



Interview Summary: Office of the Commissioner of Canada Elections (Caroline Simard and Carmen Boucher)¹

Caroline Simard, Commissioner of the Office of the Commissioner of Canada Elections (OCCE), and Carmen Boucher, Executive Director, Enforcement at the OCCE, were interviewed by Commission Counsel on July 25, 2024.

Notes to Readers:

- Commission Counsel have provided explanatory notes in square brackets to assist the reader.

1. Introduction

- [1] Caroline Simard is the Commissioner of Canada Elections (“**CCA**”),² the independent officer responsible for ensuring that the *Canada Elections Act* (“**CEA**”) is complied with and enforced. She has held this position since she was appointed in August 2022.
- [2] Carmen Boucher is Executive Director, Enforcement at the Office of the Commissioner of Canada Elections (“**OCCE**”) where she manages enforcement activities and file intake. She has worked in various regulatory and security roles within the Government of Canada since 1997.

2. The OCCE Organization

2.1 Strategic Planning

- [3] Commissioner Simard launched a strategic planning exercise a few months after taking office. OCCE management called in external consultants to identify gaps between the

¹ Translation.

² Commissioner of Canada Elections (“**CCE**”).

OCCE's abilities and the new requirements of the electoral ecosystem. A transformation initiative, which is still under way, was then undertaken to optimize the OCCE's processes and tools, enabling the organization to fulfill its mandate in line with the new reality of the ecosystem in which it operates.

- [4] A three (3) year strategic plan has been drafted based on the vision of making the organization a world-class leader in its field, working alongside its partners to counter threats to electoral democracy. Although a high-level plan, the strategic plan includes pillars that will help strengthen the OCCE's ability to counter foreign interference.
- [5] The exercise also identified key elements needed to support this vision:
- a. operational changes;
 - b. the need to receive, process, archive and protect classified information, including intelligence;
 - c. strengthening existing partnerships and creating new ones, including bringing in staff from other government agencies to help with the transformation initiative;
 - d. building ties with international organizations responsible for electoral law compliance and enforcement;
 - e. expanding knowledge of intelligence and the process of converting intelligence into evidence in order to increase the OCCE's autonomy;
 - f. establishing strategic planning;
 - g. improving process efficiency;
 - h. developing a risk-managed approach;
 - i. integrating business intelligence; and
 - j. establishing an audit committee.
- [6] Commissioner Simard explained that the OCCE is currently carrying out the work required to implement the strategic plan. In the fall of 2024, the OCCE will hold an international symposium with its counterparts from several countries, including

Germany, the United States, the Netherlands, the United Kingdom and Australia. The aim is to bring these peer organizations together to reflect on lessons learned, best practices and common challenges, including those related to foreign interference in elections.

- [7] The OCCE has about 80 employees, half of whom are term positions of varying lengths. The OCCE relies heavily on contract resources. Ms. Boucher explained that this reality poses a real challenge to recruitment (i.e., lack of indeterminate positions), retention, and corporate memory (i.e., constant turnover), and places a burden on management to continuously staff positions.
- [8] While the bulk of the OCCE's files were historically routine cases, its current caseload consists of a multitude of complex files, including several involving new technologies and allegations of foreign interference. Developing and maintaining the ability to investigate complex files requires extensive expertise, training and time investment, which can be challenging given the size of the organization and the budgetary constraints (described below in section 2.2). Ms. Boucher also noted that numerous members of the investigative team are relatively new, including several team members who have not yet been through an electoral cycle.
- [9] Ms. Boucher explained that the OCCE is undergoing significant structural changes to improving efficiency by reducing existing organizational silos. In the fall of 2024, all operational functions and roles will be consolidated under her position, to have one common manager. The OCCE is also building up its corporate services team to support its goals described above at paragraph 5.
- [10] However, the OCCE's ability to fully operationalize all these changes requires that it a) stabilize its existing workforce; and b) create additional capacity to address changes in the electoral ecosystem. The size of the OCCE's existing permanent workforce will need to be expanded.

2.2 Budgetary Challenges

- [11] The OCCE has two sources of funding. The OCCE's annual budget is made up of voted appropriations, which cover the salaries of permanent staff, and statutory appropriations

(direct access to the Consolidated Revenue Fund [CRF]), which cover expenses related to other ongoing business activities such as the salaries of term employees and consultants. It should be noted that, with the exception of increases resulting from collective agreement adjustments, the level of OCCE voted appropriations has been frozen since 2019. Access to the CRF should, in principle, improve the OCCE's ability to fulfill its investigative requirements without the need for government assistance or authorization, helping the organization preserve its independence.

- [12] Ms. Boucher explained that, while the OCCE does its best with the resources it has, the present model is not reflective of the organization's current needs and realities. The OCCE's model is premised on the one used by Elections Canada ("**EC**"), who has a large influx of costs during electoral periods. Unlike EC, however, the OCCE does not have a large influx of costs during electoral periods as complaints and referrals continue for the entire electoral cycle and complex investigations may take several years to complete.
- [13] Given the lack of additional funding to the permanent budget, the OCCE must resort to the discretionary fund to manage the annual budget constraints. For example, the organization hires term, contract and consultant positions using the discretionary fund, in accordance with the funding model and to supplement for the lack of funding for permanent positions.
- [14] The Commissioner indicated that the OCCE is currently exploring the possibility of a request for additional funding to help close current budget gaps. An increase in its core funding would offer the OCCE greater financial stability and allow the organization to continue to access the statutory fund under specific circumstances. Commissioner Simard said she believes that the OCCE needs this change in order to carry out its mandate in the current environment and to work effectively with its partners.
- [15] Ms. Boucher said that the OCCE will require a yearly budget of approximately \$10 million to fund its regular operations, without accounting for any new responsibilities or functions stemming from proposed legislative changes. Increasing the OCCE budget would allow the OCCE to regularize the current contract/termed positions into

permanent positions as other departments are able to offer and bringing with it the associated benefits of creating such positions.

3. The OCCE's Approach to Foreign Interference

- [16] In response to questions from Commission counsel, Commissioner Simard noted that no specific plan to counter foreign interference existed when she took office in August 2022. Apart from a brief mention in her initial briefings, she received no briefing or memo on the subject. Nevertheless, foreign interference was on the OCCE's radar prior to the 2019 election, and the previous commissioner had publicly expressed concern about it in an interview published prior to his departure in June 2022.
- [17] At the time, foreign interference was treated on the same level as cryptocurrency and disinformation. In the interviews and testimony in March 2024, the OCCE detailed the preparatory work that the Office undertook prior to the 2019 and 2021 elections. Although foreign interference was on the OCCE's radar at the time, the scale and scope that the issue took on in Canada following media reports in late 2022 was not anticipated. The 2023–2026 strategic plan covers the full range of issues facing the OCCE, including foreign interference in elections.
- [18] Ms. Boucher said that the OCCE does not have a plan specific to foreign interference, as it integrates dealing with and countering foreign interference into all aspects of the OCCE's operations and strategy. The challenges associated with investigating foreign interference inform the organization's initiatives, including technical planning, efforts to integrate intelligence and partnership outreach, as well as internal strategic decisions.
- [19] For example, the OCCE holds monthly CISOCA [*Comité stratégique d'observation, de contrôle et d'application*, or Strategic Enforcement and Compliance Initiative Committee (“**SECIC**”) in English, a committee of senior OCCE officials that reviews and make recommendations on complex files] meetings which ensures a complete and cohesive approach to foreign interference and other complex issues.
- [20] Given the wide range of tactics and technologies employed by foreign state actors to engage in foreign interference, investigating foreign interference files requires significant

time and resource investments. The OCCE staff need to understand the tradition and evolving methodologies in order to identify when there is a potential foreign interference nexus or typical tradecraft in an OCCE file.

- [21] Ms. Boucher said that while the majority of the OCCE's caseload does not involve foreign interference, this is nevertheless central to the organization's plan of becoming a world-class organization. To achieve this goal, the OCCE needs to increase its ability to manage intelligence in collaboration with partner agencies and to deal with foreign interference-adjacent matters, such as cryptocurrency, disinformation and artificial intelligence.

3.1 Challenges Posed by Foreign Interference

- [22] Commissioner Simard explained that it was essential for the OCCE to evolve in order to deal with foreign interference, a problem that presents significant challenges for a micro-organization such as the OCCE, where staff members are often called upon to support several important initiatives simultaneously. According to the Commissioner, the OCCE had to "build the plane in mid-air" as staff members struggled to develop the Office's ability to deal with foreign interference (and build business intelligence along the way), while responding to increasing requests from the public (the media, Parliament and even the Commission on Foreign Interference) to explain the OCCE's role and activities regarding foreign interference.
- [23] Ms. Boucher described foreign interference as having a "tremendous impact" on the OCCE team. Of a team of about 20 investigators, three were dedicated to just one major foreign interference case (i.e., more than 10% of its investigative resources). This dedication of resources is a direct indication of the complexity of files that involve foreign interference. The OCCE indicates that it has always had the internal capacity to manage major case files, with the Robocalls files of 2015 as an example. The challenge at present is that there are multiple such files, for foreign interference and other matters, and it is anticipated that this will only continue to increase in future elections.
- [24] Rather than adding new investigators, the priority for the 2019 and 2021 elections was to increase the OCCE's educational and knowledge base in relation to foreign

interference. Currently, efforts are underway to hire additional investigators and other operational staff, but the budgetary constraints leave OCCE with mostly term positions available. The complex files require advanced investigative skills and OCCE is disadvantaged competing against other government departments that can offer indeterminate positions.

- [25] A second priority is developing the strategy, structure and processes to manage foreign interference considerations. This can be challenging, as the small size of the organization does not permit traditional organization structures and divisions. The inability to create and staff indeterminate positions poses problems with managing the necessary divide between handling intelligence and enforcement/investigation.

3.2 A Proactive Approach to Foreign Interference

- [26] The interviewees described that while the OCCE does not use conduct surveillance or have a prevention mandate role, it does seek to detect foreign interference early on and limit its impact.
- [27] The primary responsibility is for OCCE to recognize potential indicators of foreign interference, which enables the OCCE to flag issues in existing files that prompt it to investigate further, even if such files are not initially flagged as foreign interference related cases. Identifying foreign interference requires knowledge of indicia of foreign interference, which relies on the OCCE developing and maintaining robust relationships with partners to inform and support that understanding.
- [28] Ms. Boucher explained that while the Royal Canadian Mounted Police (“**RCMP**”) and the Canadian Security Intelligence Service (“**CSIS**”) can both perform certain cross checks on individuals and entities, the OCCE must first know that a file or issue exists at the partner agencies to prompt the request. The independence of the OCCE and the confidential nature of its files requires utmost discretion, and as such names of subjects of interest are rarely shared with other agencies, which leaves those partners unaware of the OCCE interest and therefore less likely to proactively share information on the individual. The key to future success is to have avenues open to exchange with

partners, have a seat at the table for regular conversations and have visibility on the information that is circulating.

[29] With greater access to intelligence, the OCCE anticipates an increasing ability to detect foreign interference. While the OCCE has strengthened its understanding of People's Republic of China ("**PRC**") interference methods, there are many other countries also active in this regard. However, to a degree, the OCCE will always be reliant on partners to provide leads, expertise and intelligence, given its size and mandate and because the OCCE is not a security and intelligence agency. This reality is not problematic provided intelligence is shared appropriately. For example, if the OCCE is given access to the technical infrastructure necessary to receive classified information, the OCCE would routinely receive a wide variety of intelligence products and could access classified SITE information during elections, which could inform the direction and focus of particular investigations.

Establishing Relationships with FINTRAC

[30] Ms. Boucher explained that the OCCE is also trying to independently develop investigative leads through access to FINTRAC information. The OCCE has formally requested to be added as a FINTRAC designated recipient of information in anticipation of the 45th general election.

[31] As a recipient of FINTRAC information, the OCCE would benefit from FINTRAC-initiated disclosure and disclosure on demand. Partner agencies could also ask that FINTRAC send information to the OCCE, resulting in a new avenue of leads and referrals. In addition, FINTRAC information could assist the OCCE in dealing with issues of comingling and obfuscation of funds.

[32] The three potential obstacles to being added as a designated recipient are:

- a. An outstanding requirement to ensure that the OCCE mandate and requirements falls within the FINTRAC's enabling the legislation, which was designed primarily to address money laundering and terrorism, not counterespionage or foreign interference;

- b. The need for appropriate boundaries to be implemented ensure there is no risk or perception of government electoral inference; and
- c. Maintaining OCCE's independence.

Other Means of Being Proactive in Dealing with Foreign Interference

- [33] Commissioner Simard noted that she has the authority to initiate her own investigations. This authority is rarely used, because when allegations of foreign interference appear in the media, complaints are often promptly lodged with the OCCE. This is why the OCCE is said to be a complaint-driven organization.
- [34] Commissioner Simard added that she expects a new partnership with the newly established Foreign Influence Transparency Commissioner [created following the adoption of Bill C-70] once this person is appointed, which will likely lead to referrals and information sharing between the two organizations. Ms. Boucher stated that there is potential for overlap between the CCE and the newly created Foreign Influence Transparency Commissioner ("**FITC**"), and a close partnership is anticipated.
- [35] Ms. Boucher also stated that the OCCE is considering whether it can modernize online collection, and including whether there are additional avenues for OCCE to collect evidence online. For example, collecting evidence from closed forums would allow the OCCE to collect evidence without needing to rely on witnesses or partners to provide evidentiary content. Ms. Boucher noted that the OCCE is bound by the same laws and privacy protections as other law enforcement agencies and seeks to maximize collection abilities while respecting individual's charter rights. Ms. Boucher noted that the OCCE does not conduct online surveillance or monitoring and has neither the resources nor the mandate to monitor online chat rooms. Open-source information is collected only within the context of a review or investigation or for the purpose of ensuring compliance of, or enforcement with, the CEA.

3.3 The OCCE's Language Resources

- [36] The Commissioner noted that the OCCE has extensive language expertise to meet the needs of various ethnocultural communities in Canada. She added that the OCCE's 80 staff members have language skills in over 15 different languages.
- [37] Ms. Boucher explained that the OCCE has increased its linguistic capabilities by hiring a more diverse workforce that speaks multiple languages. This increased linguistic knowledge can help to alleviate translation requirements, which is a limited resource in the federal service, as well as permit faster and more accurate review and triaging of information.
- [38] The OCCE's intake and complaint forms are available in French and English. However, users can submit information to the OCCE in whatever language they are most comfortable. While the OCCE is considering making the forms available in other languages, the implementation would need to be balanced against other priorities as it requires the same internal expertise and technical resources as other initiatives. Presently, the OCCE is focused on ensuring the public awareness of the OCCE and its mandate as the enforcement body for the *Canada Elections Act* ("**CEA**"). While the OCCE may participate in awareness and outreach initiatives, the public education mandate generally falls to EC's role and mandate. These initiatives generally fall outside its scope of enforcing and ensuring compliance with the *CEA*.

3.4 Initiatives to Increasing Foreign Interference Awareness at the OCCE

- [39] The Commissioner explained that the OCCE, with its limited resources, focuses more on strengthening ties with its partners than on organizing academic workshops. Commissioner Simard commends the OCCE's recent work in developing the staff's expertise through training and education, which was highly motivating for its employees.
- [40] Ms. Boucher said that the OCCE has become increasingly active in attending and presenting at symposiums in order to network, build relationships and increase the organization's visibility. For example, Ms. Boucher was on a panel at a recent Canadian Association of Professional Intelligence Analyst's conference on disinformation in elections, attended the National Canadian Association of Chiefs of Police Conference in

the summer of 2024, and is part of another panel at an upcoming conference in the United States in December. This is coupled with other presentations and panels within the regulatory community. The OCCE has also organized stakeholder presentations for the fall, including with CSIS to increase the OCCE's visibility and presence within CSIS employees.

- [41] The OCCE also regularly organizes and operates workshops to sharpen its employees' skills, and participates in government training initiatives. For example, the organization recently received open-source intelligence training from CSIS as part of a broader government community of practice initiative.

3.5 Digital Platforms

- [42] The OCCE is focusing its resources and attention on the upcoming general election. Relying on existing relationships with social media companies, including through law enforcement access points, the OCCE, consistent with previous general election readiness efforts, will engage in proactive efforts to reach out to digital platforms closer to the general election.
- [43] With certain platforms, the OCCE is an entity able to request the removal of publications which contravene the CEA and can seek judicial authorization for a production order to collect information held by the platform. Takedown requests may be coordinated with partner agencies to ensure each mandate is respected, and to allow for evidentiary collection where possible, prior to a takedown.
- [44] The OCCE does not have any ongoing relationship with WeChat although it has previously exchanged with the company in the past on matters unrelated to foreign interference. If necessary, the OCCE could attempt to engage with WeChat through formal channels, such as through a production order. However, relevant considerations would include potential secondary impacts of serving a production order on a Chinese owned company, on matters related to foreign interference by the PRC.

3.6 CEF169 – 2021 RRM Report

- [45] Commission Counsel asked Ms. Boucher to comment on an email chain from February 2024 in which Ms. Boucher and members of her team discussed whether they had received a Rapid Response Mechanism (“**RRM**”) report in September 2021 on potential Chinese Communist Party (“**CCP**”) disinformation operations against the Conservative Party of Canada (“**CPC**”). The specific RRM report referenced did not contain any evidence of nor investigative leads on a contravention of the CEA.
- [46] As part of a broader review, Ms. Boucher’s team sought to understand whether certain information that potentially fell within the OCCE mandate was not shared with the OCCE in 2021, and whether the OCCE overlooked relevant information at the time. Ms. Boucher described this as a due diligence effort. The review determined that although there was tactical information it had not received from partners at the time of the election, there is no indication that this would have resulted in a different investigative outcome. Although there was a delay of 16 months with the sharing of certain potentially relevant information with the OCCE, much of the information was from open sources which the OCCE eventually obtained.
- [47] As part of this internal review, the OCCE also considered the allegation of foreign interference in the form of a paid lunch in the Greater Vancouver Area, organized at the request of the Liberal candidate. The complaint originally related to political financing and not allegations of potential foreign interference. Based on the evidence available to the OCCE, it did not observe any evidence of foreign interference as defined by the CEA. No allegations of potential foreign interference were raised by the complainant nor any potential witness, until after the investigation was complete.
- [48] Nonetheless, Ms. Boucher estimated that, even in retrospect, she would have supported the same decisions on the file. She further noted that the sum of classified information reviewed after the fact may have increased the priority of the file, but there is no indication of avenues of investigation missed during the initial investigation of the 2021 complaint.

4. Access to Classified Information

4.1 The Need to Access Intelligence

- [49] One of Ms. Boucher's first mandates as Executive Director was to establish systemic access to classified information. Without that access, OCCE investigators or employees have to physically travel from Gatineau to other agencies' facilities to receive information and intelligence in paper form. This is highly inefficient, especially during election periods. That information cannot be removed from the respective facility, so it cannot be easily reviewed, which leaves OCCE reliant on participant's memories. Similarly, without access to classified storage, OCCE has to attend classified meetings such as the Electoral Security Coordinating Committee ("**ESCC**") at the partner's location. Generally, OCCE must then approach CSIS if they hear something of interest at the ESCC meeting, in order to obtain further details. The OCCE does have a cabinet for the storage of classified hard-copy materials to which only Ms. Boucher and one other individual have access. This paper system does not aid in corporate memory, and because the documents are in hard copy, there is no audit trail respecting access.
- [50] There are previous examples of an agency sharing intelligence with EC, assuming the OCCE would receive it. In addition, a lack of secure infrastructure means CSIS must manually identify that a document needs to be shared and then contact the OCCE for an in-person reading. Granting the OCCE access to the established electronic distribution makes it less likely that they will be omitted as a recipient of relevant intelligence.
- [51] There are two primary means of accessing secured communication: (1) through the Government of Canada Secret Infrastructure ("**GCSI**"); and (2) through the Canadian Top Secret Network ("**CTSN**"). GCSI would allow the OCCE to access Secret level communication. The OCCE requires access to CTSN (i.e., the "top secret" option) to receive intelligence from CSIS.
- [52] Ms. Boucher stated that the OCCE has made significant progress in its effort to obtain access to secured communication, despite some delays, borne from bureaucracy or a lack of familiarity with the process.

4.2 Access to Government of Canada Secret Infrastructure (GCSI)

- [53] Ms. Boucher said that the OCCE relies on Elections Canada for its technical infrastructure and enterprise security. The OCCE is pursuing independent access to CTSN because EC's requirements differ and in order to preserve the independence of the OCCE in its investigative mandate.
- [54] In fall 2023, the OCCE was informed that EC was in the process of obtaining a GCSI terminal at its headquarters, which are located in a different building than the OCCE. The OCCE was not part of the initial efforts but was quickly integrated by EC once OCCE flagged an interest in this access. Despite the infrastructure being installed circa November 2023, the GCSI terminal only became functional in July 2024. This appears to have been due to delays in finalizing access points to the terminal, such as printers, USB keys and access cards.³
- [55] While the GCSI terminal at EC is helpful for the OCCE, Ms. Boucher is working with EC to assess the feasibility of the installation of a GCSI terminal at the OCCE. This would be valuable in circumstances where the OCCE needs immediate access to secured communication, in particular during an electoral period. The survey of the OCCE building will be moving forward in the fall of 2024.
- [56] The GCSI terminal will allow the OCCE to communicate with the partners at a Secret level, allowing investigators to email partner agencies, conduct name-checks, and receive limited but improved information and intelligence disclosures.

4.3 Access to Canadian Top Secret Network (CTSN)

- [57] Ms. Boucher has determined that the OCCE requires access to CTSN to properly engage with intelligence. CSIS also expects the OCCE to use the established intelligence database and distribution system. Ms. Boucher considers this expectation to be reasonable considering that electronic distribution allows for better protection of intelligence (i.e., audit trails), and places less weight on the partner agencies. Further,

³ CEF 275.

the OCCE should be able to access the information it needs without the burden of requiring individualized support from CSIS.

- [58] The OCCE decided not to seek approval to build its own Sensitive Compartmented Information Facility (“**SCIF**”) in the short term, given the lengthy timeline and associated high costs. Rather, the OCCE is seeking shared access to an existing SCIF. This will provide a faster path to the classified network, and allow the OCCE to assess the volume and need, to decide whether it needs its own SCIF in the future.
- [59] Ms. Boucher started seeking information about accessing a SCIF in the Fall of 2023. The OCCE was initially told that most government entities do not view their SCIFs as communal resources. In addition, certain agencies have concerns of legal responsibility and the limited availability of SCIFs as reasons for not sharing access to them with the OCCE.
- [60] Elections Canada’s internal security team eventually connected the OCCE with the Centre for Security Expertise, who in turn, was instrumental in identifying possible locations for an OCCE SCIF. In December 2023, a nearby government department indicated it was open to sharing its SCIF and that it would enter into a co-use agreement with the OCCE.
- [61] In late February 2024, Ms. Boucher learned that the OCCE needed to be an Authorized Organization to access CTSN and sign the co-use agreement. CSE prioritized the OCCE request and granted the designation in July 2024. Ms. Boucher noted this was a very rapid turnaround and that it is indicative of the support of security and intelligence partners to equip the OCCE to independently manage intelligence. EC also supported the application for CTSN access and Authorized Organization status which will also allow EC and OCCE to obtain secure video teleconferencing capabilities as part of the arrangement with the SCIF owner.
- [62] Several steps remain outstanding before the OCCE has access to CTSN. The OCCE needs: (1) a designated administrative infrastructure including a Senior Indoctrinated Official (“**SIO**”), and a compartmentalized communications officer; both with specific requirements for experience and security clearances (2) to sign the co-use agreement for the necessary infrastructure; (3) to indoctrinate and train personnel; (4) to draft

relevant procedures and policies; (5) to obtain final approval from CSE; and (6) to participate in database-specific training.

- [63] The OCCE is seeking to build a long-term systemic solution to their intelligence needs. Various government agencies have been engaged thus far. More work to build the infrastructure, funding for the required positions—and continued support from across government—is needed.

4.4 Challenges with Obtaining Access to Intelligence

- [64] When asked about an email exchange between the OCCE and EC discussing indoctrination requirements for access to intelligence⁴, Ms. Boucher noted that there are many requirements that must be satisfied before getting CTSN access. This can be a cumbersome process as it requires specific qualifications, experience and training. Creating the positions, then recruiting and training the appropriate qualified personnel may cause some delay, but OCCE is pushing the initiative forward as fast as it can.
- [65] For example, the designation of an SIO [Senior Indoctrinated Official] requires an executive with experience in dealing with security and intelligence who can craft and support relevant procedures. This person cannot be in a position of conflict of interest between their substantive duties (e.g., enforcement) and managing intelligence. Many of the responsibilities cannot be sub-delegated, and there is tremendous accountability in accepting the responsibility of classified information and infrastructure. The OCCE intends to designate the position currently occupied by Ms. Boucher as the SIO position.

4.5 Intelligence to Evidence Considerations

- [66] The OCCE has undergone significant progress in its ability to engage with intelligence. A year ago, the majority of the OCCE investigators were unfamiliar with the One Vision framework [the process by which intelligence may be disclosed by intelligence agencies or investigators to a separate entity in usable form]. The internal culture towards

⁴ CEF 270.

intelligence has evolved significantly in the last year as the organization grows and evolves to address the foreign interference threat.

- [67] The OCCE has worked closely with the RCMP since March 2023 to understand the RCMP's One Vision framework. This has included meetings discussing the details of the RCMP's framework, such as notetaking, note storage and access to records, and discussing tactical procedures in the event there is a piece of intelligence of interest.
- [68] The OCCE's One Vision framework will be based broadly on the RCMP's framework, although unlike the OCCE, the RCMP is structured with both a central headquarters and regional offices, which makes the internal compartmentalization requirements easier to implement. Once the OCCE's framework is drafted, the organization will work with CSIS to finalize a joint OCCE-CSIS framework to be annexed to the existing MOU between the two entities.
- [69] Ms. Boucher explained that the OCCE has a general idea and vision for how to integrate intelligence into the OCCE's operations and investigations. This includes using intelligence (1) to educate staff about tactics used by other countries; (2) operationally in the context of an investigation of a breach of electoral laws; and (3) to inform the OCCE's strategic planning.
- [70] There are two caveats. First, the OCCE's current low engagement with intelligence is a product of its small exposure to intelligence. The OCCE's intelligence needs will grow once it has expanded exposure to intelligence. Second, it is difficult to convert intelligence to evidence operationally, a challenge that is shared across all investigative agencies.
- [71] Ms. Boucher is confident that engaging with intelligence will become an integral part of the OCCE's toolkit once the necessary procedures are in place and staff see the intelligence-to-evidence process in action. The OCCE must demonstrate robust mechanisms and the necessary technical infrastructure to safeguard intelligence, so the security and intelligence community can be confident in the OCCE and that those the agencies will also likely be more inclined to share intelligence.

5. Relationship with Other Entities

5.1 CSIS

- [72] The OCCE continues to work proactively with CSIS to ensure it remains top-of-mind and integrated in CSIS' distribution of intelligence. For example, the OCCE will work with CSIS to coordinate their respective tiplines to ensure passage of information relevant to the OCCE's mandate, and the OCCE is also conducting outreach initiatives to include CSIS HQ and CSIS National Capital Region to ensure the relationship is established for successful and timely sharing of relevant information between CSIS and the OCCE.
- [73] Without these initiatives, the OCCE can sometimes fall off CSIS' radar. For example, other than information exchanges prompted by the Foreign Interference Commission, the OCCE only received one proactive CSIS intelligence briefing in the past two years. It seems that the OCCE was no longer on CSIS' active distribution roster for dissemination of intelligence, likely as a result of procedural changes and turnover at CSIS. Ms. Boucher noted that the bulk of CSIS' clientele is the security and intelligence community and departments with secure infrastructure. Other government agencies also receive intelligence, but this is naturally not the focus of CSIS in its collection or dissemination. Therefore, the OCCE has the onus to maintain visibility and seek to improve its connectivity with CSIS and other security and intelligence partners.

5.2 SITE Taskforce

- [74] The OCCE does not have any official status on the Security and Intelligence Threats to Elections Task Force ("**SITE**"). Nonetheless, the OCCE attends some of the SITE meetings, including a series held from November 2023 to June 2024 specific to foreign interference.⁵ These meetings were hosted by CSIS with an extended participation, to enable the various partner agencies to define or clarify their roles with respect to foreign interference in the electoral process.

⁵ CEF196.

- [75] Commissioner Simard explained that the decision to participate in SITE meetings was made after lengthy internal deliberation and reflection. Given that the OCCE works independently, any participation in meetings should take this into account and protect against any real or perceived threat to that independence. The OCCE is of the opinion that targeted engagement would provide multiple benefits. The OCCE can only provide information about its investigations to SITE under very specific circumstances, such as when the Commissioner grants approval in the public interest. However, the OCCE can take note of the information shared during these meetings and follow up directly with the relevant agency. Without this participation, the OCCE would run the risk of missing indicators that would prompt a request for additional information.
- [76] Ms. Boucher said that the OCCE needs to consider carefully how to preserve its independence before seeking or accepting any formal status on SITE. The Commissioner therefore does not expect the OCCE to engage in a bilateral relationship with SITE, as interactions tend to take place through a direct bilateral relationship with stakeholders.
- [77] At the present, the OCCE does not readily have access to SITE's classified SITREPs [Situation Reports]. To access SITREPs on a timely basis, the OCCE would need access to classified infrastructure.

5.3 RCMP

- [78] Commissioner Simard explained that she has an excellent working relationship with RCMP Commissioner Mike Duheme. According to Commissioner Simard, Commissioner Duheme and the RCMP recognize the OCCE's expertise in investigating non-compliance with the CEA and the importance of the two organizations working together.
- [79] The OCCE collaborates with the RCMP in relation to foreign interference. Working with large organizations can be cumbersome for the OCCE, as individuals at the OCCE can have broad responsibilities and therefore may have multiple counterparts at one organization.

[80] While the existing MOU between the OCCE and the RCMP expired in May 2024, the entities are working together to formally renew their agreement. The OCCE is also finalizing with the RCMP a more specific MOU to update and formalize the OCCE's access to the Canadian Police Information Centre ("**CPIC**") database.

5.4 Election Canada Initiatives

[81] The OCCE participates at the Assistant Deputy Manager and Director General levels of the ESCC meetings. The OCCE also occasionally participates in Elections Canada's meetings with the Advisory Committee of Political Parties ("**ACPP**").

[82] In addition, the OCCE participates on the Interdepartmental General Election Taskforce ("**IDTF**"). This Elections Canada-led taskforce, consisting of various government entities such as CSIS, CSE, Global Affairs Canada, RCMP, the Ontario Provincial Police and Ottawa and Gatineau police services, seeks to increase efficient intelligence communication during an election⁶.

[83] The OCCE seeks to participate in the IDTF during a general election period, but also recognizes that there are a lot of competing demands for an OCCE representative in multiple forums.⁷ The OCCE operates seven (7) days a week during general elections, at which time one of three general election coordinators remains on call. The coordinator's primary responsibility is to act as a duty officer when a complaint or referral comes in, to triage them and assign them as appropriate. This role is filled by seasoned investigators and is a central part of the OCCE's strategy to be as proactive as possible during an election period.

5.5 Miscellaneous

[84] The OCCE has a relationship with the Canada Radio-television and Telecommunications Commission ("**CRTC**"), which includes an MOU allowing the

⁶ See CEF185.

⁷ CEF193.

CRTC to forward to the OCCE complaints that may engage the CEA. The OCCE and CRTC interact during election periods with respect to the Voter Contact Registry.⁸

- [85] The OCCE does engage with provincial electoral bodies, in particular, for general election readiness activities. It does not have a formal information exchange program and has not received any foreign-interference specific information from provincial or municipal bodies.
- [86] Although the OCCE has relationships with police of local jurisdiction, in relation to foreign interference the OCCE has not interacted with Canadian police forces other than the RCMP.
- [87] The OCCE does not have an ongoing relationship with the House of Commons Administration other than for parliamentary committee appearances. The OCCE has a relationship with the Parliamentary Protective Services (“**PPS**”) that is separate and unrelated to foreign interference.

5.6 Political Parties

- [88] While the OCCE does not have regular meetings with political parties, during an election, designated avenues of contact are established between the OCCE and each of the major parties. In the most recent election, this included providing access seven (7) days a week to legal counsel from the OCCE’s Legal Services. Ahead of each electoral period, the OCCE re-establishes contact with the parties to ensure that the lines of communication are open.
- [89] Because the OCCE monitors compliance with the CEA, it regularly provides political parties with proactive guidance and explanations on provisions and rule changes. This is complemented by Election Canada’s outreach work, including its regular meetings with parties.

⁸ CEF54; CRT003.

6. Responding to Foreign Interference

6.1 The Resource Issue

[90] Commissioner Simard explained that, like most public sector organizations, the OCCE faces a resource problem, which she describes as “glaring”. She reiterated that the OCCE’s budget should ideally be doubled. This would make the OCCE less dependent on the discretionary fund.

6.2 Raising Public Awareness

[91] Commissioner Simard noted that the OCCE has just finalized a strategic communications plan to raise awareness about the OCCE among the Canadian public. In addition, the OCCE’s participation in the Public Inquiry into Foreign Interference and the Commissioner’s appearances before various parliamentary committees also help increase the OCCE’s visibility.

6.3 Witness Protection Capability

[92] The OCCE recognizes the value of offering complainants anonymity in certain circumstances. Without the ability to offer protection, complainants may choose to report to other agencies which can offer more protection, and in some cases, compensation. The OCCE can and does receive anonymous complaints. The OCCE website was recently modified to further facilitate the submission of a complaint in an anonymous manner. It also specifies that it is essential to provide a detailed description of the allegations and all available information when submitting an anonymous complaint as the OCCE will be unable to follow up with the complainant to obtain additional information.

[93] Commissioner Simard explained that the OCCE has already begun exploring the possibility of implementing a whistleblower protection program. The OCCE is currently reviewing the various aspects, issues and challenges associated with such a program.

[94] Ms. Boucher said that the OCCE does not have enough resources to begin another major project like creating a confidential informant program, which requires

compartmentalization and protection mechanisms and integrated supports for informants. Currently, the electoral laws likely do not authorize the OCCE to offer such protection.

6.4 CEF 212 – 100-day Priorities

- [95] Document CEF 212 is a presentation titled “100 Day Check-In” that Ms. Boucher delivered to the OCCE executive committee reflecting her key observations after completing her first 100 days at the OCCE. Ms. Boucher noted that the OCCE structure created siloes, which caused inefficiencies and frustration, and a lack of empowerment for working level staff. A similar review was undertaken for the OCCE’s corporate and legal branches.
- [96] As part of her presentation, Ms. Boucher described a conservative open-source intelligence culture at the OCCE. The OCCE only engages in passive collection that does not require interaction with individuals or registering with social media platforms. Ms. Boucher believes it is important to review the open-source intelligence policy as part of ongoing modernization efforts. This initiative requires legal consultations to ensure the OCCE remains compliant with all legislation and current case law.

6.5 Legislative Changes

- [97] Commenting generally on Bill C-65, the OCCE noted that these legislative amendments would broaden the scope of many provisions of the CEA. Some of the changes incorporate amendments proposed by the Chief Electoral Officer. These proposed amendments would increase the scope of conduct falling under the purview of the OCCE and would broaden the timelines so that they extend beyond the electoral period. If adopted in its current form, and setting aside other changes that may be brought about as a result of legislative amendments, the expansion of the enforcement period of the CEA would require hiring and training of additional personnel to meet the specialized needs of the OCCE.
- [98] Commissioner Simard indicated that the OCCE did not have a chance to make submissions on Bill C-70, which received royal assent on June 20, 2024. Nonetheless, the OCCE communicated some proposed changes to address the inconsistent use of

“contravention” and “*infraction*” in the English and French versions of the legislation. The use of “*infraction*” in the French legislative text unintentionally limited the applicability of certain provisions to criminal investigations (and do not extend to the administrative regime). The House of Commons corrected this oversight as part of its second reading of the bill.

[99] Ms. Boucher noted that Bill C-70 fills a gap in Canadian law, in that that the C-70 amendments provide for clear restrictions on obfuscating the involvement of a foreign government in Canadian democratic processes, including specific to elections. There is potential for overlap with RCMP, including with respect to s. 282.4(2) of the CEA, which specifies that undue influence can include when one of the things done to influence the elector is an offence under an Act of Parliament or a regulation made under any such Act. The OCCE would work with the RCMP to determine the best approach where both agencies could have a mandate to investigate. In addition, the additional powers granted to CSIS in C-70 will help with the flow of intelligence to the OCCE, especially for files with a foreign or international component. However, the general intelligence-to-evidence challenge remains a dilemma.

[100] Commissioner Simard explained that she had proposed recommendations to the National Security and Intelligence Committee of Parliamentarians (“**NSICOP**”)⁹ mainly regarding the expansion of the Administrative Monetary Penalty System (“**AMP**”). For example, she proposed raising the AMP ceiling (above \$5,000) for contraventions committed by companies (rather than individuals), particularly in the area of foreign interference, to avoid the “cost of doing business”. She also pointed to the absence of administrative investigative powers in the C.E.A. (such as evidence preservation and production orders, as well as provisions to facilitate the disclosure of information and evidence for similar penalties in other jurisdictions). Criminal investigative powers can only be used in criminal matters, which have higher evidentiary standards than in administrative matters. The Commissioner also proposed, following a review,

⁹ CEF003 and CEF004.

eliminating the need to prove intent for the majority of violations falling under the AMP regime.

[101] More generally, Ms. Boucher also noted that the OCCE would benefit from powers that permit tracing through corporation affiliates and subsidiaries.

7. Nomination and Leadership Contests

[102] Commissioner Simard noted that her mandate with respect to nomination and leadership contests is limited to political financing. The Commissioner indicated she was aware of the NSICOP's recommendation that the government consult with political parties to determine whether nomination and leadership contests should be added to the CEA. She indicated that she would submit her comments directly to the NSICOP.

[103] In a broader sense, the major challenge with this recommendation is the lack of financial and human resources to ensure that every nomination contest in the now 343 electoral districts across the country complies with the CEA. Ms. Boucher clarified that depending on the specific legislation, this could even double the OCCE's work, because it does not have the resources to monitor contests.

[104] Another challenge is the discoverability and preservation of evidence. During a general election, Elections Canada has a general oversight role that does not otherwise exist outside of the writ period and there is no Elections Canada oversight of nomination processes, which can make collecting evidence challenging.

[105] Ms. Boucher is unaware whether OCCE had received any complaints relating to allegations of foreign interference related to the CPC's nomination contests in the Richmond Hill and Aurora-Oak Ridges-Richmond Hill ridings. If any such complaints were received, they would have been closed upon receipt if falling outside the Commissioner's jurisdiction. Ms. Boucher noted that while complaints falling outside the OCCE mandate are not actioned or briefed up, her team is intellectually engaged and curious on such matters, and the OCCE team scans relevant news stories to stay up to date on developments that may be linked to the OCCE's mandate.

[106] When asked about recent media reporting on potential changes to the regulation of nomination contests, the OCCE stated that regulating nomination contests based on party-specific rules could be a significant and resource-intensive endeavour. Commissioner Simard and the Chief Electoral Officer, Stéphane Perrault, have also consulted on this topic and continue to assess how best to regulate nomination contests while also taking into account the realities of each organization.

8. By-Elections

[107] Ms. Boucher stated that the OCCE has received several complaints alleging foreign interference in the 2024 by-elections. Prior to the interview, Ms. Boucher reviewed the complaints and found nothing particularly concerning or urgent in relation to foreign interference.

[108] Ms. Boucher said that there has been a marked increase in the number complaints alleging foreign interference since the establishment of the Public Inquiry into Foreign Interference. Most of the complaints repeat allegations reported in the media, or express general frustration of foreign interference. Many of the complaints fall outside the OCCE's jurisdiction under the CEA.

9. Update on Ongoing Investigations

[109] Commissioner Simard advised that, as per her commitment to the Canadian public to conduct a rigorous and thorough review of allegations of foreign interference, the OCCE investigators have finalized a report in relation to their review of events in the Greater Vancouver Area.¹⁰ The examination of allegations included extensive investigative steps, including 43 interviews of 36 individuals and extensive research. The work carried out by OCCE investigators did not uncover sufficient evidence to reach the threshold to initiate a formal investigation of any individual or entity.¹¹

¹⁰ CEF0000152 (OCCE file 2022-0925)

¹¹ CEF302_R.

[110] OCCE investigators noted in the report that although they found evidence of impetus and direction by PRC officials for the anti-CPC campaign, they did not uncover evidence to support a charge of undue foreign influence (s. 282.4 of the CEA) or other CEA offences.

[111] The OCCE's review of allegations of foreign interference in the Greater Toronto Area¹², including Don Valley North, remains open and no further information can be provided at this time.

¹² CEF0000150_R2 (OCCE file 2022-0925-11)