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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

Interview Summary: 2021 Panel of Five (Rob Stewart, Marta Morgan, Janice Charette, Francois Daigle, David Morrison, Nathalie Drouin)

The 2021 Panel of Five, with the addition of an observer who had attended Panel meetings, was interviewed by Commission Counsel on February 14, 2024. The interview was held in a secure environment and included references to classified information. This is the public version of the classified interview summary that was entered into evidence in the course of the Commission's in camera hearings held in February and March 2024.

Notes to Reader

- Commission Counsel have provided explanatory notes in square brackets to assist the reader.
- This summary has been prepared pursuant to subclause (a)(iii)(C)(II) of the Commission's Terms of Reference. It discloses the evidence pertinent to clauses (a)(i)(A) and (B) of the Commission's Terms of Reference that, in the opinion of the Commissioner, would not be injurious to the critical interests of Canada or its allies, national defence or national security.
- This summary contains information that relates to the Commission's mandate under clauses (a)(i)(A) and (B) of its Terms of Reference. Information provided during the interview that relates to other aspects of the Commission's Terms of Reference has been omitted from this summary, but may be adduced by the Commission at a later stage of its proceedings.
- This summary should be read with the Institutional Reports prepared by the Government of Canada.

Background

- [1] The Panel of Five (the "**Panel**") was a group of five senior public servants brought together under the **Critical Election Incident Public Protocol ("Protocol")** to administer the Protocol during the Caretaker Period by monitoring the integrity of the 44th General Election (the "Election"). The Panel was mandated to monitor incidents that had the potential to impact the integrity of the Election and determine whether any such incident met the "threshold" to make a public announcement. The "threshold" was articulated in the Protocol, which established the Panel of Five and set its mandate, as follows: "a public

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announcement during the caretaker period would only occur if the Panel determines that an incident or an accumulation of incidents has occurred that threatens Canada's ability to have a free and fair election.”

[2] The Panel was comprised of: the Clerk of the Privy Council (“**chair**”), the **National Security and Intelligence Advisor to the Prime Minister (“NSIA”)**, the **Deputy Minister (“DM”)** of Justice and the Deputy Attorney General of Canada, the DM of Public Safety, and the DM of Foreign Affairs. The Panel received regular briefings from the **Security and Intelligence Threats to Elections Task Force (“SITE TF”)**, **Privy Council Office (“PCO”)** Democratic Institutions Secretariat (“**DI**”) and national security agencies on emerging national security threats and potential threats to the integrity of the Election. During the 2021 Election period, the Panel members were as follows:

1. **Janice Charette** was the Chair of the Panel of Five in her role as Interim Clerk of the Privy Council;
2. **Rob Stewart** was a member of the Panel of Five in his role as Deputy Minister of Public Safety;
3. **Marta Morgan** was a member of the Panel of Five in her role as Deputy Minister of Foreign Affairs. She had previously served on the 2019 Panel of Five in the same role;
4. **Nathalie Drouin** was a member of the Panel of Five in her role as Deputy Minister of Justice until July 2021. She became Deputy Clerk of the Privy Council and Associate Secretary to the Cabinet in July 2021, and thereafter was an observer on the Panel until the end of the 2021 election period. She served on the 2019 Panel of Five as Deputy Minister of Justice;
5. **François Daigle** was a member of the Panel of Five in his role as Deputy Minister of Justice. He began in this role in July 2021, and he attended his first Panel meetings on August 23, 2021; and
6. **David Morrison** was a member of the Panel of Five in his role as Acting NSIA (“a/NSIA”). He started this role on July 1, 2021, and so did not attend any meetings or participate in the Panel before then;

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Structure and Operation of the Panel

- [3] The 2021 Panel members all had different levels of knowledge and experience with intelligence. Ms. Charette received briefings from the Security and Intelligence Secretariat and DI of PCO in advance of the formation of the 2021 Panel. As there was no fixed election date in 2021, the Panel called three meetings prior to the writ being issued in order to prepare for the election period.
- [4] Because the Panel operates only during the caretaker period, the Panel's mandate ended immediately after the Liberal Party was re-elected. Had the government changed, the Panel would have remained active until a new government was sworn in.
- [5] The Panel members emphasized that the Panel was one mechanism among many that existed to combat foreign interference during elections. The national security agencies retained their mandates to collect intelligence and address threats. Elections Canada remained responsible for physical security of election sites and the actual ballots, including mail-in ballots. The RCMP remained responsible for domestic security. The media and civil society groups continued to exist as a mechanism to correct public mis- and disinformation. The Panel members said that part of the Panel's mandate was to monitor the "election ecosystem" and how it was functioning.
- [6] The Panel members noted that their mandate was relatively narrow; they were to monitor the Election and determine whether a public announcement was warranted. The Panel had no power to direct any other agencies to take action, and similarly, it was not the role of the agencies to advise on whether the Panel's threshold had been met.
- [7] The Panel members discussed the changes to the text of the Protocol from 2019 to the 2021 version. The Panel members who were present on both panels agreed that the changes to the text reflected the way things operated in 2019, and were therefore "reflective" and not "corrective" changes.

Flow of Information

- [8] Ms. Drouin and Ms. Morgan believed the flow of information to the Panel from intelligence agencies remained the same in 2021 as it was in 2019.

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- [9] Panel members received relevant information primarily through their daily written SITE TF briefings, which were provided to them directly, and through oral briefings they received during the Panel's weekly meeting. The Panel also took into account information from civil society organizations, social media platforms and academics, received largely through PCO. Allen Sutherland and Michael MacDonald from PCO engaged directly with social media platforms on the issue of misinformation around the election. On occasion, Mr. Sutherland reported the results of these interactions back to the Panel.
- [10] The weekly Panel meetings generally began with updates from the SITE TF and/or from heads of one or more of the national security agencies. The information exchange was not one-way. The Panel generally asked questions and identified areas to monitor or discuss at future meetings. Once the intelligence update was complete, SITE TF members and representatives from the national security agencies would leave the meeting and the Panel, along with representatives from PCO, would deliberate. Those deliberations generally took into account the assessments and advice provided by the agencies. The Panel relied on the intelligence agencies to provide their assessments of the most pressing concerns and threats.
- [11] The objective of early meetings was to learn about the Protocol and how it fit into Canada's wider strategy for protecting democracy. At early Panel meetings (pre-writ), the Panel members obtained insight from Elections Canada and received preliminary briefings from the SITE TF and from PCO DI (led by Allen Sutherland). Mr. Stewart explained that though there was cooperation between the Panel and Elections Canada, there was a clear distinction between their respective responsibilities. The Chief Electoral Officer, an independent Agent of Parliament, is responsible for the physical security and operations of an election. The Panel is concerned with the threats to the integrity of an election.
- [12] The Panel also discussed the Judd Report, which set out the findings and recommendations of Mr. Jim Judd, who had reviewed the operation of the Panel during the 2019 Election, at the Panel's first meeting. Allen Sutherland acted as the conduit between the 2019 and 2021 Panels and endeavoured to pass on lessons learned by the 2019 Panel and its review to the 2021 Panel. Further, two participants of the 2021 Panel,

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Marta Morgan and Nathalie Drouin, were also members of the 2019 Panel and reported that they attempted to carry the work done in 2019 into 2021.

- [13] Panel meetings were designed to help the Panel develop a shared understanding of the threshold through consideration of hypothetical situations, of the threat environment facing the election, and of the tactics used by potential threat actors to engage in **foreign interference (“FI”)**. Panel members also discussed potential communication channels in the event that the Protocol threshold was met.
- [14] The Panel members explained that they were not provided with notes prepared for those who briefed the Panel. Although the briefings were not necessarily delivered according to the notes, Ms. Drouin expressed that obtaining written copies of the talking points would have been helpful. Equally, Panel members did not review or approve the meeting summary notes prepared afterward by the Assistant Secretary to the Cabinet, Security and Intelligence. These summaries did not attempt to reflect verbatim the content of their conversations, but rather set out decision points.

Identification of Specific Threats

- [15] The Panel was told that the People’s Republic of China (“PRC”) was likely to be the most active state in FI against the 2021 election. The Panel was equally informed that Russia had the cyber capabilities to interfere in the election. Several other countries were presented as possible low-level threats.
- [16] One particular change to the text of the Protocol from 2019 to 2021 was to require the Panel to be briefed on the possibility of domestic threats, such as ideologically motivated violent extremists (“IMVE”). This change was partly informed by the January 6, 2021 Capitol Hill riots in the United States, in addition to concerns about protests around COVID 19 vaccine mandates.

Threshold

- [17] The Panel was asked about their interpretation of the threshold to report an incident to the public, as set out at s. 6.0 of the Protocol, which states that: “a public announcement during the caretaker period would only occur if the Panel determines that an incident or

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an accumulation of incidents has occurred that threatens Canada's ability to have a free and fair election.” The Protocol required the Panel to make a public announcement only if the group had consensus.

- [18] The Panel members spent most of the time in their meetings trying to come to a shared understanding of the threshold and its application. The Panel was provided with numerous scenarios (table-top exercises) that they worked through to determine whether the threshold would have been met. These scenarios included “injects” which added changing elements to the scenarios. These scenarios were intended to help the Panel build consensus around how to apply the threshold. Ms. Drouin noted that these exercises helped the Panel develop familiarity with the types of procedures available to them in the context of real threats. Mr. Morrison stated that the scenarios were well-drafted and appropriately conveyed the seriousness of the Panel’s mandate. The Panel members all agreed that the scenario exercises were helpful.
- [19] The Panel discussed whether the threshold should be considered on a riding by riding basis or on a national basis. The Panel ultimately did not need to make a decision, because they did not identify any issues that met the threshold in even a single riding. The Panel members agreed that they were monitoring issues in specific ridings, such that they would be in a position to have had that discussion if necessary. None of the Panel members recalled any real debate on whether the threshold had been met in relation to any of the intelligence/information shared with them during the Caretaker period. An outstanding question remains as to whether someone other than the Panel can make a public announcement in relation to information that falls below the threshold.
- [20] The Panel members explained that much of the FI related intelligence/information they received during the Caretaker period fell into the “grey zone”; the information could not clearly be identified as FI. Much of the intelligence shared with the Panel could not be attributed to a foreign state actor and/or did not clearly qualify as interference. As an example, Mr. Daigle noted that it could be difficult to distinguish between state-sponsored misinformation and Canadians’ genuine expressions of opinion that would be protected as free speech. Further, overt foreign influence was not FI. The Panel members agreed

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that there is generally no “perfect information” in the context of FI intelligence. The Panel exercised their judgement with the knowledge they had.

[21] The Panel met twice after the election, first on September 23, 2021 and finally on December 10, 2021. The purpose of the final meeting was to debrief and discuss the lessons learned.

Specific Issue

[22] The Panel was first briefed on a specific issue by the CSIS Director on August 23, 2021. The Panel asked for updates on this situation to be provided regularly.

[23] At the September 7, 2021 Panel meeting, the CSIS Director informed the Panel that CSIS was undertaking measures to mitigate the potential negative impact of this situation. All Panel members agreed that this intelligence indicated behaviour that fell well below the threshold.

[24] The Panel was updated on this issue following the election at the December 10th meeting. Mr. Stewart explained that it is common for diplomacy to approach the line between interference and normal diplomatic activity. The Panel agreed that at no point did the behaviour come close to the threshold for making a public announcement.

Specific Issue – Misinformation/Disinformation targeting Conservative Party of Canada

[25] Ms. Morgan noted that there were discussions on the alleged misinformation/disinformation campaigns targeting Kenny Chiu and Erin O’Toole. She remembered reading the Rapid Response Mechanism (RRM) Canada’s detailed assessment of social media posts and receiving a briefing from SITE TF on the same.

[26] The Panel was told that the Global Times (a PRC publication) had picked up a story originally published by the Hill Times (a Canadian publication) that Mr. O’Toole had said that he wanted to “almost break off diplomatic relations with China” and that the story was gaining traction on WeChat. The Panel members recalled that it had not been conclusively determined whether the story was being shared organically by consumers of Chinese-language social media or whether it was being deliberately amplified by the

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PRC. Another consideration for the Panel was whether the story was dis/misinformation or legitimate expression of a political opinion and debate.

- [27] Ms. Drouin and Mr. Stewart shared the view that while it can be very important to “correct the record”, they did not believe it was the Panel’s role to call out all misinformation that occurs during an election. The Panel trying to correct misinformation can be counterproductive by worsening the impact of the misinformation or causing it to garner more attention.
- [28] Ultimately, the Panel determined that the ecosystem had cleansed itself naturally of the possible misinformation relating to Mr. Chiu. Mr. Chiu had addressed the issue publicly on his personal platform. The O’Toole article lost all traction in the week before the election.
- [29] Ms. Charette was aware that, after the election, the Conservative Party had raised concerns about interference in a number of ridings.
- [30] While the Panel took this issue seriously and the SITE TF examined the allegations, including those brought forward by the Conservative Party, there was not enough information to make a determination that a foreign state was responsible for the circulation of this information.

Specific Issue

- [31] The Panel members were made aware during the writ period that there was and continues to be an ongoing baseline of FI by many foreign states. The Panel was not presented with any intelligence that indicated a “spike” in FI during the election.
- [32] Mr. Daigle noted that the briefing they received on December 10, 2021, which was after the Election, featured intelligence on FI in a major urban center that was of concern.

Conclusion

- [33] Ms. Drouin explained that by nature, intelligence is provided piecemeal. It can sometimes be difficult to put together into a coherent narrative. Thus, the Panel relied on agency assessments to make sense of the intelligence on an ongoing basis. She noted that while

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there may be ways of making intelligence more digestible, the agencies did a good job of keeping the Panel informed. The Panel members thought that they had all the information they needed to fulfil the Panel's mandate, and they knew who to approach with questions if necessary.

[34] The Panel members all agreed that none of the situations presented to them during the 2021 election came close to meeting the threshold, and that the Election was a free and fair process.

[35] Ms. Charette noted that the public conversation around FI is under-developed. The public needs a better understanding of FI. Mr. Morrison opined that the greatest antidote to FI is public awareness and bringing "sunlight" to the issue. He noted that going forward, the two biggest FI challenges in Canada are likely to be its impact on diaspora communities and the circulation of mis/disinformation.