC 1992, c 30.¹⁵⁵ The CCE is appointed by the Chief Electoral Officer, after consultation with the Director of Public Prosecutions.¹⁵⁶ Although located in the Office of the Chief Electoral Officer,¹⁵⁷ the CCE is not part of

¹⁵² NSIRA, Reviews, Ongoing and completed reviews, Ongoing Reviews, "NSIRA Review of the Government of Canada's production and dissemination of intelligence on foreign interference in the 43rd and 44th Canadian federal elections" (June 7, 2023), **COM0000166(EN)/COM0000167(FR)** at 2.

¹⁵³ NSIRA, Reviews, Ongoing and completed reviews, Ongoing Reviews, "Statement from NSIRA on its Review of the GOC's Production and Dissemination of Intelligence on Foreign Interference in the 43rd and 44th Canadian Federal Elections" (June 26, 2023), **COM0000164(EN)/COM0000165(FR)**.

¹⁵⁴ Commissioner of Canada Elections, *Commissioner of Canada Elections Annual Report 2022* (Ottawa: January 2023), **COM0000030(EN)/COM0000031(FR)** at 5.

¹⁵⁵ See ss 480-499 of the *Canada Elections Act* and ss 34-38 of the *Referendum Act*.

¹⁵⁶ *Canada Elections Act*, s 509(1).

¹⁵⁷ *Canada Elections Act*, s 509.1(1).

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Elections Canada¹⁵⁸ and the CCE's decisions and actions are independent of the Chief Electoral Officer.¹⁵⁹

[99] The CCE receives and reviews complaints or allegations of wrongdoing related to a general election, by-election or referendum contrary to the *Canada Elections Act* or *Referendum Act*. If the complaint falls within the CCE's mandate, they may investigate. At the end of an investigation, if the CCE determines there was a contravention of one of the Acts, they will select the most appropriate compliance or enforcement tool from several measures, including prosecution.

[100] At the CCE's request, the Chief Electoral Officer must provide the CCE with any document or information that the CCE considers necessary to the exercise or performance of their powers, duties and functions under the Act, which Elections Canada obtained under the *Canada Elections Act*.¹⁶⁰ There is a memorandum of understanding governing information sharing between Elections Canada and the Office of the CCE.¹⁶¹ There are other memoranda of understanding with CSIS, the RCMP and the Public Prosecution Service of Canada. The CCE also collaborates with CSE and GAC.¹⁶²

[101] The "Enforcement Directorate, Office of the Commissioner of Canada Elections" is an investigative body for the purposes of paragraph 8(2)(e) of the *Privacy Act*. This allows another federal government institutions to disclose personal information under their control to the Enforcement Directorate for the purpose of enforcing any law of Canada or a province or for the CCE to carry out a lawful investigation.

¹⁵⁸ Elections Canada, Overview of Elections Canada and the Federal Electoral System Briefing Book, "The Chief Electoral Officer and His Office" (October 2021), **COM0000133(FR)/COM0000210(EN)** .

¹⁵⁹ *Canada Elections Act*, s 509.21(1).

¹⁶⁰ *Canada Elections Act*, s 16.5(2).

¹⁶¹ Memorandum of Understanding between the Commissioner of Canada Elections and the Chief Electoral Officer of Canada, August 26, 2015, **COM0000039**.

¹⁶² Commissioner of Canada Elections, *Commissioner of Canada Elections Annual Report 2022* (Ottawa: January 2023), **COM0000030(EN)/COM0000031(FR)** at 21.

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[102] The CCE may apply for judicial orders for production, search warrants, witness examinations or a written return.¹⁶³

7.2 Definition of foreign interference.

[103] The CCE can only investigate possible breaches of the *Canada Elections Act*.¹⁶⁴ Under the Act, examples of prohibited foreign interference include: foreign funding of parties, candidates, electoral district associations and leadership and nomination contestants;¹⁶⁵ using a broadcasting station outside of Canada to try to influence the electoral process;¹⁶⁶ incurring expenses to promote or oppose a candidate, registered party or leader of a registered party; or committing an offence under Canadian law to influence the choice of an elector in a federal election.¹⁶⁷

8. The Critical Election Incident Public Protocol (CEIPP)

8.1 Background

[104] CEIPP is a mechanism for senior public servants (called the “Panel” or the “Panel of Five”) to communicate with Canadians during an election if there is an incident that threatens the integrity of a federal election.¹⁶⁸ The senior public servants who sit on the Panel of Five are the Clerk of the Privy Council, the National Security and Intelligence Advisor to the Prime Minister, the Deputy Minister of Justice and Deputy Attorney

¹⁶³ *Canada Elections Act*.

¹⁶⁴ Commissioner of Canada Elections, *Commissioner of Canada Elections Annual Report 2022* (Ottawa: January 2023), **COM0000030(EN)/COM0000031(FR)** at 20, 22.

¹⁶⁵ *Canada Elections Act*, ss 349.02, 349.4, 351.1, 363(1); Office of the Chief Electoral Officer of Canada, *Meeting New Challenges: Recommendations from the Chief Electoral Officer of Canada following the 43rd and 44th General Elections (2022)*, **COM0000033(EN)/COM0000033(FR)** at 26.

¹⁶⁶ *Canada Elections Act*, s 330.

¹⁶⁷ *Canada Elections Act*, s 282.4(2).

¹⁶⁸ Government of Canada, Democratic Institutions, “Strengthening Canada’s electoral system” (December 7, 2023), **COM0000192(FR)/COM0000209(EN)**.

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General, the Deputy Minister of Public Safety and the Deputy Minister of Foreign Affairs.¹⁶⁹

[105] In January 2019, the ministers of Democratic Institutions, Public Safety and Emergency Preparedness and National Defence announced the Government's "Plan to Protect Canadian Democracy."¹⁷⁰ As part of the Plan, Cabinet created the CEIPP.

[106] The Protocol is not just about foreign interference.¹⁷¹ It is aimed at election interference more broadly. It is only initiated to respond to incidents occurring during the caretaker period¹⁷² and does not cover incidents within Election Canada's responsibility.¹⁷³

[107] The Protocol is as follows:

- a. national security agencies provide regular briefings to the Panel and the Panel can receive information and advice from other sources;
- b. political parties are told on how to report any electoral interference they may experience;
- c. if the head of CSIS, CSE, the RCMP or GAC becomes aware of interference in a general election, they inform the Panel, which will consider all options to address the incident(s);¹⁷⁴

¹⁶⁹ Government of Canada, Democratic Institutions, "Cabinet Directive on the Critical Election Incident Public Protocol," (August 12, 2021), **COM0000023(EN)/COM0000082(FR)**.

¹⁷⁰ Government of Canada, Democratic Institutions, "Strengthening Canada's electoral system" (December 7, 2023), **COM0000192(FR)/COM0000209(EN)**.

¹⁷¹ Morris Rosenberg, *Report on the Assessment of the 2021 Critical Election Incident Public Protocol*, Privy Council Office (2023), **COM0000194(FR)/COM0000195(EN)** at 7-13.

¹⁷² The caretaker period begins when the Government loses a vote of non-confidence or Parliament has been dissolved and ends when a new government is sworn-in or when an election result returning and incumbent government is clear: Privy Council Office, "Guidelines on the conduct of Ministers, Ministers of State, exempt staff and public servants during an election" (August 2021), **COM0000098(EN)/COM0000138(FR)**.

¹⁷³ Government of Canada, Democratic Institutions, "Cabinet Directive on the Critical Election Incident Public Protocol," (August 12, 2021), **COM0000023(EN)/COM0000082(FR)**; Morris Rosenberg, *Report on the Assessment of the 2021 Critical Election Incident Public Protocol*, Privy Council Office (2023), **COM0000194(FR)/COM0000195(EN)** at 23-24.

¹⁷⁴ As part of their respective responsibilities, CSIS, CSE, the RCMP and GAC, in consultation with each other, also otherwise consider all options to effectively address the interference.

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- d. the Panel evaluates incidents of election interference and determines if the threshold (discussed in more detail below) for informing the public is met;
- e. if the threshold is met, the Panel will inform the Prime Minister, the other major party leaders and Elections Canada that it intends to make a public announcement; and
- f. after the above briefing, the Clerk of the Privy Council, on behalf of the Panel, may issue a statement or ask the relevant agency head(s) to issue a statement to Canadians.¹⁷⁵

[108] The threshold for informing the public is met if an incident, or an accumulation of incidents, threaten Canada's ability to have a free and fair election. This is a qualitative assessment, and some considerations are: (1) the degree to which the incident(s) undermine(s) Canadian's ability to have a free and fair election; (2) the potential of the incident(s) to undermine the credibility of the election; and (3) the degree of confidence officials have in the intelligence or information.¹⁷⁶

[109] There is a high bar to overcome before the Panel informs the public about threats to a free and fair election.¹⁷⁷

[110] After each general election, the CEIPP requires an independent assessment of the Protocol's implementation.¹⁷⁸ The assessments of CEIPP's operation during the 2019 and 2021 elections are summarized further below.

¹⁷⁵ Government of Canada, Democratic Institutions, "Cabinet Directive on the Critical Election Incident Public Protocol," (August 12, 2021), **COM0000023(EN)/COM0000082(FR)**.

¹⁷⁶ Government of Canada, Democratic Institutions, "Cabinet Directive on the Critical Election Incident Public Protocol," (August 12, 2021), **COM0000023(EN)/COM0000082(FR)**.

¹⁷⁷ Morris Rosenberg, *Report on the Assessment of the 2021 Critical Election Incident Public Protocol*, Privy Council Office (2023), **COM0000194(FR)/COM0000195(EN)** at 12, 27.

¹⁷⁸ Government of Canada, Democratic Institutions, "Cabinet Directive on the Critical Election Incident Public Protocol," (August 12, 2021), **COM0000023(EN)/COM0000082(FR)**.

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[111] The CEIPP Panel did not find it needed to intervene to warn Canadians about foreign interference during the 2019¹⁷⁹ or 2021¹⁸⁰ general elections.

8.2 Review of the CEIPP during the 2019 election

[112] James Judd assessed the operation of the CEIPP during the 2019 general election.¹⁸¹ He had access to information classified as Secret, but not Top Secret. He used the NSICOP definition of foreign interference.¹⁸²

[113] Mr. Judd concluded the CEIPP was successful during the 2019 general election.¹⁸³ The Panel did not intervene, but it was ready to do so if needed.¹⁸⁴ There was no impact on the election because of any action (or inaction) by the Panel. The Panel was well supported by, and coordinated with, its principal partners, Elections Canada and Canadian security agencies. The intelligence and information inputs it received were timely, varied and considered.¹⁸⁵

[114] Nevertheless, Mr. Judd noted some potential challenges with the CEIPP: any decision to intervene must be by consensus; Panel members must continue to discharge all their non-Panel duties during the writ period; potential interference possibilities are vast; and information may not be highly accurate or complete and yet a decision must be made

¹⁷⁹ James Judd, *Report on the Assessment of the Critical Election Incident Public Protocol*, Privy Council Office (May 2020), **COM0000121(FR)/COM0000122(EN)** at 20.

¹⁸⁰ Morris Rosenberg, *Report on the Assessment of the 2021 Critical Election Incident Public Protocol*, Privy Council Office (2023), **COM0000194(FR)/COM0000195(EN)** at 42.

¹⁸¹ James Judd, *Report on the Assessment of the Critical Election Incident Public Protocol*, Privy Council Office (May 2020), **COM0000121(FR)/COM0000122(EN)**.

¹⁸² James Judd, *Report on the Assessment of the Critical Election Incident Public Protocol*, Privy Council Office (May 2020), **COM0000121(FR)/COM0000122(EN)** at 3.

¹⁸³ James Judd, *Report on the Assessment of the Critical Election Incident Public Protocol*, Privy Council Office (May 2020), **COM0000121(FR)/COM0000122(EN)** at 21.

¹⁸⁴ James Judd, *Report on the Assessment of the Critical Election Incident Public Protocol*, Privy Council Office (May 2020), **COM0000121(FR)/COM0000122(EN)** at 20-21.

¹⁸⁵ James Judd, *Report on the Assessment of the Critical Election Incident Public Protocol*, Privy Council Office (May 2020), **COM0000121(FR)/COM0000122(EN)** at 21.

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quickly.¹⁸⁶ Another difficulty is how to differentiate between interference activities by domestic actors without any connection to foreign states and interference by domestic actors sponsored by foreign states.¹⁸⁷ Mr. Judd was also concerned about the qualitative nature of the CEIPP threshold.¹⁸⁸ The Panel of Five reviews issues that do not readily lend themselves to detailed, guiding metrics.¹⁸⁹

[115] After the Review, changes were made to the CEIPP to: (1) align the Protocol's application period with the Caretaker Convention; (2) explicitly allow the Panel to consult with the Chief Electoral Officer and to receive information and advice from sources other than the national security agencies; and (3) clarify the Panel's ability to consider potential incidents of interference involving both foreign and domestic actors.¹⁹⁰

8.3 Review of the CEIPP during the 2021 election

[116] Morris Rosenberg assessed operation of the CEIPP process during the 2021 election.¹⁹¹ He had access to the briefing materials prepared for the Panel of Five and their meeting agendas, "government documents,"¹⁹² foreign government publications

¹⁸⁶ James Judd, *Report on the Assessment of the Critical Election Incident Public Protocol*, Privy Council Office (May 2020), **COM0000121(FR)/COM0000122(EN)** at 16.

¹⁸⁷ James Judd, *Report on the Assessment of the Critical Election Incident Public Protocol*, Privy Council Office (May 2020), **COM0000121(FR)/COM0000122(EN)** at 16.

¹⁸⁸ James Judd, *Report on the Assessment of the Critical Election Incident Public Protocol*, Privy Council Office (May 2020), **COM0000121(FR)/COM0000122(EN)** at 16, 18-19, 21.

¹⁸⁹ James Judd, *Report on the Assessment of the Critical Election Incident Public Protocol*, Privy Council Office (May 2020), **COM0000121(FR)/COM0000122(EN)** at 16, 21.

¹⁹⁰ Government of Canada, Democratic Institutions, "Cabinet Directive on the Critical Election Incident Public Protocol," (August 12, 2021), **COM0000023(EN)/COM0000082(FR)**.

¹⁹¹ Morris Rosenberg, *Report on the Assessment of the 2021 Critical Election Incident Public Protocol*, Privy Council Office (2023), **COM0000194(FR)/COM0000195(EN)**. Mr. Rosenberg was Deputy Minister of Foreign Affairs (2010 to 2013), Deputy Minister of Health Canada (2004 to 2010) and Deputy Minister of Justice and Deputy Attorney General of Canada (1998 to 2004); University of Ottawa, Faculty of Social Sciences\Graduate School of Public and International Affairs\Senior Fellows\Morris-Rosenberg, **COM0000323**.

¹⁹² He does not explain what these are.

OR: Other reviews and investigations on foreign interference



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and publications from Canadian and foreign non-governmental organizations.¹⁹³ He interviewed all members of the 2021 Panel, some members of the 2019 Panel, the Chief Electoral Officer, the former Commissioner of Canada Elections, staff of national security agencies and other government officials. He also met with representatives of the major political parties, civil society and academia.¹⁹⁴

[117] Mr. Rosenberg said the term “interference” is not defined in the CEIPP but is generally understood “to mean involving oneself in a situation where one’s involvement is not wanted or is not helpful.” Foreign interference included trying to: affect the electoral process; shape narratives around strategic interests; reduce public trust in the democratic process; decrease social cohesion; weaken confidence in leaders; or lower trust in the media.¹⁹⁵ It also included trying to divide international alliances.¹⁹⁶

[118] In 2021, like in 2019, the Panel did not find large scale foreign interference like Russian actions in the 2016 US election. There were efforts at foreign interference, but they were not sufficient to meet the threshold for the Panel to act.¹⁹⁷

[119] Like Mr. Judd, Mr. Rosenberg noted the CEIPP threshold relies on several qualitative factors. Further, the threshold and factors considered in applying it are quite vague.¹⁹⁸

[120] Mr. Rosenberg suggested the CEIPP should not consider the impact of an incident, because of the difficulty determining whether an incident interfered with Canada’s ability to have a free and fair election. Even with a high degree of confidence in both the veracity of a particular piece of intelligence and the purpose of the detected foreign

¹⁹³ Morris Rosenberg, *Report on the Assessment of the 2021 Critical Election Incident Public Protocol*, Privy Council Office (2023), **COM0000194(FR)/COM0000195(EN)** at 5.

¹⁹⁴ Morris Rosenberg, *Report on the Assessment of the 2021 Critical Election Incident Public Protocol*, Privy Council Office (2023), **COM0000194(FR)/COM0000195(EN)** at 4.

¹⁹⁵ Morris Rosenberg, *Report on the Assessment of the 2021 Critical Election Incident Public Protocol*, Privy Council Office (2023), **COM0000194(FR)/COM0000195(EN)** at 6.

¹⁹⁶ Morris Rosenberg, *Report on the Assessment of the 2021 Critical Election Incident Public Protocol*, Privy Council Office (2023), **COM0000194(FR)/COM0000195(EN)** at 7-8.

¹⁹⁷ Morris Rosenberg, *Report on the Assessment of the 2021 Critical Election Incident Public Protocol*, Privy Council Office (2023), **COM0000194(FR)/COM0000195(EN)** at 42.

¹⁹⁸ Morris Rosenberg, *Report on the Assessment of the 2021 Critical Election Incident Public Protocol*, Privy Council Office (2023), **COM0000194(FR)/COM0000195(EN)** at 32-34.



interference, the Panel may not be able to assess the impact of an incident of interference during the election period. Mr. Rosenberg recommended clarifying the CEIPP to avoid a situation where an inability to prove an impact prevents the threshold from being met.¹⁹⁹

[121] As attempts at foreign interference are not confined to the writ period, Mr. Rosenberg also recommended government adopt some kind of specific non-partisan mechanism or body to address foreign interference outside the caretaker period.²⁰⁰

[122] Mr. Rosenberg made some general comments about foreign interference:

- a. it is often difficult to differentiate incidents related to views held by Canadians with legitimate interests in supporting good relations with a foreign state from foreign interference;
- b. because of its high threshold, public notification should not be the main instrument for countering foreign interference;
- c. there should be consideration about whether legislative and regulatory tools addressing foreign interference should be updated;
- d. in developing strategies to counter interference and build public resilience, it is important to understand how foreign states' motivations and areas of interest are different and change over time;
- e. diaspora communities may be vulnerable to foreign state actors and to backlash from other Canadians; and
- f. foreign interference is not limited to election campaigns.²⁰¹

¹⁹⁹ Morris Rosenberg, *Report on the Assessment of the 2021 Critical Election Incident Public Protocol*, Privy Council Office (2023), **COM0000194(FR)/COM0000195(EN)** at 34.

²⁰⁰ Morris Rosenberg, *Report on the Assessment of the 2021 Critical Election Incident Public Protocol*, Privy Council Office (2023), **COM0000194(FR)/COM0000195(EN)** at 24-25.

²⁰¹ Morris Rosenberg, *Report on the Assessment of the 2021 Critical Election Incident Public Protocol*, Privy Council Office (2023), **COM0000194(FR)/COM0000195(EN)** at 12.