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In Camera Examination Summary: [Rob Stewart, formerly Deputy Minister of Public Safety, Dominic Rochon, formerly Senior Assistant Deputy Minister, National and Cyber Security Branch]

Commission Counsel examined former Deputy Minister of Public Safety, Rob Stewart and former Senior Assistant Deputy Minister, National and Cyber Security Branch, Dominic Rochon during *in camera* hearings held in July and August 2024. Counsel for the Attorney General of Canada (“AGC”) appeared on behalf of the Government of Canada and had the opportunity to examine the witness. 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. Examination by Commission Counsel

1.1 Background

- [1] Rob Stewart was appointed Deputy Minister (DM) of Public Safety on December 17, 2019 and held that role until October 21, 2022. Dominic Rochon held the position of Senior Assistant Deputy Minister (ADM), National and Cyber Security Branch from October 19, 2019 until October 31, 2022.
- [2] The National and Cyber Security Branch (“NCSB”) of Public Safety, includes the National Security Operational Directorate (“NSOD”) and the National Security Policy Directorate (“NSPD”). The NSOD supports the Minister, and is also responsible for managing a range

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of national security threats, including countering foreign interference policy development and intelligence dissemination

- [3] In relation to his role as Deputy Minister, Mr. Stewart agreed that he tried to work closely with the Minister's Chief of Staff to ensure that the Minister was well supported in terms of their objectives and responsibilities and to deal with the flow of information. Mr. Stewart worked more closely with Minister Blair's Chief of Staff than he worked with Minister Mendicino's Chief of Staff.

1.2 Michael Chong Information Management Note ("IMU")

- [4] In Stage One of the Commission, Mr. Stewart agreed that an IMU [CSIS Issues Management Brief] is effectively a "heads up" from CSIS sent to a limited distribution that there was an issue they were going to address. The IMU was effectively a flag that the contents were something CSIS wanted the Minister to know.
- [5] Commission counsel asked Mr. Stewart about a CSIS Issues Management Brief dated May 31, 2021. [The document relates to information about defensive briefings CSIS intended to provide to Michael Chong and Kenny Chiu]. Mr. Stewart agreed with his prior statement that he did not remember seeing the IMU at the time but assumed that it had been included in one of the intelligence binders provided to him at the time.
- [6] Commission counsel noted the distribution list at the top of the IMU, which listed the DM of Public Safety and the Minister of Public Safety, amongst other recipients. When asked about how information addressed to the DM of Public Safety reached him, Mr. Stewart stated that he did not know in specific terms. He knew that the information would come through some avenue and it would appear on his desk, but he would not ask who delivered it. At the relevant time, Mr. Stewart was receiving hard copies of documents. Mr. Rochon added that it was more his office that managed that process.
- [7] Mr. Stewart stated that receiving this type of IMU was not "out of the ordinary", but that he would not expect to see all IMUs in his role as Deputy Minister. He referred to his prior testimony that Public Safety received a large flow of intelligence. Intelligence was delivered to Mr. Stewart periodically; sometimes singularly and sometimes in binders. IMUs were not totally rare. If Mr. Stewart came across an IMU as he was flipping

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through a binder, he would take it as a natural part of the flow of information. Mr. Stewart agreed that he would not place more or less priority on an IMU compared to other documents, and would view an IMU, as he would similarly view other documents, through the lens of informing him but not requiring action because of the direct relationship that exists between the CSIS Director and Minister of Public Safety.

- [8] Mr. Stewart clarified that he does not specifically recall receiving the IMU as a stand-alone document, which would have attracted more attention. He suggested it may well have been included with other documents when he saw it. When asked what he could have done with the IMU, given PS's policy function, Mr. Stewart responded that he would have looked at the IMU as evidence of the fact that CSIS was now moving to a higher state of engagement on a foreign interference issue; in other words, that CSIS saw a threat and they saw the need to deal with it more directly. Mr. Stewart recalled that he had been having conversations with the Director for some time about foreign interference, and the need for CSIS to brief Parliamentarians in general, just as the Minister had done so through a letter to Parliamentarians earlier. The IMU showed an intention by CSIS to take specific action as they saw warranted under the circumstances. From a Public Safety policy perspective, Mr. Stewart would have interpreted that the threat of foreign interference was rising, and impelled Public Safety to do more in relation to policy.
- [9] Mr. Stewart was asked about whether he had received CSIS intelligence products relating to Michael Chong that pre-dated the issuance of the Michael Chong IMU. He could not specifically recall whether he received these intelligence products contemporaneously but was almost certain that he would have. Mr. Stewart noted that he saw a lot of intelligence products such as these, which sometimes constituted a majority of what he was receiving.
- [10] Commission counsel took Mr. Stewart to a document that includes distribution lists for the specific intelligence products relating to Mr. Chong that Mr. Stewart was asked about. Commission counsel asked Mr. Stewart about what is meant by "PS Intel" when that appears on the distribution list. Mr. Stewart explained that "PS Intel" meant that the document would have been routed through NSOD in a binder up to the Deputy Minister.

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Mr. Rochon explained that the “Intel” mailbox was CSIS’ way of identifying someone working in Intelligence at Public Safety to whom they could send information. That email address is on the Canada Top Secret Network (“CTSN”). The CSE Client relations Officer (“CRO”) who worked with Mr. Rochon, and the Public Safety departmental liaison officer both had accounts on CTSN. They would access CTSN and if they got an email, they would know they would distribute the document. The CRO would make sure that it got to Mr. Rochon and bring it up to Mr. Stewart. The documents brought by the CRO were often duplicates of those Mr. Stewart had also received in his binder of intelligence reporting.

- [11] Mr. Rochon explained there were two ways to get documents: (1) the CRO; and (2) sending an email to someone in Mr. Rochon’s branch, typically to various members of NSOD. One of the IMUs showed this distribution to officials in NSOD, who would have retrieved it from CTSN. The liaison officer could also get documents to deliver to the Minister.
- [12] Mr. Stewart explained that the liaison officer is a departmental official placed in the Minister’s Office to coordinate the flow of paperwork and decision making between the Deputy Minister’s Office and the Minister. That individual coordinates meetings, delivers intelligence and memos, and makes sure Ministerial Staff have what they need. It is an all-purpose job, to interface with the Minister and his Office. Mr. Rochon noted that every Department has at least one liaison officer.

1.3 A Warrant

- [13] Commission counsel note that the *CSIS Act* requires that CSIS consult with the Deputy Minister of Public Safety before applying for a warrant. The *Act* also requires ministerial approval before the application is brought before a judge. Mr. Rochon clarified that the NSPD deals with warrants at Public Safety.
- [14] Mr. Stewart confirmed that he was consulted in relation to all warrants, including one specific warrant. Mr. Stewart was asked about a letter with a specific date from CSIS Director Vigneault to Mr. Stewart (the “Cover Letter”). Mr. Stewart and Mr. Rochon both explained that they thought the date would have been typically applied by the sender of

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the letter. The letter enclosed the application noted that it attached the record of consultation, and requested a six day turn-around. CSIS normally would give Public Safety fairly tight timelines for ministerial decision, which were normally taken to be indicative as opposed to being a hard deadline. Because this activity was occurring during COVID, getting the warrant before the Minister was not easy. Mr. Stewart viewed the requested turn-around as aspirational, rather than as a real deadline.

- [15] Mr. Stewart disagreed with the suggestion that the timeline indicated that there was anything pressing. CSIS needed to specify a deadline and they preferred sooner rather than later, and that would be generally true for all of the warrants, where CSIS would give about a week.
- [16] Mr. Rochon added that Public Safety would have done a significant amount of work preparing the warrant for the Minister's review with CSIS. There is a whole process, and the Director General of National Security Policy was part of the warrant committee with CSIS. Public Safety would play a challenge function, after which the package is finalized and sent to the Deputy Minister's office. CSIS then has to bring the warrant before the court to get it approved. Those steps factor into the timing proposed by CSIS. Six days was seen as a pretty quick turnaround but it was not unusual for CSIS to ask for that sort of timing.
- [17] Mr. Stewart and Mr. Rochon explained that the Cover Letter was part of a much bigger package. The package would have been delivered to officials in Mr. Rochon's branch that prepare the package, and then delivered to Mr. Stewart in a special folder with the letter on top of it. The affidavit, exhibits and accompanying letter to Minister Blair would all have been in one package. The letter from Director Vigneault to Minister Blair would not have gone to him by itself.
- [18] Mr. Rochon's office would have started to put together all the pieces once the materials arrived. Mr. Stewart would then have been provided with the package with all of the attachments. The package would contain a note saying: read through all of this and if you agree, sign here. Once Mr. Stewart signed off on it, the whole package was sent to the Minister's office. Mr. Stewart signed off on the consultation letter confirming that he had been consulted 4 days after the date of the Cover Letter.

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- [19] When asked about how the materials would have been sent to the Minister, Mr. Stewart noted that, because this occurred during COVID, very few people were in the office at that time, and the Minister was infrequently in Ottawa. In this particular case, it was highly likely that the physical package would have been replicated in Toronto and handed to the Minister to review when he went to the CSIS office in Toronto.
- [20] Mr. Stewart said that the liaison officer would have provided the package to the Chief of Staff. The hard copy would have been in the Minister's Office in Ottawa, although not necessarily in the Minister's hands. Mr. Stewart did not think the binder made its way into the Minister's hands until later. Mr. Stewart explained that there was no expectation at the time that the Deputy Minister's office would notify the Minister that the application was ready for review. The package was given to his Chief of Staff, so the assumption was the Chief of Staff would flag to the Minister that there was something for him to sign. The liaison officer would have been dealing with day to day tracking and reminding the Minister's office of the need for a signature. Mr. Rochon added that other unrelated documents were sent to the Minister's Office for signature, such as briefing notes. They were also dealing with multiple warrants at the time.
- [21] Mr. Stewart surmised that the Minister would not know that there was a warrant waiting for his signature unless his Chief of Staff told him so. As a further point of clarification, when Minister Blair received warrants, he typically wanted to talk to the Director before he signed them. Mr. Stewart could not remember a time when Minister Blair did not talk to the Director about a warrant. In Mr. Stewart's experience, the Minister wanted to talk to the Director to get some assurance or answers to questions. Minister Blair always read the applications thoroughly.
- [22] Mr. Stewart was asked about the Memo to the Minister, which is the cover note to the application. The memo had the same date as the cover letter. Mr. Rochon noted that the NSPD prepared the note. Mr. Stewart explained that the purpose of the memorandum is to record that the application has been sent to the Minister but also to provide some information gleaned from the earlier warrant review process. CSIS does not see the cover note, it is an internal Public Safety note.

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- [23] Mr. Stewart was asked about an Exhibit to the affidavit. Mr. Stewart commented on the exhibit [which contained a list of names of individuals whose communications may be intercepted under the warrant] and how he perceived its contents.
- [24] Once the package was sent to the Minister's office, Mr. Stewart testified that he did not expect to receive confirmation of receipt. Public Safety typically participated in a discussion between the Minister and the Director and the Director's staff, and often the affiant, before the Minister signed. However, Public Safety was reactive on that point.
- [25] Mr. Stewart did not know about a briefing given by CSIS to Ministerial staff in relation to the warrant that took place later that month. It is possible that a member of Mr. Rochon's staff attended that briefing.
- [26] Mr. Stewart would not expect to get feedback from an attendee at a meeting such as this. The Minister's staff could ask any questions or seek any information they wished, and that was not a process that the Deputy Minister tried to gate keep or manage. Until the Deputy Minister was face to face with the Minister, he would typically not be aware of questions or answers that were being provided through the day to day working level channels.
- [27] Mr. Stewart was asked about a briefing note to the Director that contained details that Mr. Stewart was not aware of at the time that the briefing took place. Had he known about this information at the time, it would have raised concerns.
- [28] Mr. Stewart was asked about a second briefing which occurred approximately seven weeks after Mr. Stewart signed the consultation letter, this time briefing the Minister. Mr. Stewart and Mr. Rochon attended that briefing. Mr. Rochon said that they would have attended virtually from Public Safety in Ottawa. Although Mr. Stewart had some recollection of briefing, he did not recall what was discussed, what questions the Minister asked, or whether the questions were odd. It was in the normal course, with the Minister doing his due diligence with the Director. The Director answered the questions asked and the Minister was generally satisfied with the answers he got. He did not recall any lengthy discussions or concerns. Mr. Stewart also did not recall any discussion about the delay in the approval of the warrant during that briefing.

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- [29] Mr. Stewart was asked about an email in which the CSIS affiant expressed some concerns. Mr. Stewart advised this concern was not brought to Public Safety's attention. CSIS did not raise a concern with Mr. Stewart and Mr. Rochon's staff did not raise a concern with him either.
- [30] When asked about other comments he had about the warrant process, Mr. Stewart said that in the context of COVID it took time for things that were not considered urgent to work through the system. A delay was not exceptional. He does not think there was anything exceptional about this warrant or the timing of the signature. Mr. Rochon said that the timing of ministerial approval for a warrant depends on certain urgencies. He opined that six weeks was not outside the ordinary in terms of the circumstances.
- [31] Mr. Stewart explained that the Chief of Staff in the Minister's office would have a list of outstanding items with the dates the materials were received. The departmental liaison officer was tasked with following up on a continuing basis and supporting any of the needs of the Minister's office. The departmental liaison officer did not follow up to indicate that there was an issue with timing. Mr. Stewart could also not recall CSIS following up with Mr. Stewart to raise a concern about delay with the warrant.

1.4 HASA Strategy and the Memorandum to Cabinet ("MC")

- [32] The witnesses were asked about the development of Canada's Strategy for Countering Hostile Activities by State Actors. The initial work on the strategy pre-dated both witnesses joining Public Safety. Mr. Stewart explained that there has been a lot of confusion about what they mean by strategy, but that the strategy was always a work in progress. The MC sought endorsement by Cabinet to further the development of the strategy.
- [33] Mr. Rochon was asked about an email dated December 10, 2019, which attached the Counter-HASA Strategy, described the purpose of the Strategy and noted that he had briefed Minister Blair on the Strategy. Mr. Rochon said that in inheriting the coordination function, he was bringing this to the attention of his colleagues at the ADM NS Policy table to say that they were now looking at the culmination of the work that has

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happened, they have captured it this way, and they were looking forward to their feedback.

- [34] Mr. Stewart was shown a memorandum he had signed that was directed to the Minister dated February 1, 2021 called “Countering Foreign Interference”,¹ which states that the *CSIS Act* of 1984 did not fully equip CSIS to face the “technological, legal and threat environment of 2021”, and that “an updated policy and legislative approach is needed to best position Canada to counter the FI threat.”
- [35] In response to a question about the purpose of this memo, the context of its timing, and what happened afterwards, Mr. Stewart said that over the course of his tenure at Public Safety, coming to culmination about six months before they left, he and Mr. Rochon were labouring to bring forward the plan to counter HASA, which would culminate in a strategy. It was a very iterative effort, notwithstanding the attention that was growing in relation to foreign interference, which is a subset of the threat manifested not just from China but other countries as well. To get the level of support necessary to bring it through what was a fairly elaborate process of consultation and approvals internal to government was always a bit challenging, and it took a long time.
- [36] The issue was the subject to more than one discussion at the DMNS (Deputy Minister’s Committee on National Security) table and many refinements. Governance and coordination were particular challenges.
- [37] The development of the plan to counter HASA was not linear and it was affected by events. There were other issues on Public Safety’s plate in the national security realm, and there were many other issues associated with COVID that fell within the responsibilities of the Minister, such as borders, issues around corrections, and a whole set of RCMP issues which were extremely challenging to deal with, including the mass killings in Nova Scotia. There were a lot things that got in the way of smoothly moving this through the system. So the February 1, 2021, memo was written when the Minister was seized with foreign interference, understood that it was an issue, and they wanted

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to build more momentum on the issue and to tell others that this was still moving forwards and needed to be a priority.

- [38] Mr. Rochon was asked about an email he wrote dated March 8, 2022, which attached a HASA one-pager setting out a brief description of HASA governance. Mr. Rochon wrote in that email, “we have been talking about HASA governance for nearly 3 years now and I’m afraid we are no closer to resolving the issue in terms of reaching a consensus...some expressed a desire for a coordinator to be housed at PCO...”
- [39] Mr Rochon explained that hostile actors were manifesting across a wide range of issues, including economic security. The scope of what Public Safety was trying to frame in their strategic policy was broad and involved many departments and agencies, each with its own needs with regard to tools and elsewhere. What they were proposing in a strategy is that there needed to be an emphasis put on keeping track of those hostile activities, the types of hostile activities and the tools in the government’s toolbox to counter those hostile activities. For instance, GAC could expel a diplomat, RCMP could take action with regard to the *Criminal Code*, and CSIS and CSE could take steps under their respective mandates. All of those tools might require refinement of legislation, so it was a very big challenge.
- [40] One of the outstanding questions was whether they needed a specific coordinator to help manage these issues on a regular basis. Everyone agreed a coordinator was necessary, but the sticking point was where that coordinator would reside: at Public Safety, at PCO, or somewhere else. There was also the SITE Task Force which provided a bit of a model in terms of how to manage something under specific circumstances, which is that of an election. There were different views and different experiences and it was a constant grind bringing the community together and having a conversation around where is the best place to house the coordinator role.
- [41] At that point in time, there was a discussion at the weekly ADM National Security Policy meeting. Mr. Rochon reached out to colleagues, including at Justice, CSIS and PCO, to get their smaller group opinion on the governance question before getting Deputy Ministers to weigh in.

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- [42] In response to a question about the other obstacles and events that slowed this work, Mr. Stewart described the nature of their work as subject to events, circumstances and influences in terms of ministerial intention and external pressures. Almost nothing that they did was linear from start to finish, and the resulting process never matched the plan. Getting colleagues together was necessary, but while Mr. Rochon had a regular meeting with ADMs, Mr. Stewart's meetings with Deputy Ministers were much more irregular. He characterized the issues as challenges that needed to be surmounted to bring people to a point of consensus, rather than as obstacles. The work of Public Safety was always a matter of conflicting priorities.
- [43] Mr. Stewart agreed that the strategy outlined in the MC reflected a goal of creating a whole of government/coordinated response.
- [44] Mr. Stewart was asked about whether identified concerns about risks of retaliation from states that engage in HASA or domestic resistance to increased security powers came to fruition as a result of the furtherance of work on HASA. Mr. Stewart said that those risks always exist and are, in some sense, generic in national security policy. However, Mr. Stewart noted that he cannot speak to what happened after the initiation of consultations with Canadians, as that happened after he had left Public Safety.
- [45] Mr. Stewart referenced the five priorities in the November 2019 version of that Strategy. Issues from the strategy that remained to be addressed were: 1) safeguarding citizens from harm is a broader issue in terms of the threat than just foreign interference; while 2) threats to infrastructure, 3) international affairs and 4) defence have not been particularly subject to the HASA lens. 5) Economic prosperity is something that they are really only beginning to talk about in terms of economic security and risks to intellectual property and investments or the potential for investment by hostile state actors. There is a whole conversation that is ongoing about that particular dimension. Mr. Stewart would not say that Canada has comprehensively addressed all of the potential dimensions of HASA but Mr. Stewart is of the view that they should all be addressed.

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2. Examination by the AGC

- [46] In relation to the process of moving the warrant between CSIS, Public Safety and then going to the Minister's office, counsel for the AGC asked whether the 6 calendar day timeline that was given in the letter from the Service to Public Safety and the Minister itself implied urgency. Mr. Stewart stated it did not. Generically, warrants came through with a fairly short time frame, partly because of the prior review, partly of the aspiration of CSIS to get on with it, and provide some impetus for the Minister, but not because it was a flag with any particular kind of urgency. Were that circumstance to arise, and Mr. Stewart believes it arose at least once, a different process would have been followed: the Director would have called Mr. Stewart personally and told him that this was something of high urgency. That did not happen in relation to this warrant.
- [47] Mr. Rochon said that the work that they do ahead of time would suggest that when something is getting submitted to the Minister, they are not going to put a six month or even a six week time frame. The expectation is that Public Safety has looked at all of this, they have lined everything up, and CSIS now thinks they have a complete package to submit, so they are looking to schedule when the court can hear it. They work back from those dates to figure out when they want a sign off and how much time they give. Typically the expectation was that they would give 1-2 weeks. Mr. Stewart added that any suggested timeline over two weeks could cause the file to disappear to the bottom of the pile.