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## *In Camera* Examination Summary: Privy Council Office Former Senior Officials

Commission Counsel examined Jody Thomas and Janice Charette during *in camera* hearings held in July and August 2024. Counsel for the Attorney General of Canada appeared on behalf of the Government of Canada and had the opportunity to examine the witnesses. The hearing was held in the absence of the public and other Participants. This summary discloses the evidence that, in the opinion of the Commissioner, would not be injurious to critical interests of Canada or its allies, national defence or national security.

### Notes to Reader:

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

### 1. Witnesses

- [1] Janice Charette served as Clerk of the Privy Council from October 2014 to January 2016. She served as Interim Clerk and Secretary to the Cabinet from March 2021 to May 2022. She served as Clerk of the Privy Council and Secretary to the Cabinet from May 2022 to June 2023. From September 2016 to March 2021, Ms. Charette served as Canada's High Commissioner to the United Kingdom of Great Britain and Northern Ireland.
- [2] Jody Thomas served as Deputy Minister of National Defence from November 2017 to January 2022. She was National Security and Intelligence Advisor to the Prime Minister ("**NSIA**") from January 2022 to January 2024.

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## 2. Examination by Commission Counsel

### 2.1 National Security Architecture

#### 2.1.1 Role of the Secretary to Cabinet

- [3] Ms. Charette testified that Cabinet is an umbrella term that includes the actual Cabinet – *i.e.* the Prime Minister (“**PM**”) and his Ministers – but also all of the Cabinet decision-making structures – *i.e.* the processes by which ministers are convened, issues are brought to them for deliberation, decisions are taken, and then instructions given and tasked out for implementation. Ms. Charette testified that her role as Secretary to Cabinet was akin to being a corporate secretary to a board of directors for the country. Her role, along with a team within the Privy Council Office (“**PCO**”), was to support the entire decision-making process. This included establishing agendas for meetings, circulating documents in both official languages, advising the PM on the structure for decision documents, and determining what issues and what considerations should be reflected and analyzed in those documents. Once an agenda was set for a Cabinet meeting, the documents had to be circulated a certain amount of time in advance. She would convene Cabinet meetings, record ministers’ deliberations, and in her role as deputy minister to the PM ensure that the PM was informed of any issues that he needed to be aware of in relation to decision items coming forward and advised on the deliberations of Cabinet committees that he did not attend. As secretary to the Cabinet, Ms. Charette was responsible for the official Cabinet records and signed the Orders in Council recording decisions of the Governor in Council.
- [4] Ms. Charette explained that the way the system is structured, most of the time, the first time an issue would be deliberated [at the Cabinet level] would be at a Cabinet committee. The PM does not usually participate in these Cabinet committees. The committee would make a recommendation up to Cabinet and the Cabinet would make the actual decision.

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## 2.1.2 PCO's Policy Role

- [5] The witnesses were asked to comment on a paragraph at page 2 of the PCO Institutional Report where it is stated that "PCO is responsible for reviewing policy proposals and providing a foundation to enable consensus on recommendations to Cabinet". Ms. Charette explained that it was very rare that a proposed policy coming forward would sit narrowly within the mandate of a single individual minister. Most issues would have implications for other ministers. Thus, part of PCO's role is to ensure that all departments implicated in an issue coming forward to Cabinet were consulted through a process of interdepartmental consultations before the issue was finalized and put to Cabinet. Interdepartmental consultations would take place before a responsible minister was asked to sign a Cabinet document, and PCO was responsible for ensuring that this had taken place. For example, if there were environmental considerations, intergovernmental considerations, or *Charter* or legal considerations, they would make sure that all of those departments had been consulted before an item would be finalized for Cabinet.
- [6] This created a foundation to enable consensus. The idea was not to try and ensure that everything was pre-determined at the officials' level before an issue was brought to the ministerial level, but rather to ensure that any competing tensions and competing priorities (commonplace in the business of public policy) would be flagged to ministers, to allow ministers the opportunity to debate, discuss and weigh those various considerations in arriving at their recommendations and, ultimately, decisions.
- [7] PCO's other role, as part of the secretariat function, is to make sure that the Chair of the committee is briefed. The PCO official sits beside the Chair, so the Chair who is managing the discussions around the Cabinet committee table can be informed about some of the key issues where there were differing points of view. The national security space is a very good example where there can be competing priorities. For example, the importance of *Charter* protections and the need to protect freedoms and liberties in the protection of national security is relevant to deliberations.

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## 2.1.3 Role of the NSIA

- [8] Ms. Thomas testified that, during her tenure, the NSIA reported directly to the Clerk of the Privy Council, and provided advice to the PM generally through the Clerk on national security issues, policy issues, operational issues, and geopolitical issues. The NSIA also has a challenge and convening role. In national security, the challenge function is particularly useful because of the competing interests amongst the national security departments.
- [9] Unlike the current NSIA, Ms. Thomas was not a Deputy Clerk. Ms. Thomas described this as a fundamental difference. The governance changed just as Ms. Thomas was leaving. During her time as NSIA, the Intelligence Assessment Secretariat (“**IAS**”), the National Security Council Secretariat, the Foreign and Defence Policy (“**FDP**”) Advisor, the Public Inquiry Foreign Interference Secretariat, as well as Emergency Preparedness and the Deputy National Security and Intelligence Advisor (“**DNSIA**”) all reported to her.
- [10] Ms. Thomas said that the critical role for the NSIA is both internal – domestically convening the national security community, understanding the current issues and the long term policy issues, and working with other departments – and international – working with Five Eyes and G7 colleagues in particular, to understand what is going on in other countries, the meetings the PM will attend, and what the national security concerns of foreign leaders are.
- [11] In terms of the NSIA’s convening role, the NSIA has the ability and the authority to draw departments and deputy ministers together to look at particular issues, respond to current events, and to manage crises. Other departments will convene deputy ministers or assistant deputy ministers at various times, but the convening authority of PCO is a little more pronounced. As NSIA, she would convene the national security community to ensure she understood a particular issue they had to resolve or a piece of intelligence they had to deal with, and if the PM had questions. She said that the issues they dealt with and for which she convened the community were broad and that she did not use this convening authority lightly, but that it was critical in order to ensure that there was a common understanding of the issues and actions on any particular issue. In terms of PCO’s challenge function, Ms. Thomas explained that all deputy secretaries at PCO

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have a challenge function regarding memoranda to Cabinet and policy proposals, notably to ensure the accuracy of costing of proposals (working with the Treasury Board and the Department of Finance), ensuring that inter-departmental consultations occur and that, as much as possible, differences of opinions among departments are addressed before a Cabinet discussion takes place. PCO's role is to refine the work, resolve any issues it can, and make sure they can answer ministers' questions during Cabinet meetings.

#### 2.1.4 Role of IAS

- [12] Ms. Thomas was asked why the IAS was previously focused solely on foreign intelligence and to explain the move toward including domestic intelligence in its work. Ms. Thomas said that IAS was created as a foreign intelligence secretariat following 9/11 when all the G7 countries and NATO countries were improving their capacity to integrate the intelligence that came in from various departments. A failure of 9/11 was the lack of integration in the intelligence seen by various agencies: things were in silos, which led to enormous gaps in understanding the actions that the individuals involved in 9/11 were going to take. Secretariats like IAS were created in NATO, G7 and Five Eyes countries and are now the principal interlocutors for intelligence assessments and analysis in Five Eyes countries. Ms. Thomas clarified that other agencies also work directly with the Five Eyes on other issues, for instance on intelligence collection.
- [13] At the same times as IAS was stood up to focus on foreign intelligence, other agencies (RCMP and CSIS in particular) did their own assessments as domestic intelligence agencies.
- [14] The tipping point in moving IAS towards having a broader mandate and assessing domestic as well as open source intelligence were the convoy events in January 2022. Open source intelligence was critical to understand the protesters' intentions. Law enforcement agencies were not integrating their information, and rather were showing the same kind of gaps as had previously been seen with foreign intelligence. There was a critical lack of understanding of the coordinated efforts of what was going on domestically; thus IAS became very important in understanding the domestic intelligence picture.

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[15] Ms. Charette added that the nature of the national security threat to Canadian interests is broader than what would fall under law enforcement. The definition of national security has expanded to include economic interests. For example, threats come from the theft of intellectual property, the risk to critical infrastructure, and the impact of artificial intelligence, both in terms of how the Canadian economy functions and also changes in threat vectors. The threat landscape has become more complex. That is why IAS is now looking both at the threat side and the impact on Canadian interests. Ms. Thomas added that the Department of National Defence (“**DND**”) would say, quite rightly, that climate change is an existential threat to Canadian national security. IAS started looking at the impact of climate change on world stability, which is more than just terrorism and kinetic military threat. The Government had to look at things from all aspects, and IAS was the right unit to coordinate, assess, and gather all points of intelligence.

#### 2.1.5 Role of the FDP Secretariat

[16] The witnesses were asked to explain how the Foreign and Defence Policy Secretariat feeds into the issue of foreign interference. Ms. Thomas explained that the FDP Secretariat gathers information from a variety of sources such as the G7, the Five Eyes, and international organizations, in order to provide advice to the PM on a range of foreign and defence policy issues, including on some known foreign interference (“FI”) threat actors. This could include conversations and meetings with diplomatic representatives in Canada and/or officials in other countries. The Foreign and Defence Policy Advisor to the PM (“**FDPA**”) at the time attended meetings with Ms. Thomas, particularly those about China and India and their actions in Canada. The FDP Advisor was a member of all of the standing national security governance committees, but the FDPA’s role was more directed at supporting the PM on foreign policy issues, including FI. Ms. Charette added that the FDPA also provided support to Cabinet committee and policy deliberations in the foreign and defence policy space. Whenever the PM had a scheduled meeting with a foreign leader, a call, a summit, etc., the FDPA would convene the community, collect advice, and make sure that the PM had the most recent and informed advice before performing those functions.

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[17] Ms. Thomas and Ms. Charette both confirmed that the PM would get advice from the security side, the foreign policy side, and the domestic/economic side on all issues where those perspectives intersect.

#### 2.1.6 Creation of the DNSIA Position

[18] Asked to explain why she created the DNSIA position and what role it was meant to play, Ms. Charette explained that the Clerk's role is to advise the PM on many issues, including the structure of the deputy minister community and appointments in these positions. The PM ultimately makes the decisions, but with the advice of the Clerk on the structure of the senior management cadre. Ms. Charette indicated that creating the position of the DNSIA was a reflection of the workload. She noted this was not the first time there had been a DNSIA. Structures evolve, in part to reflect the current context and issues.

[19] Ms. Charette said that, prior to the creation of the role of DNSIA, the focus of the Deputy Secretary Emergency Preparedness, Dan Rogers, had been on emergency preparedness, including fires, floods, accidents, and blockades. There had been an increase in the amount of issues of this nature, which were closely connected to issues of national security. Ms. Charette stated that, in the same period, the NSIA was dealing with a high volume of complex and high pressure issues. There was also a fair amount of foreign travel required. It was not ideal that the work of the entire community be slowed down because the NSIA was away for an important international trip. Ms. Charette considered that the Government was fortunate to be able to draw on Mr. Rogers, who had previously served as the number two in command at the Communications Security Establishment ("CSE"), and was very skilled and knowledgeable about national security issues. Since he was already working with the NSIA, the creation of the DNSIA position was akin to a formalization of the *de facto* working structure.

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## 2.2 Information Flow

### 2.2.1 Information flow to the NSIA

- [20] Ms. Thomas was asked to explain how she received intelligence when she was NSIA, with particular reference to the daily intelligence package she received from IAS, which she had previously explained could include up to 100 reports per day. Ms. Thomas explained that when she was appointed NSIA, IAS asked about her interests and the areas she was concerned about in order to tailor a package for her. The package included information that intelligence professionals thought she needed to see and things she was interested in. It included the important issues going on in the world such as what was happening in Ukraine, in Haiti (where Canadian troops were stationed), activities by China, Russia, North Korea - significant national security concerns on a geopolitical level – as well as particular concerns that Ms. Thomas had flagged such as domestic ideologically-motivated extremism and events in the Arctic.
- [21] The package's contents were refined over time, as events unfolded. The package also had to be balanced and managed based on Ms. Thomas's reading workload, available time, and the amount of available reporting on any subject. On Ukraine, for example, there could be up to 500-600 individual reports from all of the sources IAS could access (Five Eyes, G7, and Canada's own reporting and collection). IAS tried to tailor the most useful package for her to enable her to understand what was happening in the world every day. The package generally included materials that were classified up to Top Secret, as well as the daily IAS intelligence bulletin and any assessments done by any of the agencies, including IAS's own assessments.
- [22] Ms. Thomas would also read with the CSE Client Relations Officer ("**CRO**"). These readings typically involved compartmentalized information [i.e. Top Secret information subject to special control measures]. The CRO would have to stay and watch as she read the documents, and take the materials away when she had finished. Those readings occurred as the information was collected, generally on subjects that IAS was already covering. It was rare that these readings covered topics that Ms. Thomas was



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not aware of. Special indoctrination was required in order to see the specific higher classification level intelligence that was included in CRO readings.

- [23] Ms. Thomas was asked to explain how she was able to cope with the volume of intelligence that was brought to her each day. Ms. Thomas stated that when she arrived in the office, normally around 7:30 AM, she would find a file waiting for her. She and the Clerk had a scheduled briefing every morning at 9 AM, ahead of which Ms. Thomas wanted to have situational awareness of current issues. Since this was a quiet time in the office, she used it to review the classified material. If something happened and she did not have time to read through the entire package, she would always flag where she had stopped reading and her staff would flag anything that was critical.

#### 2.2.2 Information flow to the Prime Minister's Office ("PMO") and PM

- [24] Commission Counsel referred Ms. Thomas to page 6 of the summary of her February 15, 2024 interview with the Commission, in which she explained that PMO staff received a daily package directly from IAS. Ms. Thomas confirmed that she was not involved in providing that intelligence package to PMO; it was provided to PMO directly by IAS.
- [25] Commission counsel referred Ms. Thomas to page 6 of the summary of her February 15, 2024 interview with the Commission, in which Ms. Thomas and Ms. Drouin opined that the package provided was over inclusive, and, for that reason, may not have been read in its entirety by PMO. Ms. Thomas was asked to speak to the volume of intelligence in the PMO package. Ms. Thomas said that the package included a lot of intelligence that was useful for intelligence practitioners, but not necessarily for senior decision makers. For example, a report of the latitudinal and longitudinal coordinates of where they thought Russia was next going to move its troops to would be really important for the Canadian Armed Forces, CSE, or the Canadian Security and Intelligence Service ("**CSIS**"), but less important for the Prime Minister unless there was something specific on which he might want to intervene with world leaders. Thus, Ms. Thomas tried to refine the package provided to PMO and went through her own package to flag the critical reports that she thought the Clerk, PMO, or the PM needed to see.

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- [26] Commission counsel asked how Ms. Thomas, as NSIA, determined what intelligence she thought the PM needed to see. Ms. Thomas explained that it would change from day to day, depending on the circumstances, but that she personally decided what she would flag for the PM. In doing so, she considered the relevance of the intelligence, the immediacy of the intelligence, upcoming events, whether he already knew the information, and how the intelligence would fit into his knowledge. For instance, although the PM knew a lot and received regular briefings on the war in Ukraine, he did not see every single piece of intelligence on this topic. However, if Ms. Thomas came across a particularly worrisome report relating to Ukraine, she might flag this for the PM's attention to prepare him for discussions with other leaders.
- [27] If Ms. Thomas saw intelligence that was actionable, and the PM needed to be aware either so that he could give direction or so that he could understand the actions that the Government planned to take, Ms. Thomas would flag it for him.
- [28] Ms. Thomas also considered the PM's schedule. For instance, ahead of a call between the PM and President Biden, Ms. Thomas might take into account the fact that there was a particular piece of intelligence that was relevant, timely, and that Ms. Thomas knew that President Biden would have been briefed on. Similarly, Ms. Thomas would flag pieces of intelligence that were useful for calls with foreign leaders or policy discussions at Cabinet committees. Her task therefore required an awareness of the PM's schedule, which was known amongst the leadership team at PCO.
- [29] The intelligence that Ms. Thomas flagged for the PM was hand-delivered by a CRO. Arrangements were typically made in advance with the PMO. Ms. Thomas would always ensure that the Clerk, Katie Telford [the PM's Chief of Staff], and generally Brian Clow [the PM's Deputy Chief of Staff], saw the same products.
- [30] Ms. Charette said that sometimes Ms. Thomas would flag a piece of intelligence to her attention. They would decide whether this would go to the PM, even if Ms. Thomas had not flagged the report in her initial review. Ms. Charette might have other information, about upcoming issues or the PM's concerns, which could indicate that a specific report needed to be shared with the PM. Depending on the nature of the issue, it might also be necessary to speak with the PM on the phone. Calls were always arranged quickly,

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even if the PM was traveling and they had a secure method of communication which allowed them to talk with him even if he was away from Ottawa. The PM would often ask questions about the intelligence. Ms. Thomas and Ms. Charette answered any additional questions with support from the agency that had produced the intelligence.

[31] Ms. Charette said she met with the PM multiple times a week on average. Ms. Thomas said she would meet with the PM at least weekly on average. Both Ms. Charette and Ms. Thomas said there were always able to reach the PM if they needed to. Ms. Charette went through the PM's personal assistant, but always had access to him. Ms. Thomas would generally go through Ms. Charette as a matter of courtesy, but if Ms. Charette wasn't available she could go directly. While this did not happen during her tenure, Ms. Thomas added that, if she had disagreed with the Clerk's assessment and felt strongly that she needed to bring information to the PM, she could have gone directly to him.

### 2.2.3 The PCO Special Report on China's Foreign Interference Activities ("Special Report")

[32] Commission counsel referred the witnesses to the description of the dissemination of the PCO Special Report<sup>1</sup> [a PCO IAS assessment about the FI activities of the People's Republic of China] in the National Security and Intelligence Review Agency's ("NSIRA") Review of the dissemination of intelligence on People's Republic of China political foreign interference, 2018-2023 Report ("NSIRA Report").

[33] Ms. Thomas explained that she read the PCO Special Report shortly after arriving at PCO, in a bilateral meeting with Mr. Martin Green [Assistant Secretary at IAS] on January 27, 2022. She considered that it was a useful report and asked that it be put through normal governance. She noted that the discussion regarding the Special Report was put on hold during the convoy [which arrived in Ottawa around January 27, 2022]. It was discussed again in the context of the strategy to address threats from hostile state actors ("HASA").

[34] Commission Counsel asked Ms. Thomas to explain why the PCO Special Report was never finalized. Ms. Thomas said that it is not uncommon for drafts not to be finalized.

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<sup>1</sup> CAN003787.

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She explained that documents are produced for a variety of reasons; this one had been drafted in response to a particular request from her predecessor [David Morrison]. She was new to PCO; she considered that it was a useful document and asked that it be put through the usual governance for intelligence products at PCO.

- [35] Commission counsel referred Ms. Thomas to comment on several elements of PCO's response to NSIRA on this subject: 1) the domestic analysis portion of the assessment being largely based on already published and disseminated CSIS material; 2) the NSIA's outstanding question and comments pertaining to the document; and 3) the authority under which the paper could be published.
- [36] On the first question, Ms. Thomas explained that the PCO Special Report did not come to any new conclusions. It collated various reports from CSIS, which was useful, but there was nothing in it that had not been seen previously.
- [37] On the second question, Ms. Thomas explained that, soon after arriving at PCO, she became concerned that some of the language in intelligence products was perhaps too broad and inflammatory. Some assessments would have pithy and amusing headlines, which Ms. Thomas did not find useful, even if it could grab the reader's attention. Ms. Thomas wanted PCO to write factually, without any exaggeration or hyperbole. Ms. Thomas had some questions regarding this within the Special Report.
- [38] On the third question, Ms. Thomas explained that IAS's professional independence is a critical part of its process and part of the credibility of its work. Ms. Thomas indicated that she cannot tell IAS what to write about. She could ask questions, and IAS will produce reports for her, for the Clerk and for other deputy ministers, but she cannot tell them not to write on a particular issue. IAS does its own analysis. This is consistent with intelligence assessment groups across the G7 and the Five Eyes.
- [39] Ms. Thomas did not think IAS was waiting for her approval before disseminating the PCO Special Report. She first learned that the PCO Special Report had not been disseminated as she had thought through the NSICOP/NSIRA process.
- [40] Ms. Thomas noted that neither NSIRA nor the National Security and Intelligence Committee of Parliamentarians ("NSICOP") spoke to her or asked her to appear as they

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drafted their reports. Ms. Thomas indicated that she was involved in preparing PCO's written response to NSIRA, but she was retired during some of the exchanges.

- [41] Commission Counsel asked Ms. Thomas about the inclusion of a draft of the Special Report in preparatory materials ahead of a meeting. All the secretariats were asked to add things that might be of use for the meeting, and someone added the Special Report to her materials.

#### 2.2.4 The CSIS Targeting Paper

- [42] Commission counsel asked the witnesses about the "Targeting Paper." [The Targeting Paper is referred to in the NSIRA and NSICOP reports. It was produced by CSIS in 2021 but was only published in 2023. The paper explains how and why the People's Republic of China ("**PRC**") identifies individuals, whom they target and whom they want to influence.] The NSIRA report states that the paper was published on Slingshot in February 2023, but was made inaccessible nine days later. The NSIRA report states that that was a decision made by Ms. Thomas. Commission Counsel asked Ms. Thomas whether this was true. Ms. Thomas explained that she did not make the report inaccessible; she asked that distribution be held. She explained that when she looked at the distribution list she noticed that it was a very extensive distribution list and it included names of people who were not even in those same positions any more. Ms. Thomas noted that this came at a time when the Government was experiencing significant leaks of information; she was concerned about the size, inaccuracy, and datedness of the distribution list. She was particularly concerned because unlike normal CSIS practice, the Targeting Paper included the names of individuals who were "targeted" (noting that she used the term loosely). This was contrary to the normal process of masking names, so Ms. Thomas asked why.

- [43] Later in the hearing, Ms. Charette pointed out an example of an intelligence report in which the identities of Canadian citizens had been sanitized and replaced with generic identifiers, noting that this was in accordance with the normal process Ms. Thomas had described.

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- [44] Ms. Thomas recalled reading the report and finding that the behaviour described therein – *i.e.*, convincing parliamentarians from a country to vote in favour of another country's interest or change their vote or opinion on an issue – is not always FI. She noted that Canada's diplomats regularly engage in similar behaviour. While the PRC is no doubt involved in nefarious activities in Canada, she was not sure that the behaviour described in the Targeting Paper was an example of it. Rather than making the decision herself, she brought this issue to the deputy minister community at a meeting on February 24, 2023 where the CSIS Director, the NSIA, the Chief of CSE and the Clerk of PCO were all present. They agreed that the distribution list would be reduced, and they would take another look at the document and how it was written.
- [45] Ms. Thomas noted that this, along with a couple of other issues, prompted the community to look at how to manage intelligence within the system, a process led by Dan Rogers.
- [46] [The NSIRA Report refers to this meeting, and says that the outcome of the meeting was a request from the NSIA to produce a shorter, sanitized version of the Targeting Paper for the PM]. Ms. Thomas recalled having a discussion about CSIS creating a sanitized version of the Targeting Paper. She did not recall a discussion about the sanitized version being created for the PM.
- [47] Ms. Charette provided further reflection on what is meant by "sanitized" in this context. She explained that part of the conversation during the February 24<sup>th</sup> meeting was to better understand the information in the document. The Targeting Paper indicated that there was a hostile actor considering whether various parliamentarians could be influenced. She noted that there were two ways to think about this activity. The first is to focus on the names on the list, which is not the important point. What is important is the behaviour of the hostile state actor. Thus, sanitizing the list was seen as important, particularly in the context of the media leaks on this subject, to make sure the names did not get out publicly, and taken out of context. This could have further sensationalized the issue, with respect to a whole list of people who may not have known they had been targeted or identified by a hostile state actor.

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- [48] Ms. Charette reiterated the position taken by Ms. Thomas: the activity described in the Targeting Paper represented the kind of activity that diplomats engage in frequently. Ms. Charette noted that as the High Commissioner to the United Kingdom, she engaged in similar activity. She explained that it is the tactics used that matter. When behaviour is public, visible, and conducted out in the open, it is influence. If the tactics used are covert, deceptive or threatening to an individual, that gets into the interference space. Thus, at the meeting of the deputy ministers, including the heads of agencies, there were discussions to determine whether the hostile state was engaging in diplomatic behaviour and whether there was evidence to suggest that its behaviour had gone further than that. Ms. Charette explained that the identities of the individuals listed as possible targets were not relevant to this discussion. A different approach would have been taken if the Targeting Paper identified individuals who were being threatened. Getting the names out of the product was part of the sanitizing process.
- [49] Ms. Charette commented the amount of attention now being paid to the Targeting Paper may be slightly disproportionate, relative to her recollection of the incident. She expressed doubts that the Prime Minister would need to know that the hostile state actor attempted an influence or (questionable) interference campaign two years earlier.
- [50] Ms. Thomas never received the sanitized version of the Targeting Paper. She first saw it after her retirement, in the process of preparing for the Commission's proceedings. Thus she never made a decision that it should not go to the PM. Ms. Charette testified that according to her recollection, which accords with the information provided to NSIRA, the report was not specifically for the PM's consumption.
- [51] Commission counsel asked whose responsibility it would be to provide a new distribution list to the CSIS analyst. Ms. Thomas said that this would be a matter of internal CSIS mechanics. Ms. Thomas explained that the distribution list needed to be cleaned up. As people leave the security and intelligence community or change jobs, they need to be taken off distribution lists as a matter of good intelligence hygiene; intelligence consumption is based on clearance and "need to know". Ms. Thomas was advocating within the community for adherence to those two principles.

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## 2.3 FI vs. Foreign Influence

- [52] Ms. Charette was asked to explain the difference between activities taken in furtherance of foreign influence and foreign interference, to comment on the different perspectives on this issue within government and the role of mediating these different perspectives. Ms. Charette said that there is a continuum between FI and foreign influence. She explained that it is hard to describe FI in the abstract because it is case specific. There is a definition of FI: covert, deceptive, threatening to an individual. This is identifiable. Influence falls under a broad spectrum of activities. However, when the recipient of a message does not know where it is coming from or why something is being done, that starts to get closer to the interference side of the spectrum rather than influence side. When Canadian diplomats lobby on behalf of Canadian interests, sometimes they extensively campaign. This work may not be conducted by a Canadian diplomat, but by the premier of a province or the head of an industry association, but it is the Government of Canada who has organized it. She confirmed it is overt.
- [53] Hostile state actors do not always follow the same rulebook, but sometimes they do. The challenge is that there are accredited diplomats and Canada has bilateral relationships with countries who engage in FI in Canada. Canada has conversations with these countries about what activities are legitimate and appropriate and what activities are not. Canada also has diplomatic interventions to remind them of where the line is. But the hostile state actors are smart, and the more the Government tries to define what specific activities are acceptable and what are not, hostile actors will, like water, try to find the cracks. They adjust their strategies, become more sophisticated, and work deceptively around limitations.
- [54] With respect to the role of PCO in mediating different perspectives, Ms. Charette explained that it is healthy for agencies within the community to look at a piece of intelligence through their respective lenses and come to different conclusions about its meaning. That tension and discussion within the community is critical for the public policy function. PCO's job is to create an environment where people come to the table for that healthy debate and discussion. If Ms. Charette was going to a Cabinet minister or to the PM to present a piece of information and two deputy ministers held opposing



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views on the significance of that information, she would make sure that the PM was aware of both positions.

[55] This happens outside of the national security context as well. Ms. Charette recalled that during the pandemic there would often be tension between the public health advice and the economic advice. In those situations, PCO's job is to make sure that both positions are articulated, challenged (to make sure they are substantiated), and that all the information is available to decision-makers and policymakers at the appropriate time. Ms. Charette would make a recommendation and provide her own advice. Ms. Charette said that the PM is best served by being made aware about any significant difference of views.

[56] Ms. Thomas returned to the discussion of the continuum between influence and interference. She explained that groupthink is an enormous fear in the national security community. It would be harmful if there were no challenging voices or if the leaders of agencies and departments did not feel that they could challenge intelligence agencies. There have been periods in history where that has been the environment but that is not the environment they work in now. Ms. Thomas noted that poor decision-making has huge consequences (think, e.g. of intelligence of weapons of mass destruction a generation ago). One of the best features of the national security community is that they can get together, challenge, discuss, understand and not always agree. Ms. Thomas explained that this challenge is not unique to the national security community and that it happens in economic groups as well. The question of allocating money across departments in a budget is another example. It is an inherent tension in the system.

[57] Ms. Thomas explained that in the national security community, often decisions to go ahead with a particular operation are "dual key": e.g., the Minister of Public Safety and the Minister of Foreign Affairs both must sign off; or the Minister of National Defence and the Minister of Foreign Affairs both must sign off. She explained that this is critical so that the geopolitical and policy view is paired with the operational view of any given issue.

[58] Ms. Thomas added that important issues are discussed at every level. Recommendations are given to ministers. Ministers go to Cabinet committees and make

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decisions, and the PM, if it gets to his level, is made aware of the intelligence as well as the policy positions of both departments and both ministers so that there can be a discussion. This is a strength in the Canadian system.

## 2.4 National Security Committees

### 2.4.1 Deputy Minister Committee for Intelligence Response (“DMCIR”)

- [59] Ms. Thomas convened what was early on called the DM Rapid Response Committee, which ultimately became a formal committee called DMCIR. DMCIR discusses either assessed or raw intelligence. There is generally a record of decision and advice to the PM (always through the Clerk), which would often inform him of intelligence and what they planned to do about it. Information from DMCIR meetings did not always need to rise to the level of the PM. But there would be a formal record of the actions that are going to be taken by the relevant departments and agencies.
- [60] The core membership of DMCIR is PCO, the Royal Canadian Mounted Police (“**RCMP**”), CSIS, CSE, Global Affairs Canada (“**GAC**”), and the Assistant Secretary for Democratic Institutions, or the Deputy Secretary for Democratic Institutions, because of the FI element. Other deputy ministers have also been invited on an ad hoc basis where the issue pertained to their department. DND was not part of this committee on a standing basis because, during her tenure, DMCIR mostly dealt with FI. The decisions turned on whether the activities were interference or influence, and what should be done about it.
- [61] Ms. Thomas explained that it is important to situate DMCIR in time. It was created post-COVID. From what she had been told, Ms. Thomas understood that her predecessors would generally keep people behind after Deputy Ministers Operations Committee (“**DMOC**”) and have conversations about emerging intelligence. This practice fell away until DMOC resumed its in-person meetings, as you cannot have the same conversations, even on the Canadian Top Secret Network (“**CTSN**”), that you have in person. Ms. Thomas wanted this practice to be formalized, just like the other formal bodies the Government had established in response to FI, like the Panel of Five and the SITE Task Force.

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[62] The witnesses were asked when in-person meetings resumed in the context of the pandemic. Ms. Charette explained that the national security community maintained an in-person presence through the pandemic, but formal in-person meetings had begun before the convoy, and then they were required to return to virtual. From the time Ms. Thomas started as NSIA, the community was in the office a fair amount. Ms. Thomas explained that it was a bit of a struggle to get back to in-person meetings. People liked not having to travel. They did not really get back to in-person until September-October 2022. Ms. Thomas put her foot down and they came back in January 2023 in person. Ms. Thomas could not recall the date that DMOC meetings resumed in-person.

#### 2.4.2 DMOC

[63] Ms. Thomas said that DMOC was a very large committee of deputy ministers. Not every member represents a core national security departments but they have national security interactions or relationships with other departments. For example, DMOC includes the Coast Guard, Immigration, Refugees and Citizenship Canada, Canada Border Services Agency (“**CBSA**”), and Transport Canada. DMOC has had a standing meeting for at least 10 years, every Thursday afternoon.

### 2.5 Development of the MCs

[64] Commission counsel asked Ms. Charette about her involvement in developing a specific MC. Ms. Charette testified that, as Clerk, she was not involved in the development of individual MCs.

[65] When senior officials in the lead department(s) concluded it was ready, the MC would have gone through a process of interdepartmental consultations. In parallel, the political side (the ministers and their offices) would have been involved and would have had discussions on political considerations related to the proposal.

[66] Following interdepartmental consultations, the MC would have been submitted for consideration by a Cabinet committee. Individuals on Ms. Charette’s team were responsible for scheduling MCs for Cabinet committees, ensuring that the documents were ready in both languages, and ensuring the [PCO] challenge function was complete. A deputy secretary, likely within the NSIA’s area, would have been following

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the MC and familiar with the details. Ms. Charette would typically get involved at this stage if a product was of particular interest to the PM or if it was controversial.

- [67] The Cabinet committee would then make a recommendation to Cabinet for ratification. In preparation for the Cabinet meeting, Ms. Charette would familiarize herself with the contents of the policy proposals, the recommendation from the Cabinet committee, and the conversations that had happened. Before the Cabinet meeting, she and her PCO team would brief the PM on key points from the Cabinet committee discussions, policy proposals, and other issues he may want to address in the Cabinet discussion. In addition to the oral briefing, an annotated agenda highlighting these key points would be provided to the PM, and Ms. Charette would sign off on the Cabinet briefing materials for the PM. She would be at the oral briefing with the PM and in the Cabinet room for the conversation. Depending on the issue, Ms. Charette might also speak to a minister to discuss a particular point before briefing the PM. Ms. Charette explained that, while she may present to the PM any disparate points of view on an issue, in every case, she gives her advice to the PM, which was her responsibility.
- [68] Once Cabinet made a decision, Ms. Charette would record the decision and it would be sent back to the departments and the responsible ministers to oversee its implementation.

## 2.6 National Counter-Foreign Interference Coordinator (“FI Coordinator”)

- [69] Commission counsel referred the witnesses to minutes from an October 12, 2023 DMCIR meeting,<sup>2</sup> which included a discussion on the FI Coordinator’s role and the coordination of FI more generally. Ms. Thomas explained that this was an organic discussion that arose out of the update on PRC overseas police stations by the RCMP and the need to understand what action was being taken and how that was being coordinated. The discussion raised the question of who was responsible for operational coordination.
- [70] At the time the FI Coordinator was created, there had been a debate in the community about whether the FI Coordinator should be in PS or in PCO. They determined that the

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<sup>2</sup> CAN044228.

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FI Coordinator should be housed in PS, as they are the policy lead for national security policy. They were also trying to limit expanding PCO. This DMCIR meeting took place six to seven months into the creation of the FI Coordinator, and so they were discussing whether the role was working and how to make it more effective.

- [71] Ms. Charette added that PCO's role is to convene, exercise the challenge function, and deal with anything that comes through the Cabinet system or across the PM's desk. As Clerk, Ms. Charette considered it important for PCO to respect the accountabilities of ministers and deputy ministers and agencies and to ensure a frequent healthy debate in the system. The more PCO is directly involved in an issue, the more they start to take on accountabilities and responsibilities, which lie with ministers and with deputy ministers. This then makes their challenge function confusing, since PCO cannot challenge itself. While they are willing to assist, PCO must let ministers and departments with authorities and responsibilities conduct their own functions. PCO needs to be objective, to coordinate and to convene. They are happy to help while respecting the jurisdiction of ministers and deputies which is an important principle.
- [72] Ms. Charette explained that this is part of the reason the FI Coordinator was housed at PS. This also speaks to the function of PS. PS supports the Minister of Public Safety, who has a number of very large and operational organizations in his portfolio: the RCMP, CBSA, CSIS, and Correctional Service Canada. The role of PS and of its deputy minister is to provide policy advice to the Minister of Public Safety on integrating work across agencies in his portfolio, without taking on the accountabilities and responsibilities of those agencies.
- [73] Commission counsel referred the witnesses to a number of passages in the October 12, 2023 DMCIR meeting minutes, including the following:

The Chair [Ms. Thomas] agreed, when CSIS noted that as the public inquiry work advances and more becomes public, it will reveal that the Canadian intelligence community has struggled to address FI. CSIS also called for clear expectations on who should do what. PS noted that there is no single point of failure on FI, and that the difference between strategic and operational coordination must be unpacked. The Chair noted that Canada does not have an FI strategy.<sup>3</sup>

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- [74] Ms. Thomas explained that this type of discussion is not uncommon. CSIS had taken a very specific path on FI and they felt that the Government had struggled to deal with it publicly. The behind-the-scenes actions regarding individual actors have been quite effective, but not broadly understood. She further explained that since FI is a whole-of-government issue, affecting a number of sectors, there is no single point of failure nor a single point of success on FI. Therefore a broad discussion is needed.
- [75] During the October 12, 2023 meeting, Ms. Thomas said Canada does not have a FI strategy because that is what she was expecting to come from the FI Coordinator. She expected the FI Coordinator to knit together various ongoing issues and determine how to deal with hostile actors, the range of tools the Government has, allocation of responsibilities, a policy direction (including Canada's policy on foreign investment), potential operational actions, the range of hostile activities, and who needs to be involved. The FI Coordinator had been in the job for six to eight months at that point. While a polished policy on something this complex in that amount of time would be unrealistic, Ms. Thomas had expected some more work to be done towards that end.
- [76] Commission counsel asked Ms. Thomas about the following comment from the same meeting: "The Chair suggested that the FI Coordinator role would be better placed at PCO to provide coordination from the centre. Citing the urgent need for coordination and action, the Chair suggested going 'back to basics' and establishing a new mandate, policy, and framework for the office of the FI Coordinator." Ms. Thomas explained that there were two distinct elements that DMCIR members were expecting of the FI Coordinator: the policy coordination and the operational coordination. The operational coordination element seemed to be best situated at PCO because they could more effectively convene the town rather than just the department. Ms. Thomas put the idea of moving the role to PCO to the community to see what the deputy ministers would say. They determined that they should get "back to basics" on what the job should be and review the mandate and framework of the office before making any decisions or recommendations to the Clerk, who was John Hannaford at the time.
- [77] Commission counsel referred the witnesses to comments in the same meeting minutes that state: "[T]he Chair motioned a conversation with the Clerk to seek direction on the

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way forward ... The Chair advised the Committee of the Clerk's view of the NSIA Branch, as a function until[sic] itself, delivering work akin to an NSC." Ms. Thomas said she did not think this was her exact language, but explained that the NSIA Branch at PCO is different from deputy secretariats in PCO; it provides a different function in terms of community coordination and advice given. They had this discussion about how the NSIA coordination function is different from another branch within PCO that deals with plans and policy, for example. The plan coming out of this meeting was for Ms. Thomas to have a conversation with the Clerk about where to go with coordination and also to reassess what the FI Coordinator should do within PS. The associate deputy minister of PS, who was at the October 12 meeting, also needed to discuss the issue with the deputy minister of PS, who was not present. The DMCIR would then come back and discuss again.

[78] After this, the FI Coordinator was busy with work Bill C-70 and the consultations on that legislation. The reassessment of the position did not come back to Ms. Thomas' desk, but the role was producing significant work.

## 2.7 Coordinating responses to FI between elections

[79] Commission counsel referred the witnesses to minutes from a Deputy Ministers' Foreign Interference Committee meeting on April 20, 2023.<sup>4</sup> The minutes state:

NSIA mentioned that the day before, herself, PS, the Clerk and Deputy Clerk had a discussion on FI. During this meeting the Clerk mentioned that with the ISR, it seems as though they're quite comfortable with the Panel and SITE, but what is becoming more obvious is the gaps on how FI is handled in between elections. Specifically, what is the role of Deputies, staff working on FI, and where is the ministerial accountability on FI more broadly?

As a result, NSIA has asked PCO to begin work on mapping this process. Essentially, how is intelligence on FI circulated, how are minister's informed, and how do they exercise ministerial accountability, from what currently exists, the governance around FI seems to work well at the Deputy level and even between PM/PMO. However, that gap at the ministerial level is a concern, and hopefully this work can provide insight into how this accountability could be outlined.

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<sup>4</sup> CAN030999.

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- [80] Ms. Thomas explained that the Independent Special Rapporteur (“**ISR**”) had noted that while the Panel of 5 and Security and Intelligence Threats to Elections Task Force worked extraordinarily well, and some of the members of the Panel were very well versed in the intelligence on FI between elections, not all were. This raised the question of how to maintain a steady level of knowledge between elections for everyone who could potentially be a Panel member. That work is ongoing.
- [81] Similarly, there were ongoing conversations about the ministers’ accountabilities. The NSICOP and NSIRA reports, as well discussions arising from the media leaks, seems to suggest that everything needs to go to the PM. But in the Westminster system of government that Canada has, ministers have accountabilities. CSIS would send intelligence to Ms. Thomas and she would share it with the Clerk and the PM. However, the question is what the relevant minister is doing about this intelligence, their advice to the PM, and their direction to their department. This was the genesis and substance of the conversation.
- [82] Ms. Charette noted that she had attended preceding conversations to this April 2023 meeting and provided additional context. The Government had an obligation to continue providing information to the ISR. While they had done a good job of explaining what had happened during the elections, there was more work to do in terms of providing information and explaining to the ISR what was happening in between elections. So there was both question of whether there was a “gap” in how the community was functioning, and also a discussion about ensuring the Government was explaining what they needed to explain to the ISR and providing information to the ISR to understand what they had in place.

## 2.8 Specific FI Incidents

### 2.8.1 Update on incident from 2021

- [83] The witnesses were asked about and provided further evidence about an issue related to foreign interference that resulted in a briefing to the secret-cleared representatives of the Liberal Party of Canada shortly before the 2021 election and to the Prime Minister



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shortly after. The evidence included a discussion of steps taken in response to this intelligence reporting.

### 2.8.2 Hardeep Singh Nijjar

- [84] Commission counsel asked the witnesses to explain how the murder of Mr. Hardeep Singh Nijjar unfolded. Ms. Thomas said that Mr. Nijjar was murdered in June 2023, approximately a year after another high-profile murder in Surrey, B.C., that of Mr. Malik. [Discussion of actions taken by the S&I community including the production of a CSIS assessment and how the Government responded, politically and otherwise, in light of the intelligence that had been brought to their attention, which included Ms. Thomas and her colleagues briefing the PM].
- [85] This set off a series of activities from several departments and ministers, to determine how to deal with the Government of India, in light of the upcoming G20 that was being held in India and the PM's upcoming meeting with Prime Minister Modi. This was viewed as a critical meeting and a critical point geopolitically because of the release of the Indo-Pacific Strategy, and the importance of Canada's relationship with India.
- [86] The Government began a multi-pronged effort to try to bring India to acknowledge what had happened, as the United States had succeeded in doing with regard to plot to assassinate a colleague of Mr. Nijjar.
- [87] Ms. Thomas said that, prior to this event, she had had limited contact with Mr. Doval [India's National Security Advisor], However, coincidentally, it was planned that Ms. Thomas would go to India to meet with him, shortly after these events. Ms. Thomas met with Mr. Doval, with the head of RAW (the Indian intelligence agency), the head of the IAB (India's national police service) and with Indian foreign affairs officials.
- [88] Ms. Thomas came into these meetings with scripts, While she did not deliver every word in these scripts, Ms. Thomas made it clear that her message that India had perpetrated an extra-judicial killing was fully understood.
- [89] The second meeting with Mr. Doval was very formal as Mr. Doval also read from a script. Ms. Thomas said that she could not share all the information she was aware of

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because of the need to preserve the integrity of the ongoing police investigation. During this second trip, which occurred shortly before the G20 Summit, the CSIS Director also met with his Indian counterpart, and Ms. Thomas and Mr. Morrison [the Deputy Minister of Foreign Affairs] met with the Indian Minister of Foreign Affairs.

[90] Ms. Thomas said that, following this meeting, she had a series of meetings with Mr. Doval. Since then, however, the RCMP made arrests in relation to the murder of Mr. Nijjar.

[91] Ms. Thomas said that, overall, Canada wanted to take a pragmatic approach. The objective was to hold India and those individuals who actually pulled the trigger, to account. India took the position that these were rogue agents or gangsters. Ms. Thomas noted the Indian reaction to this incident. India removed the diplomatic standing of a number of Canadians posted to India (essentially declaring them *persona non grata*) and stopped issuing visas to Canadian citizens,

[92] Ms. Thomas said that she made important efforts, in cooperation with GAC and the security agencies, to resolve the issue and build Canada's relationship with India. She noted that India and Canada have mutual interests.

## 2.9 NSIRA Recommendations on FI and Legislating the Role of the NSIA

[93] Commission Counsel asked the witnesses about Recommendations 7 and 8 of the NSIRA Report:

**Recommendation 7.** NSIRA recommends that the security and intelligence community develop a common, working understanding of political foreign interference.

**Recommendation 8.** NSIRA recommends that the role of the National Security and Intelligence Advisor to the Prime Minister, including with respect to decisions regarding the dissemination of intelligence, be described in a legal instrument.

[94] Ms. Charette stated that it was not easy to define FI, as it involves a continuum of activity. She noted that one of the greatest risks would be to try to become prescriptive, as opposed to looking at every case and every situation on its own merits. The last thing the Government wants to do is create a roadmap for its adversaries. Such a rigid framework might prevent Canada from keeping up with its adversaries and the actors

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who try to interfere in democratic processes. In her view, the national security community needs to have healthy ongoing conversations on the topic of FI, but the solution is not as easy as saying there should be a common understanding of FI, and there are some risks in trying to do so.

[95] Ms. Charette was asked whether there was a mechanism that could be put in place to ensure that there is always an ongoing discussion about FI, noting that the leaks of intelligence on FI was problematic as it only presented one side of the picture. Ms. Charette noted that different bodies had made many recommendations on this point. In her capacity as Clerk, she examined these recommendations when she co-signed the “30-day Report” [*Countering an Evolving Threat: Update on Recommendations to Counter Foreign Interference in Canada’s Democratic Institutions*]. She considered that public engagement and public communications, as specific and concrete as possible, are highly valuable. Some steps have been taken in this direction. For instance, CSE has prepared a series of reports in advance of elections about cyber risks, giving informed social media users access to CSE’s expertise and the knowledge of what to look for. CSIS, before the 2021 election, also issued a new [public] report on FI, which is more general. Ms. Charette noted that increased detail in the Government’s public reports and communications is critical because it enables engagement with citizens, provinces, territories, indigenous governments, municipalities, the private sector, owners and operators of critical infrastructures, universities and researchers; in short, anyone who could be on the receiving end of actions by hostile states. This builds resilience through knowledge. She analogized that there is always going to be a virus in the system, and we need to inoculate.

[96] Ms. Thomas agreed with Ms. Charette. She said that transparency is useful. She explained that “writing to release” pieces of intelligence [i.e. writing at an unclassified level with the intention of public release], and understanding how the Government sanitizes information to make it public, are key in order to enable the Government to inform the public about the threats and responses.

[97] Ms. Thomas added that the issues were not black and white: it would not be useful to tell an MP that they cannot be in contact with PRC officials in Canada, because this

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disenfranchises Chinese-Canadians. She noted that Chinese Canadians have family ties that are maintained through Consulates. Similarly, Canada has diplomatic relations with these foreign states.

[98] Ms. Thomas added that situations also evolve. Something that might seem innocuous at the beginning can give rise to growing concerns as more intelligence is collected. Conversely, a situation that, initially, seems malevolent can become unimportant because nothing more is observed. The activities of hostile actors in Canada, as well as Canada's responses, are not static.

[99] Because there will always be a need for contact with the consulates of foreign states, inoculation is an important concept. Ms. Thomas said that in order to give effect to the "sunshine policy", security agencies such as CSIS have to give the tools to the community to be able to use their information, such as by writing to release. This can be done through writing to release as well as through committees. Ms. Thomas noted that there if there were a parliamentary committee that looked at FI particularly in the lead up to an election and if it was truly non partisan it could be effective. This is critical, especially in the months leading up to an election, so that there is an understanding of the threats and the tools, and how parties should talk to their candidates about FI.

[100] Ms. Charette said it was humbling to hear evidence from the political parties at the Commission's [Stage One] public hearings that the briefings they received in the lead up to the 2019 and 2021 elections did not achieve what the Government hoped was being achieved. Even if PCO had received good feedback from them at the time, it was clear, in listening to them at the hearings, that the information provided did not meet expectations. In her view, it will be important to continue to press to provide as specific and concrete information as possible. Ms. Charette indicated that the sensationalization of FI in the media, was not useful, because it lacks context. However, sharing more specific examples of what has happened in the past can help explain what people should be looking for, which is important.

[101] Ms. Charette said that the new authorities that CSIS has [pursuant to *An Act Respecting Countering Foreign Interference*] for sharing information with provinces, territories, municipalities, and indigenous governments are important. Ms. Charette said that

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engagement with diaspora communities is not just about providing information but also about building trust between communities and national security agencies, and providing support. She noted that steps have been taken to provide information in different language formats. The more engagement the Government undertakes, the better.

[102] With respect to Recommendation 8, Ms. Thomas did not see what legislating the role of the NSIA would achieve. She commented that she does not know how it would be possible to legislate judgment. Every piece of intelligence and every decision requires a fact-specific assessment to determine what the PM would do with the information, whether the intelligence was actionable, or would change his knowledge base. Ms. Thomas noted that volume of intelligence is overwhelming and as referred to earlier, the majority is not on FI. It is a question of judgement about what the PM needs and for what purpose. Judgment is critical.

[103] Ms. Charette queried how one would construct a legal instrument for what is essentially a coordination, convening and advisory role. She differentiated this from a legal instrument that provides legal authorities. She noted that the coordinating, convening and advisory role is the job of deputy ministers; it is what senior officials in every sphere of the Government do every day. She did not see the added value of a legal instrument to legislate the NSIA function, or see any reason why the NSIA role would be legislated, but not the role of other deputies who give advice on other subject. She worried that doing so might confuse and muddy accountabilities.

### 3. Examination by the Attorney General

[104] Ms. Charette was asked about the importance of confidentiality of Cabinet decision making process and Cabinet deliberations in our system of democracy. She explained that there are two elements to the oath taken by those who are sworn in to Cabinet. The first is to keep confidential all matters discussed in Council, and the second is to share to the best of their knowledge and ability their points of view so as to shape and create policy that is in the best interest of Canadians. She explained that no matter what your career, geographic, linguistic or ethnic identity is, the role of a Cabinet minister is to bring your background to deliberations. She explained that ministers need to feel

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comfortable enough to be vulnerable and be prepared to disagree with their colleagues, despite being in a difficult political world. Those deliberations remain absolutely confidential. She explained that it is the job of the Clerk and other senior officials to create that confidential environment for deliberations. In the end, there is a decision that is binding on all ministers and represents a Cabinet decision. She noted that the views expressed during Cabinet discussions are the essence of Cabinet government, this is why they must remain confidential.

[105] Similarly, the confidentiality of the advice that officials give to ministers, including the Prime Minister, must be preserved.

[106] Ms. Thomas was asked about information flow to the PMO, and specifically, whether she had any reason to believe that PMO did not receive intelligence that she wanted them to be aware of during her tenure. Ms. Thomas could not think of any intelligence that she wanted the PMO to become aware of during her tenure as NSIA that they did not read or get briefed on. Ms. Thomas was in direct contact with Katie Telford throughout her tenure.

[107] Ms. Thomas was asked about certain conclusions in the NSIRA Report that were about Ms. Thomas but about which NSIRA did not speak to Ms. Thomas. Specifically, Ms. Thomas was asked whether she accepted NSIRA's conclusion that there was a disconnect between CSIS and the NSIA about whether a report should have gone up to the Prime Minister. Ms. Thomas said that she did not accept this finding, noting that neither NSIRA nor NSICOP spoke to her in coming to their conclusions. Ms. Thomas explained that there is a lot of intelligence in the system that is useful in a number of ways; only some of it is useful for the Prime Minister. It may be useful if it would change the Prime Minister's situational awareness or something he was doing, or if the intelligence was actionable. The decision to share something with the PM also has a temporal aspect. Something that happened many years ago will be useful for policymakers or for the intelligence community but will be of no use to the PM. The PM already understood the tactics and techniques being used by the PRC or India, because she and he had talked about it a lot. She noted that ministers may also be able to take action when they see assessments or pieces of intelligence.

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- [108] She clarified that just because an intelligence product does not go to the PM, it does not mean that the product was not useful for the community or well done. The questions is for what purpose is the intelligence useful and for whom. Ms. Thomas noted, for example, that when she chaired a meeting on the Russian invasion of Ukraine, she needed to know a lot of detailed information. That was very important intelligence, even if the PM did not need to know the same level of detail. It was then for officials to give the Prime Minister information and advice. Ms. Thomas explained that intelligence is a data point, just like economic information, that is considered when deciding what course of action to take. It is not something to be admired; it is something to be used.
- [109] Ms. Thomas was asked further questions about the October 12, 2023 DMCIR meeting in which the role of the FI Coordinator was discussed.<sup>5</sup> She explained that the DMCIR members were discussing how the FI Coordinator would fit into an existing structure, and the deputy ministers' expectations of the FI Coordinator. The community did not necessarily have the same set of expectations, which would make it difficult for the FI coordinator to do his job. The goal of this meeting was to bring some clarity to the position. They wanted to make sure the person, whose position had been announced publicly, had the best set of tools available to succeed at the job and that they were all able to help him succeed.
- [110] Ms. Thomas was asked her opinion on whether there is a common understanding of what foreign interference is, and whether or not a threshold or defined set of criteria could be helpful. She stated that there was a common understanding of what constitutes FI and that most departments work from the CSIS definition: covert, clandestine, threatening, contrary to Canadian interests. In her view, that is not a topic of conversation nor an issue that is limiting the community's response to FI. FI as compared to foreign influence is a spectrum or continuum. Where something moves from one to the other is very difficult to define. A hostile actor has a range of activities, some of which are influence, others are interference. They use a variety of tools to achieve their objectives. She explained that this area is rarely black and white which is why judgement is required and why the community is discussing it. It is critical for

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<sup>5</sup> CAN044228.

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officials to challenge each other on the specific aspects of particular cases. The important thing is to stay current and, where possible, ahead of the tools used by hostile state actors to affect Canadians and Canadian democracy.

[111] Ms. Charette noted the concerns she raised earlier about being overly prescriptive in this area. She also added that one does not want to create a situation in which people underreact because a situation does not meet some pre-established threshold. The picture will evolve over time, so vigilance, constant conversation, and testing each other with different perspectives is the best approach for Canada.