



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

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

## Overview Report:

### Other reviews and investigations of foreign interference (updated)

Prepared by: Commission Counsel

## Summary of Report

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

This Report, previously published by the Commission in March 2024, has been updated with developments occurring up to 30 August 2024.

## Note to Reader

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

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

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

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## 1. Introduction

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

## 2. Independent Special Rapporteur

### 2.1 Background

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

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

<sup>2</sup> Privy Council Office, Democratic Institutions, “Independent Special Rapporteur on Foreign Interference” (May 23, 2023), [COM0000102\(EN\)/COM0000190\(FR\)](#).



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- b. determining what the Canadian Security Intelligence Service (CSIS), Privy Council Office (PCO), Critical Election Incident Public Protocol and any other agencies and officials found out about foreign interference in the 2019 and 2021 elections and recommended be addressed;
- c. determining what agencies and officials communicated to the Prime Minister and his Office (PMO), other ministers and Cabinet about electoral interference by agencies and officials and what they recommended to address it; and
- d. determining what the PMO, ministers, Cabinet and government departments and agencies did to defend against or otherwise deal with electoral interference.<sup>3</sup>

- [6] Second, consider the foreign interference issues that the National Security and Intelligence Committee of Parliamentarians (NSICOP) and the National Security and Intelligence Review Agency (NSIRA) were reviewing (see further below) and raise any questions of public interest or answers needed to ensure public confidence about foreign interference during the 2019 and 2021 elections, beyond those answered by NSICOP and NSIRA.<sup>4</sup>
- [7] Third, consider innovations and improvements in public agencies and their coordination to combat foreign interference in federal elections, including changes in institutional design and coordination of government assets to address it.<sup>5</sup>
- [8] The Government authorized the ISR to review classified and unclassified records, including some protected by Cabinet confidence.
- [9] The ISR met with the chairs of NSICOP and NSIRA to understand the extent of their work on foreign interference. He also met with the PCO, the PMO, CSIS, the Royal

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

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

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

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

## 2.2 Definition of foreign interference

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

## 2.3 ISR Report

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

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

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

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

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

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

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

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were well protected by sophisticated mechanisms. Reports of leaked intelligence<sup>12</sup> materials, considered in full context, were misconstrued, specific instances of interference were “less concerning” than media reports suggested and sometimes the full story was “quite different” from the media’s version.<sup>13</sup>

[12] The ISR found as follows:

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

#### 3.1 Background

- [19] On 7 December 2022, ETHI adopted a motion to study “foreign interference and the threats to the integrity of democratic institutions, intellectual property and the Canadian state itself that arise from this foreign interference”.<sup>22</sup>
- [20] The Committee studies matters related to the Office of the Information Commissioner of Canada, the Office of the Privacy Commissioner of Canada and the Office of the Commissioner of Lobbying of Canada and certain issues related to the Office of the Conflict of Interest and Ethics Commissioner.<sup>23</sup>
- [21] As a parliamentary committee exercising parliamentary privilege, ETHI can order witness testimony and document production.
- [22] ETHI held eight public meetings and heard from 23 witnesses between March and June 2023.<sup>24</sup> The Committee’s study of election interference aimed to avoid duplication with

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

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

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

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

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

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

### 3.2 Definition of foreign interference

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

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070 (May 9, 2023) **COM0000230(EN)/COM0000231(FR)**, 074 (June 2, 2023) **COM0000232(EN)/COM0000233(FR)**;

House of Commons, 44th Parliament, 1st Session, Standing Committee on Access to Information, Privacy and Ethics, Minutes of Proceedings, Meetings Nos:

77 (June 13, 2023) **COM0000235**,

81 (September 25, 2023) **COM0000236**,

82 (September 27, 2023) **COM0000237**,

83 (October 4, 2023) **COM0000238**.

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

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

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

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

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



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### 3.3 ETHI Report

[24] In October 2023, ETHI issued its report, *Foreign Interference and the Threats to the Integrity of Democratic Institutions, Intellectual Property and the Canadian State* (“ETHI Report”).<sup>29</sup> The Committee concluded Canada is not immune to foreign interference.<sup>30</sup>

[25] The ETHI Report outlined how foreign interference impacts trust in Canada’s democratic institutions; how it has led to a rise in xenophobia and illicit disclosures of national security intelligence; the risk that technological advances may enhance or increase foreign interference attempts; targets and tactics of foreign interference by China and Russia; and proposed measures to counter foreign interference.

[26] The Committee also studied allegations that a donation to the Pierre Elliott Trudeau Foundation was foreign interference. Four of the eight Committee meetings looked at this issue, but ETHI could not come to any definitive conclusion about a connection with foreign interference activities.<sup>31</sup>

[27] ETHI recommended the Government of Canada do as follows:

- a. improve declassification of historical records;
- b. establish and implement clearer classification guidelines for national security records;
- c. amend the *Access to Information Act*, RSC 1985, c A-1, to clarify its system is based on a culture of openness and transparency;

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

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

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

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

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

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

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

### 4.1 Background

- [28] PROC studied foreign election interference between November 2022 and May 2023 and investigated alleged intimidation of a Member of Parliament by a foreign agent between May 2023 and February 2024. In June 2024, it investigated alleged cyber attacks against a number of parliamentarians by an entity associated with the People’s Republic of China (“PRC”).
- [29] PROC studies and reports on the rules and practices of the House of Commons and its committees, electoral matters, questions of privilege, Member of Parliament conflicts of interest, internal administration of the House and services and facilities for Members of Parliament.<sup>33</sup>
- [30] As a parliamentary committee, PROC relies on parliamentary privilege to summon witnesses and demand document production.<sup>34</sup>

### 4.2 Definition of foreign interference

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

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

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

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### 4.3 Study of foreign interference

- [32] Between 1 November 2022, and 30 May 2023, PROC held 17 meetings and heard from 74 witnesses about foreign election interference.<sup>35</sup>
- [33] Expert witnesses from CSIS, the RCMP, CSE, Global Affairs Canada (GAC), Public Safety Canada, the PCO and the PMO described foreign interference activities by different states, efforts to protect the 2019 and 2021 elections and government processes to counter foreign interference. Some former senior officials from these government bodies also testified.<sup>36</sup>

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<sup>35</sup> House of Commons, Committees, Standing Committee on Procedure and House Affairs, Work: Foreign Election Interference, **COM0000325(EN)/COM0000326(FR)**. See: House of Commons, 44th Parliament, 1st Session, Standing Committee on Procedure and House Affairs, Evidence, Nos:

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

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

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



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- [34] The Commissioner of Canada Elections spoke about the role of her Office during the 2019 and 2021 elections. She reported on complaints her Office received about foreign interference and indicated that her office would review of all foreign interference-related files from the 2019 and 2021 elections as well as any new allegations brought to the attention of her Office. She also discussed potential improvements to the *Canada Elections Act*, SC 2000, c 9.<sup>37</sup>
- [35] The Chief Electoral Officer explained his role, said the integrity of the 2019 and 2021 elections was maintained and described the cyber security measures in place. He said social medial companies should be transparent about their policies to address election advertising and misinformation about the electoral process.<sup>38</sup>
- [36] Politicians, academics, non-governmental organizations and diaspora communities also shared their experiences and concerns about foreign interference.<sup>39</sup>

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067 (April 27, 2023) **COM0000280(EN)/COM0000281(FR)**,  
072 (May 11, 2023) **COM0000286(EN)/COM0000287(FR)**.

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

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

<sup>39</sup> House of Commons, 44th Parliament, 1st Session, Standing Committee on Procedure and House Affairs, Evidence, Nos:

038 (November 3, 2023) **COM0000258(EN)/COM0000259(FR)**,  
050 (February 7, 2023) **COM0000264(EN)/COM0000265(FR)**,  
065 (April 25, 2023) **COM0000276(EN)/COM0000277(FR)**,  
066 (April 25, 2023) **COM0000278(EN)/COM0000279(FR)**,  
067 (April 27, 2023) **COM0000280(EN)/COM0000281(FR)**,  
070 (May 9, 2023) **COM0000282(EN)/COM0000283(FR)**,  
071 (May 9, 2023) **COM0000284(EN)/COM0000285(FR)**,  
072 (May 11, 2023) **COM0000286(EN)/COM0000287(FR)**,  
075 (May 18, 2023) **COM0000290(EN)/COM0000291(FR)**.

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- [37] On 8 March 2023, PROC tabled its first report on foreign election interference in Parliament.<sup>40</sup> It called on the Government to launch a national public inquiry into allegations of foreign interference in Canada’s democratic system, including but not limited to, allegations of interference in general elections by foreign governments.<sup>41</sup> Parliament adopted PROC’s motion on March 23, 2023.<sup>42</sup>
- [38] On 31 May 2023, PROC tabled a second report. PROC reaffirmed its support for a national public inquiry and called on the Government to consult with recognized parties within 24 hours with a view to launching a commission of inquiry within two weeks.<sup>43</sup>

#### 4.4 Study of intimidation of Michael Chong and others

- [39] On 10 May 2023, the House of Commons referred a question of privilege<sup>44</sup> to PROC.<sup>45</sup> The question concerned “the prima facie contempt concerning the intimidation campaign orchestrated by Wei Zhao against the member for Wellington-Halton Hills and

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

<sup>41</sup> House of Commons, Standing Committee on Procedure and House Affairs, Twenty-fifth Report, *Study: Foreign Election Interference* (March 2, 2023), **COM0000040(EN)/COM0000188(FR)**; House of Commons, 44th Parliament, 1st Session, Standing Committee on Procedure and House Affairs, Evidence, No 056 (March 2, 2023), **COM0000270(EN)/COM0000271(FR)**.

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

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

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

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

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other members.”<sup>46</sup> PROC responded by hearing more testimony in May, June, October and November 2023 and early 2024 about foreign interference.<sup>47</sup> PROC later expanded its study to include matters Erin O’Toole raised in the House of Commons about foreign interference.<sup>48</sup>

[40] To understand how the intimidation campaign was orchestrated, PROC wanted access to classified documents.<sup>49</sup> In June 2023, the Committee asked the PMO and the Liberal Party for documents, including classified documents.<sup>50</sup> It is not clear which documents

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

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

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

<sup>48</sup> House of Commons, 44<sup>th</sup> Parliament, 1<sup>st</sup> Session, Standing Committee on Procedure and House Affairs, Minutes of Proceedings, Meeting No. 087 (September 26, 2023), **COM0000377(EN)/COM0000(FR)**.

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

<sup>50</sup> House of Commons, 44th Parliament, 1st Session, Standing Committee on Procedure and House Affairs, Evidence No 096 (November 23, 2023) **COM0000318(EN)/COM0000319(FR)** at 2.

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PROC received in response, but some members of PROC were dissatisfied with the Government's refusal to provide certain classified documents.<sup>51</sup>

- [41] At the June and October 2023 PROC hearings, current and former senior government officials testified about matters including how security and intelligence information flows within government, and the media leaks of intelligence reported on in early 2023.<sup>52</sup> They also spoke about Parliament's ability to compel document production and testimony, which states were involved in foreign interference in Canada, RCMP measures to counter foreign interference and GAC's efforts to protect the integrity of the 2023 federal by-elections.<sup>53</sup>
- [42] The ISR also appeared before PROC and answered questions about his First Report and alleged connections to the Liberal Party.<sup>54</sup>
- [43] Also in October, Bill Blair, Minister of National Defence and former Minister of Public Safety and Emergency Preparedness, answered questions about the threats made against Mr. Chong.<sup>55</sup>

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<sup>51</sup> House of Commons, 44th Parliament, 1st Session, Standing Committee on Procedure and House Affairs, Evidence No 096 (November 23, 2023) **COM0000318(EN)/COM0000319(FR)** at 1-2, 4, 6. See also Evidence No 096 (November 28, 30, December 5, 2023).

<sup>52</sup> House of Commons, 44th Parliament, 1st Session, Standing Committee on Procedure and House Affairs, Evidence, Nos:

079 (June 1, 2023) **COM0000296(EN)/COM0000297(FR)**,  
080 (June 6, 2023) **COM0000298(EN)/COM0000299(FR)**,  
081 (June 8, 2023) **COM0000300(EN)/COM0000301(FR)**,  
082 (June 13, 2023) **COM0000302(EN)/COM0000303(FR)**,  
083 (June 13, 2023) **COM0000304(EN)/COM0000305(FR)**,  
084 (June 15, 2023) **COM0000306(EN)/COM0000307(FR)**,  
088 (October 17, 2023) **COM0000310(EN)/COM0000311(FR)**,  
089 (October 19, 2023) **COM0000312(EN)/COM0000313(FR)**,  
090 (October 24, 2023) **COM0000314(EN)/COM0000315(FR)**.

<sup>53</sup> House of Commons, 44th Parliament, 1st Session, Standing Committee on Procedure and House Affairs, Evidence, Nos 081 (June 8, 2023) **COM0000300(EN)/COM0000301(FR)**, 082 (June 13, 2023) **COM0000302(EN)/COM0000303(FR)**.

<sup>54</sup> House of Commons, 44th Parliament, 1st Session, Standing Committee on Procedure and House Affairs, Evidence, No 80 (June 6, 2023) **COM0000298(EN)/COM0000299(FR)**.

<sup>55</sup> House of Commons, 44th Parliament, 1st Session, Standing Committee on Procedure and House Affairs, Evidence, No 90 (October 24, 2023) **COM0000314(EN)/COM0000315(FR)**.

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- [44] Erin O’Toole spoke about his briefing by CSIS about foreign interference directed at him when he was a Member of Parliament and leader of the Official Opposition. Mr. O’Toole also criticized the Government’s Critical Election Incident Public Protocol.<sup>56</sup>
- [45] On 30 January 2024, then on 1, 6, 8, 27, 29 February 2024 and 19 March 2024, the Committee considered *in camera* its draft report on the question of privilege.<sup>57</sup> It adopted its report on 21 March 2024.<sup>58</sup> The report was presented to the House of Commons on 10 April 2024.<sup>59</sup>
- [46] The report concluded that the scope of the threats carried out by PRC officials were not limited to Mr. Chong and Mr. O’Toole, but were aimed at all Members of the House of Commons, and thus took aim at Canada’s democracy and constituted a contempt of Parliament.<sup>60</sup>
- [47] The PROC report made 29 recommendations:
- a. Mandatory information training sessions on foreign interference threats for all Members of Parliament (MPs).

<sup>56</sup> House of Commons, 44th Parliament, 1st Session, Standing Committee on Procedure and House Affairs, Evidence, No 091 (October 26, 2023) **COM0000316(EN)/COM0000317(FR)**.

<sup>57</sup> House of Commons, 44th Parliament, 1st Session, Standing Committee on Procedure and House Affairs, Minutes of Proceedings, Meetings Nos:  
102 (January 30, 2024) **COM0000239(EN)/COM250(FR)**,  
103 (February 1, 2024) **COM0000240(EN)/COM251(FR)**,  
104 (February 6, 2024) **COM0000241(EN)/COM0000252(FR)**,  
105 (February 8, 2024) **COM0000242(EN)/COM0000253(FR)**,  
107 (February 27, 2024) **COM0000243(EN)/COM0000254(FR)**,  
108 (February 29, 2024) **COM0000244(EN)/COM0000255(FR)**,  
109 (March 19, 2024), **COM0000379(EN)/COM0000355(FR)**.

<sup>58</sup> House of Commons, 44th Parliament, 1st Session, Standing Committee on Procedure and House Affairs, Minutes of Proceedings, Meetings No. 110 (March 21, 2024), **COM0000355(EN)/COM0000379(FR)**.

<sup>59</sup> House of Commons, 44<sup>th</sup> Parliament, 1<sup>st</sup> Session, Journals, No. 297 (April 10, 2024), p. 3680, **COM0000360**.

<sup>60</sup> House of Commons, Standing Committee on Procedure and House Affairs, *Report 63: Question of Privilege Related to the Member for Wellington-Halton Hills and Other Members* (March 21, 2024), (Chair: The Hon. Bardish Chagger), **COM0000371(EN)/COM0000370(FR)**, p. 108.



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- b. That a person within the House of Commons administration serves as a contact point for MPs for all matters related to foreign interference threats.
- c. Coordination between the government and political parties to facilitate security clearances for MPs – particularly those sitting on committees with relevant mandates – to ensure they can be briefed on important national security matters.
- d. Improved support to Parliament by CSIS.
- e. When a threat is identified, CSIS must immediately and directly inform individual MPs about specific foreign interference threat activity targeting them.
- f. The creation of a protocol for the Speaker of the House to inform political parties about foreign interference threats.
- g. CSIS undertake to improve and increase outreach to diaspora communities most impacted by foreign interference and intimidation.
- h. The Government encourage a culture change at CSIS in respect of communicating about foreign interference threats.
- i. The Government address concerns about the systemic over-classification of intelligence products.
- j. The Government undertake to lead a process to determine the declassification of information to enhance transparency.
- k. Implement a registry of foreign agents.
- l. The Government undertake a thorough national security review and create an updated national security strategy.
- m. The Government work with national security and law enforcement agencies to clarify and reconcile the definition of foreign interference threats.
- n. Review and modernization of the *CSIS Act* with a focus on foreign interference threats to national security and democratic institutions.

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- o. Conduct a statutory review of the *National Security and Intelligence Committee of Parliamentarians Act* with a view to transforming the Committee into a joint parliamentary committee.
- p. Amend the *CSIS Act* to permit greater sharing of information concerning foreign interference threat activity directed towards democratic institutions.
- q. The Government urgently consider measures to address the “intelligence to evidence” challenge in law.
- r. The Government review the position of the National Security and Intelligence Advisor to the Prime Minister and consider establishing a committee to focus on actionable intelligence.
- s. The Government consider establishing a fixed five-year term for the role of National Security and Intelligence Advisor to the Prime Minister.
- t. Creation of a cabinet committee on National Security and Foreign Interference.
- u. Strengthen the internal governance and accountability process around the sharing of information and intelligence with relevant ministers and the Prime Minister.
- v. Establish clear lines of responsibility and recommendations on how to react to intelligence and the flow of information when intelligence becomes a threat.
- w. Establish a clearer process for funneling intelligence to top officials.
- x. Put in place tracking protocols to allow for a reconstruction of who saw what document, and when.
- y. The Government consider establishing a position within PCO with the power to flag important intelligence to the Prime Minister and other ministers.
- z. Consider an appropriate process to provide security and intelligence briefings for election candidates.

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- aa. Elections Canada consider implementing an awareness campaign to reassure voters and the public that the electoral process in Canada is secure, and to educate citizens how to identify foreign interference and where to report suspicious activity.
- bb. Adequately brief individuals involved in the work of the Security and Intelligence Threats to Elections Task Force and the Critical Election Incident Public Protocol Panel of senior civil servants in advance of a general election, about ongoing or recent foreign interference threat activity targeting parliamentarians.
- cc. Amend the Critical Election Incident Public Protocol to permit members of the Panel to have greater discretion whether to inform the public about events or incidents of foreign interference and greater authority to direct national security agencies to directly brief candidates, parties or Elections Canada about foreign interference.<sup>61</sup>

#### 4.5 Study of cyber attacks targeting Members of Parliament

- [48] On 29 April 2024, Garnett Genuis, Member of Parliament for Sherwood Park-Fort Saskatchewan, raised a question of privilege related to alleged cyber attacks in 2021 and 2022 by a PRC-affiliated entity. These attacks targeted political officials around the world, including 18 Canadian parliamentarians.<sup>62</sup>
- [49] A group known as Advanced Persistent Threat 31 (“APT 31”) allegedly perpetrated the cyber attacks. According to an indictment filed in the United States related to these cyber attacks, APT 31 is an entity acting on behalf of Hubei State Security Department, a provincial foreign intelligence arm of the Chinese Ministry of State Security.<sup>63</sup> APT 31

<sup>61</sup> House of Commons, Standing Committee on Procedure and House Affairs, *Report 63: Question of Privilege Related to the Member for Wellington-Halton Hills and Other Members* (March 21, 2024), (Chair: The Hon. Bardish Chagger), **COM0000371(EN)/COM0000370(FR)**, pp. 108-114.

<sup>62</sup> House of Commons, 44th Parliament, 1<sup>st</sup> Session, Debates. Vol. 151, No. 304 (April 29, 2024), **COM0000357(EN)/COM0000350(FR)**, p. 22661.

<sup>63</sup> United States of America v. Ni Gaobin et al., *Indictment*, 24-CR-43, **COM0000380**.

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was alleged to have targeted parliamentarians around the world who were members of the Inter-Parliamentary Alliance on China (“IPAC”), an international cross-party group of legislators working to reform how democratic countries approach China.<sup>64</sup> APT 31 allegedly targeted both legislators’ legislative and private email accounts.

- [50] Mr. Genuis raised two potential issues of privilege. The first related directly to the cyber attacks targeting him and the 17 other parliamentarians. The second related to the failure of government officials to notify the impacted parliamentarians of the attacks.
- [51] Between January and April 2021, CSE informed House of Commons and Senate information technology security officials about a sophisticated actor affecting Parliament’s computer systems. On 29 June 2022, the US Federal Bureau of Investigation (“FBI”) notified CSE about the APT 31 attack against parliamentarians. This led CSE to provide additional information to the House of Commons and Senate on 30 June 2022. The targeted parliamentarians were apparently first notified of the cyber attacks in April and May 2024 when the FBI briefed the IPAC Secretariat about the attacks. IPAC’s Secretariat then informed the Canadian co-chairs of IPAC, who then notified other affected parliamentarians. The FBI later briefed the targeted parliamentarians in May 2024.<sup>65</sup>
- [52] On 8 May 2024, the Speaker of the House ruled there was a prima face breach of privilege<sup>66</sup> and on 9 May the House referred the matter to PROC for study.<sup>67</sup>
- [53] As of the date of this Overview Report, PROC has held hearings on 4, 6, 11, 13 and 20 June 2024 related to the APT 31 cyber attacks and the notification of

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<sup>64</sup> House of Commons, 44<sup>th</sup> Parliament, 1<sup>st</sup> Session, Debates. Vol. 151, No. 304 (April 29, 2024), **COM0000357(EN)/COM0000350(FR)**, p. 22661.

<sup>65</sup> House of Commons, 44<sup>th</sup> Parliament, 1<sup>st</sup> Session, Standing Committee on Procedure and House Affairs, Evidence, No. 121 (June 13, 2024), **COM0000369(EN)/COM0000375(FR)**, p. 5.

<sup>66</sup> House of Commons, 44<sup>th</sup> Parliament, 1<sup>st</sup> Session, Debates, Vol. 151, No. 312 (May 9, 2024), **COM0000359(EN)/COM0000352(FR)**, p. 23287.

<sup>67</sup> House of Commons, 44<sup>th</sup> Parliament, 1<sup>st</sup> Session, Debates, Vol. 151, No. 311 (May 8, 2024), **COM0000358(EN)/COM0000351(FR)**, pp. 23248-23250.

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parliamentarians.<sup>68</sup> PROC has heard from 17 witnesses, including the Clerk of the Privy Council, House of Commons Sergeant-at-Arms and Acting Chief Information Officer, officials from CSIS and CSE and six affected parliamentarians.

- [54] Much of the questioning in PROC related to when the government became aware of information about the cyber attacks, when it disclosed that information to Parliament and who was responsible for informing parliamentarians.

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

### 5.1 Background

- [55] NSICOP has studied aspects of foreign interference since shortly after its formation in 2017. In March 2023, the Prime Minister asked NSICOP to review foreign interference in Canada's federal democratic processes, with a focus on elections.<sup>69</sup> On 3 June 2024, a redacted version of NSICOP's report was published.<sup>70</sup>
- [56] NSICOP is a statutory, not parliamentary, committee governed by the *NSICOP Act*.<sup>71</sup> It reviews government intelligence operations, including the legislative, regulatory, policy, administrative and financial framework for national security and intelligence. It reviews

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<sup>68</sup> House of Commons, 44<sup>th</sup> Parliament, 1<sup>st</sup> Session, Standing Committee on Procedure and House Affairs, Evidence, Nos.:

118 (June 4, 2024), **COM0000366(EN)/COM0000372(FR)**,

119 (June 6, 2024), **COM0000367(EN)/COM0000373(FR)**,

120 (June 11, 2024), **COM0000368(EN)/COM0000374(FR)**,

121 (June 13, 2024), **COM0000369(EN)/COM0000375(FR)**.

Meeting No. 122 began on June 20, 2024 and suspended on that date. The meeting is ongoing when this Overview Report was prepared.

<sup>69</sup> Prime Minister of Canada Justin Trudeau, "Taking further action on foreign interference and strengthening confidence in our democracy" (Ottawa: March 6, 2023),

**COM0000176(EN)/COM0000178(FR)**.

<sup>70</sup> NSICOP, *Special Report on Foreign Interference in Canada's Democratic Processes and Institutions* (Ottawa: June 3, 2024), **COM0000363(EN)/COM0000362(FR)**.

<sup>71</sup> *National Security and Intelligence Committee of Parliamentarians Act*, S.C. 2017, c. 15. Section 4(3) says NSICOP is not a parliamentary committee.



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the activity of any government department relating to national security or intelligence (unless it is an ongoing operation, and the appropriate minister determines a review would be injurious to national security). It also investigates any matter a minister refers to it about national security or intelligence.<sup>72</sup>

[57] The Committee has not more than eight members from the House of Commons and three from the Senate.<sup>73</sup> Ministers of the Crown, ministers of state and parliamentary secretaries cannot sit on NSICOP, and the governing party can have no more than five members.<sup>74</sup> Members are appointed by the Governor in Council on the recommendation of the Prime Minister and hold office until Parliament is dissolved.<sup>75</sup>

[58] Committee members can review classified materials. All NSICOP members have Top Secret security clearances and are permanently bound to secrecy under the *Security of Information Act*. Members swear an oath or solemn affirmation that they will obey and uphold the laws of Canada and not communicate or inappropriately use information obtained in confidence because of their membership on NSICOP.

[59] The *NSICOP Act* gives the Committee access to any information under the control of a federal department related to the fulfilment of the Committee's mandate, including information protected by litigation and solicitor-client privilege.<sup>76</sup> However, NSICOP's right to information is subject to listed exceptions as follows:

- a. Cabinet confidences defined in the *Canada Evidence Act*, RSC 1985, c C-5, s 39(2).
- b. Information protected under the *Witness Protection Program Act*, SC 1996, c 15.

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<sup>72</sup> *NSICOP Act*, s 8.

<sup>73</sup> *NSICOP Act*, s 4(1), (2).

<sup>74</sup> *NSICOP Act*, s 4(2).

<sup>75</sup> *NSICOP Act*, s 5.

<sup>76</sup> *NSICOP Act*, ss 13(1), (2).

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- c. The identity, or any information allowing an inference of identity, of a confidential source of information, intelligence or assistance to the Government, a province or any state allied with Canada.
- d. Information about an ongoing investigation by a law enforcement agency that may lead to prosecution.<sup>77</sup>

[60] A minister may also refuse to disclose special operational information<sup>78</sup> to NSICOP if doing so would be injurious to national security.<sup>79</sup> Special operational information includes sensitive intelligence information, such as sources, targets and covert intelligence collection techniques.

[61] The National Security and Intelligence Review Agency (NSIRA) can give information to NSICOP related to the Committee's mandate if it does not fall outside the scope of information the Committee is authorized to receive. NSICOP can also provide information to NSIRA in certain circumstances.<sup>80</sup>

## 5.2 Definition of foreign interference

[62] NSICOP defines foreign interference as foreign state action meeting the three requirements of foreign influenced activities set out in the *CSIS Act*.<sup>81</sup> Foreign interference occurs when foreign states use clandestine or deceptive methods to influence or manipulate Canadian immigrant communities, political parties and government officials.<sup>82</sup>

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<sup>77</sup> *NSICOP Act*, s14.

<sup>78</sup> Defined in section 8(1) of the *Security of Information Act*.

<sup>79</sup> *NSICOP Act*, s 16.

<sup>80</sup> *NSICOP Act*, ss 22(1), (2).

<sup>81</sup> NSICOP, *Annual Report 2018* (Ottawa: December 21, 2018), **COM0000154(EN)/COM0000160(FR)** at 26; NSICOP, *Annual Report 2019* (Ottawa: August 30, 2019), **COM0000155(EN)/COM0000161(FR)** at 55; NSICOP, *Annual Report 2020* (Ottawa: December 18, 2020), **COM0000156(EN)/COM0000162(FR)** at 17, 20.

<sup>82</sup> NSICOP, *Annual Report 2018* (Ottawa: December 21, 2018), **COM0000154(EN)/COM0000160(FR)** at 26; NSICOP, *Annual Report 2020* (Ottawa: December 18, 2020), **COM0000156(EN)/COM0000162(FR)** at 17, 20.

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### 5.3. Annual and special reports addressing foreign interference

[63] Every year, NSICOP must submit a report to the Prime Minister about its work during the preceding year.<sup>83</sup> It may also submit special reports to the Prime Minister and the minister concerned.<sup>84</sup> The Prime Minister must put NSICOP's reports before each House of Parliament.<sup>85</sup>

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

[64] On 3 December 2018, the Prime Minister tabled NSICOP's special report on the allegations associated with the Prime Minister's official visit to India in February 2018.<sup>86</sup> Over April and May 2018, the Committee looked at allegations relating to foreign interference in Canadian political affairs, risks to the Prime Minister's security and inappropriate uses of intelligence related to the Prime Minister's trip.<sup>87</sup> The Committee's findings about specific allegations of foreign interference were redacted from its public report.<sup>88</sup>

[65] Based on its findings, the Committee made two recommendations about foreign interference.

[66] One, members of the House and Senate should be briefed when sworn-in and briefed regularly afterwards on the risks of foreign interference and extremism in Canada. Also, Cabinet ministers should be reminded of the expectations in the Government's *Open*

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<sup>83</sup> *NSICOP Act*, s 21(1).

<sup>84</sup> *NSICOP Act*, s 21(2).

<sup>85</sup> *NSICOP Act*, s 21(6).

<sup>86</sup> NSICOP, *Special Report into the allegations associated with Prime Minister Trudeau's official visit to India in February 2018* (Ottawa: October 12, 2018), **COM0000149(EN)/COM0000159(FR)**.

<sup>87</sup> NSICOP, *Special Report into the allegations associated with Prime Minister Trudeau's official visit to India in February 2018* (Ottawa: October 12, 2018), **COM0000149(EN)/COM0000159(FR)** at 27; Canada, NSICOP, *Annual Report 2018* (December 21, 2018), **COM0000154(EN)/COM0000160(FR)** at 15-16.

<sup>88</sup> NSICOP, *Special Report into the allegations associated with Prime Minister Trudeau's official visit to India in February 2018* (Ottawa: October 12, 2018), **COM0000149(EN)/COM0000159(FR)** at 8.

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and *Accountable Government* policy, including exercising discretion in who they meet or associate with, clearly distinguish between official and private media messaging and be reminded that public office holders must always prioritize the public interest.<sup>89</sup>

- [67] Two, the Minister of Public Safety and Emergency Preparedness should consider including a more formal role for the Prime Minister's National Security and Intelligence Advisor in a government process (which NSICOP did not name in the Report).<sup>90</sup>

### **Annual Report 2018**

- [68] On 9 April 2019, the Prime Minister tabled NSICOP's *Annual Report 2018* in Parliament.<sup>91</sup> This was the Committee's first annual report. The Report described the security and intelligence review apparatus in Canada and the history and mandate of NSICOP.<sup>92</sup> It also described the Canadian security and intelligence community.<sup>93</sup> It then reviewed government's process for setting intelligence priorities<sup>94</sup> and Department of National Defence and Canadian Armed Forces intelligence activities.<sup>95</sup>
- [69] The 2018 Annual Report summarized what key members of the security and intelligence community told NSICOP about the most significant national security

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<sup>89</sup> NSICOP, *Special Report into the allegations associated with Prime Minister Trudeau's official visit to India in February 2018* (Ottawa: October 12, 2018), **COM0000149(EN)/COM0000159(FR)** at 8.

<sup>90</sup> NSICOP, *Special Report into the allegations associated with Prime Minister Trudeau's official visit to India in February 2018* (Ottawa: October 12, 2018), **COM0000149(EN)/COM0000159(FR)** at 8.

<sup>91</sup> NSICOP, *Annual Report 2018* (Ottawa: December 21, 2018), **COM0000154(EN)/COM0000160(FR)**.

<sup>92</sup> NSICOP, *Annual Report 2018* (Ottawa: December 21, 2018), **COM0000154(EN)/COM0000160(FR)** at 1, Chapter 1.

<sup>93</sup> NSICOP, *Annual Report 2018* (Ottawa: December 21, 2018), **COM0000154(EN)/COM0000160(FR)** at 1, Chapter 2.

<sup>94</sup> NSICOP, *Annual Report 2018* (Ottawa: December 21, 2018), **COM0000154(EN)/COM0000160(FR)** at 1, Chapter 3.

<sup>95</sup> NSICOP, *Annual Report 2018* (Ottawa: December 21, 2018), **COM0000154(EN)/COM0000160(FR)** at 1, Chapter 4.

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threats.<sup>96</sup> These were terrorism,<sup>97</sup> espionage and foreign influence,<sup>98</sup> cyber threats,<sup>99</sup> major organized crime<sup>100</sup> and weapons of mass destruction.<sup>101</sup>

[70] CSIS told the Committee that the threat of espionage and foreign interference was growing in Canada and would likely require a more significant response in the years ahead.<sup>102</sup>

[71] NSICOP concluded that the public was not very aware of threats of organized crime or foreign interference in domestic politics.<sup>103</sup> It decided to review the issue of foreign interference in 2019. Other states were taking increasingly aggressive measures to influence Canadian political processes and institutions and Canadians should be vigilant against these efforts.<sup>104</sup>

[72] The Committee heard cyber threats were another significant national security problem, with Russia and China among the most active states seeking to gain access to government networks, communications of government officials and influence democratic processes.<sup>105</sup>

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<sup>96</sup> NSICOP, *Annual Report 2018* (Ottawa: December 21, 2018), **COM0000154(EN)/COM0000160(FR)** at 24.

<sup>97</sup> NSICOP, *Annual Report 2018* (Ottawa: December 21, 2018), **COM0000154(EN)/COM0000160(FR)** at 24-26.

<sup>98</sup> NSICOP, *Annual Report 2018* (Ottawa: December 21, 2018), **COM0000154(EN)/COM0000160(FR)** at 26-27.

<sup>99</sup> NSICOP, *Annual Report 2018* (Ottawa: December 21, 2018), **COM0000154(EN)/COM0000160(FR)** at 27-28.

<sup>100</sup> NSICOP, *Annual Report 2018* (Ottawa: December 21, 2018), **COM0000154(EN)/COM0000160(FR)** at 28.

<sup>101</sup> NSICOP, *Annual Report 2018* (Ottawa: December 21, 2018), **COM0000154(EN)/COM0000160(FR)** at 29.

<sup>102</sup> NSICOP, *Annual Report 2018* (Ottawa: December 21, 2018), **COM0000154(EN)/COM0000160(FR)** at 27.

<sup>103</sup> NSICOP, *Annual Report 2018* (Ottawa: December 21, 2018), **COM0000154(EN)/COM0000160(FR)** at 23.

<sup>104</sup> NSICOP, *Annual Report 2018* (Ottawa: December 21, 2018), **COM0000154(EN)/COM0000160(FR)** at 110.

<sup>105</sup> NSICOP, *Annual Report 2018* (Ottawa: December 21, 2018), **COM0000154(EN)/COM0000160(FR)** at 27-28.

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## Annual and Special Reports 2019

- [73] The NSICOP *Annual Report 2019* included a special report on the Committee’s review of the Government’s response to foreign interference. The review included the Canada Border Services Agency, CSIS, CSE, GAC, the PCO, Public Safety Canada and the RCMP.<sup>106</sup> The review did not look at activities directed at the 2019 federal election or at cyber threats. The Committee focused on materials produced between 1 January 2015 and 31 August 2018.<sup>107</sup>
- [74] The Committee explained the breadth and scope of the threat of foreign interference to Canadian security, including the primary threat actors.<sup>108</sup> It then described government’s efforts to respond to this threat.<sup>109</sup>
- [75] NSICOP noted foreign interference had received minimal media and academic coverage in Canada and was not part of wider public discourse. It contrasted this to Canada’s allies, notably, Australia, New Zealand and the United States, which had identified foreign interference as a substantial threat and where foreign interference was the subject of significant public discussion and academic research.<sup>110</sup>
- [76] In summary, in its Annual Report 2019, NSICOP said “government must do better”<sup>111</sup> and made the following recommendations for the Government of Canada:

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<sup>106</sup> NSICOP, *Annual Report 2019* (Ottawa: August 30, 2019), **COM0000155(EN)/COM0000161(FR)** at 2, 55-110.

<sup>107</sup> NSICOP, *Annual Report 2019* (Ottawa: August 30, 2019), **COM0000155(EN)/COM0000161(FR)** at 57.

<sup>108</sup> NSICOP, *Annual Report 2019* (Ottawa: August 30, 2019), **COM0000155(EN)/COM0000161(FR)** at 2, 58-77.

<sup>109</sup> NSICOP, *Annual Report 2019* (Ottawa: August 30, 2019), **COM0000155(EN)/COM0000161(FR)** at 2, 58, 78-107.

<sup>110</sup> NSICOP, *Annual Report 2019* (Ottawa: August 30, 2019), **COM0000155(EN)/COM0000161(FR)** at 56.

<sup>111</sup> NSICOP, *Annual Report 2019* (Ottawa: August 30, 2019), **COM0000155(EN)/COM0000161(FR)** at 107.



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- a. develop a comprehensive strategy to counter foreign interference and build institutional and public resiliency (the Committee provided a list of what such a strategy should do<sup>112</sup>);
- b. support the strategy by implementing centralized leadership and coordination (for example, like the Australian National Counter Foreign Interference Coordinator); and
- c. brief members of the House and Senate when they are sworn in, and regularly thereafter, on the risks of foreign interference and extremism in Canada, and Cabinet ministers should be reminded of the expectations in the *Open and Accountable Government* policy and the requirement for public office holders to always place the public interest first.<sup>113</sup>

[77] The Committee concluded states, including China and Russia, posed a risk to Canadian institutions, rights, freedoms and values because Canada was the target of significant and sustained foreign interference activities.<sup>114</sup> Those activities included:

- a. using deceptive means to cultivate relationships with elected officials and others perceived as having political influence; seeking to influence reporting by media outlets;

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<sup>112</sup> The specifics were as follows: “a) identify the short- and long-term risks and harms to Canadian institutions and rights and freedoms posed by the threat of foreign interference; b) examine and address the full range of institutional vulnerabilities targeted by hostile foreign states, including areas expressly omitted in the Committee’s review; c) assess the adequacy of existing legislation that deals with foreign interference, such as the *Security of Information Act* or the *CSIS Act*, and make proposals for changes if required; d) develop practical, whole-of-government operational and policy mechanisms to identify and respond to the activities of hostile states; e) establish regular mechanisms to work with sub-national levels of government and law enforcement organizations, including to provide necessary security clearances; f) include an approach for ministers and senior officials to engage with fundamental institutions and the public; and g) guide cooperation with allies on foreign interference.”: NSICOP, *Annual Report 2019* (Ottawa: August 30, 2019), **COM0000155(EN)/COM0000161(FR)** at 109.

<sup>113</sup> NSICOP, *Annual Report 2019* (Ottawa: August 30, 2019), **COM0000155(EN)/COM0000161(FR)** at 109. This recommendation was also made in NISCOP’s Special Report 2018.

<sup>114</sup> NISCOP, *Annual Report 2019* (Ottawa: August 30, 2019), **COM0000155(EN)/COM0000161(FR)** at 2, 55, 77, 107-108.

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- b. seeking to affect elections; and
- c. coercing or inducing diaspora communities to advance foreign interests in Canada.<sup>115</sup>

- [78] The Committee found states tried to control messages and influence decision-making by government primarily by targeting and manipulating ethnocultural communities by flattery, bribery, threats, harassment, detention of family members abroad and refusing to issue travel documents or visas. They also co-opted individuals outside of these communities.<sup>116</sup> The Committee found these states targeted electoral and political processes at national and sub-national levels.<sup>117</sup> They also targeted media<sup>118</sup> and academic institutions.<sup>119</sup>
- [79] NSICOP reviewed the Government's response to foreign interference across different government organizations<sup>120</sup> and government engagement with the public and other countries.<sup>121</sup>
- [80] While foreign interference historically received less attention than other Canadian security threats, the Committee found this was beginning to change with the Government starting to focus on "hostile state activities."<sup>122</sup>

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<sup>115</sup> NSICOP, *Annual Report 2019* (Ottawa: August 30, 2019), **COM0000155(EN)/COM0000161(FR)** at 55.

<sup>116</sup> NSICOP, *Annual Report 2019* (Ottawa: August 30, 2019), **COM0000155(EN)/COM0000161(FR)** at 62.

<sup>117</sup> NSICOP, *Annual Report 2019* (Ottawa: August 30, 2019), **COM0000155(EN)/COM0000161(FR)** at 64-66.

<sup>118</sup> NSICOP, *Annual Report 2019* (Ottawa: August 30, 2019), **COM0000155(EN)/COM0000161(FR)** at 67-69.

<sup>119</sup> NSICOP, *Annual Report 2019* (Ottawa: August 30, 2019), **COM0000155(EN)/COM0000161(FR)** at 70-71.

<sup>120</sup> CSIS, the RCMP, Global Affairs Canada, the Privy Council Office and Public Safety Canada.

<sup>121</sup> NSICOP, *Annual Report 2019* (Ottawa: August 30, 2019), **COM0000155(EN)/COM0000161(FR)** at 78, 96.

<sup>122</sup> NSICOP, *Annual Report 2019* (Ottawa: August 30, 2019), **COM0000155(EN)/COM0000161(FR)** at 108.

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- [81] However, NSICOP was concerned there was no common understanding of the threat of foreign interference among security and intelligence organizations (like CSIS, the RCMP and the PCO), including about the gravity of the threat and its most common manifestations in Canada.<sup>123</sup> Also, unlike CSIS, the RCMP, which is responsible for criminal investigations of foreign interference, did not distinguish between espionage and foreign interference.<sup>124</sup> Further, security and intelligence organizations had focused in recent years on cyber threats and not longstanding and widespread mechanisms of traditional foreign interference.<sup>125</sup>
- [82] The NSICOP special report noted the mandates of individual departments were significant in shaping government's responses to foreign interference. This was because the Canadian system of ministerial accountability means departments are individually responsible for determining when and how threats should be addressed.<sup>126</sup> The Committee was concerned this meant considerations related to each organization's mandate may take precedence over other considerations.<sup>127</sup> Also, *ad hoc* coordination on specific instances of foreign interference risked government not considering broader challenges to ethnocultural groups and fundamental institutions and not considering all available tools and options.<sup>128</sup>

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<sup>123</sup> NSICOP, *Annual Report 2019* (Ottawa: August 30, 2019), **COM0000155(EN)/COM0000161(FR)** at 102-103, 108.

<sup>124</sup> NSICOP, *Annual Report 2019* (Ottawa: August 30, 2019), **COM0000155(EN)/COM0000161(FR)** at 102.

<sup>125</sup> NSICOP, *Annual Report 2019* (Ottawa: August 30, 2019), **COM0000155(EN)/COM0000161(FR)** at 103.

<sup>126</sup> NSICOP, *Annual Report 2019* (Ottawa: August 30, 2019), **COM0000155(EN)/COM0000161(FR)** at 104, 108.

<sup>127</sup> NSICOP, *Annual Report 2019* (Ottawa: August 30, 2019), **COM0000155(EN)/COM0000161(FR)** at 104, 108.

<sup>128</sup> NSICOP, *Annual Report 2019* (Ottawa: August 30, 2019), **COM0000155(EN)/COM0000161(FR)** at 104.

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- [83] Thus, as noted above, NSICOP recommended the Government develop a comprehensive, whole of government strategy to counter foreign interference and build institutional and public resiliency.<sup>129</sup>
- [84] NSICOP said there was minimal government interaction with sub-national levels of government and civil society on foreign interference.<sup>130</sup> It was essential government engage with the public and fundamental institutions, including at sub-national levels, to raise awareness of the threat of foreign interference.<sup>131</sup>

### **Annual Report 2020**

- [85] NSICOP dissolved before the 2019 general election and reconstituted in February 2020.<sup>132</sup> The Committee's *Annual Report 2020* updated NSICOP's 2018 threat assessment.<sup>133</sup> NSICOP described each threat, its evolution since 2018, implications from the pandemic and key conclusions.<sup>134</sup>
- [86] CSIS told the Committee hostile state actors posed the "greatest danger" to Canada's national security.<sup>135</sup> The threat of espionage and foreign interference was still growing in Canada and its allies.<sup>136</sup> Foreign interference was still a significant threat to the security of Canada and foreign states, including China and Russia, were using direct and indirect contact to influence democratic and electoral institutions and processes by

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<sup>129</sup> NSICOP, *Annual Report 2019* (Ottawa: August 30, 2019), **COM0000155(EN)/COM0000161(FR)** at 109.

<sup>130</sup> NSICOP, *Annual Report 2019* (Ottawa: August 30, 2019), **COM0000155(EN)/COM0000161(FR)** at 108.

<sup>131</sup> NSICOP, *Annual Report 2019* (Ottawa: August 30, 2019), **COM0000155(EN)/COM0000161(FR)** at 105, 108.

<sup>132</sup> NSICOP, *Annual Report 2020* (Ottawa: December 18, 2020), **COM0000156(EN)/COM0000162(FR)** at 1.

<sup>133</sup> NSICOP, *Annual Report 2020* (Ottawa: December 18, 2020), **COM0000156(EN)/COM0000162(FR)** at PDF 7-8, 1-2, 5.

<sup>134</sup> NSICOP, *Annual Report 2020* (Ottawa: December 18, 2020), **COM0000156(EN)/COM0000162(FR)** at 7.

<sup>135</sup> NSICOP, *Annual Report 2020* (Ottawa: December 18, 2020), **COM0000156(EN)/COM0000162(FR)** at 17.

<sup>136</sup> NSICOP, *Annual Report 2020* (Ottawa: December 18, 2020), **COM0000156(EN)/COM0000162(FR)** at 7, 21.

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manipulating the media, ethnocultural communities and persons in positions of authority or influence.<sup>137</sup>

[87] The Committee concluded espionage and foreign interference were the most significant long-term threats to Canada's sovereignty and prosperity.<sup>138</sup> Cyber threats, including foreign interference activities, were a significant risk in 2020, with Russia, China, Iran and North Korea most actively targeting Canadian government systems.<sup>139</sup>

[88] Broad cyber threat trends most closely related to national security and intelligence were: information theft for espionage purposes; compromise of critical infrastructure networks; online foreign influence campaigns through coordinated manipulation of social media and opinions; and cyber-enabled tracking and surveillance of dissidents and individuals.<sup>140</sup>

[89] The Committee learned advanced cyber threat actors had refined their ability to conduct online disinformation campaigns to amplify societal differences, sow discord and undermine confidence in fundamental governmental institutions.<sup>141</sup> According to CSE, the number of states doing this had grown since January 2019 and state-sponsored online activity would likely continue to target Canadian political discourse, especially around elections. However, Canada's 2019 federal election did not appear to have been a significant target of online influence and misinformation.<sup>142</sup>

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<sup>137</sup> NSICOP, *Annual Report 2020* (Ottawa: December 18, 2020), **COM0000156(EN)/COM0000162(FR)** at 17, 20-21.

<sup>138</sup> NSICOP, *Annual Report 2020* (Ottawa: December 18, 2020), **COM0000156(EN)/COM0000162(FR)** at 21.

<sup>139</sup> NSICOP, *Annual Report 2020* (Ottawa: December 18, 2020), **COM0000156(EN)/COM0000162(FR)** at 23-24.

<sup>140</sup> NSICOP, *Annual Report 2020* (Ottawa: December 18, 2020), **COM0000156(EN)/COM0000162(FR)** at 24.

<sup>141</sup> NSICOP, *Annual Report 2020* (Ottawa: December 18, 2020), **COM0000156(EN)/COM0000162(FR)** at 27.

<sup>142</sup> NSICOP, *Annual Report 2020* (Ottawa: December 18, 2020), **COM0000156(EN)/COM0000162(FR)** at 27.

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## Annual Report 2021

[90] In 2021, NSICOP completed a review of Canada's cyber defenses and began reviewing GAC's security and intelligence activities.<sup>143</sup> The Committee noted the Government had not yet responded to its 2019 recommendation to have a whole-of-government strategy to address foreign interference in Canada.<sup>144</sup>

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

[91] On February 14, 2022, the Prime Minister tabled another NSICOP special report in Parliament: *Special Report on the Government of Canada's Framework and Activities to Defend its Systems and Networks from Cyber Attack*.<sup>145</sup> The review spanned the years 2001 to 2021.<sup>146</sup> It looked at government's framework and activities to defend its systems and networks from cyber attacks and included CSE, Shared Services Canada, Treasury Board of Canada Secretariat and Public Safety Canada.<sup>147</sup>

[92] The Committee said cyber attacks are foreign interference when done by foreign states targeting government policies and policymaking, security and intelligence information and operations and systems integrity.<sup>148</sup>

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<sup>143</sup> NSICOP, *Annual Report 2021* (Ottawa: May 18, 2022), **COM0000150(FR)/COM0000157(EN)** at 1.

<sup>144</sup> NSICOP, *Annual Report 2021* (Ottawa: May 18, 2022), **COM0000150(FR)/COM0000157(EN)** at 8.

<sup>145</sup> NSICOP, *Special Report on the Government of Canada's Framework and Activities to Defend its Systems and Networks from Cyber Attack* (Ottawa: August 11, 2021), **COM0000152(FR)/COM0000324(EN)**.

<sup>146</sup> NSICOP, *Special Report on the Government of Canada's Framework and Activities to Defend its Systems and Networks from Cyber Attack* (Ottawa: August 11, 2021), **COM0000152(FR)/COM0000324(EN)** at 6.

<sup>147</sup> NSICOP, *Special Report on the Government of Canada's Framework and Activities to Defend its Systems and Networks from Cyber Attack* (Ottawa: August 11, 2021), **COM0000152(FR)/COM0000324(EN)** at 5.

<sup>148</sup> NSICOP, *Special Report on the Government of Canada's Framework and Activities to Defend its Systems and Networks from Cyber Attack* (Ottawa: August 11, 2021), **COM0000152(FR)/COM0000324(EN)** at 13-16.



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[93] According to NSICOP, cyber threats were a significant and pervasive risk to Canada's national security and governments were highly attractive targets for cyber attacks.<sup>149</sup> China and Russia were the most sophisticated cyber threat actors targeting the government. Iran, North Korea and a state (which NSICOP did not name in the Report) had moderately sophisticated capabilities and other states posed less sophisticated threats.<sup>150</sup>

### **Annual Report 2022 and special report on GAC's activities**

[94] In 2022, NSICOP finished its review of GAC's national security and intelligence activities.<sup>151</sup> The Committee reviewed GAC's contributions to the Government's response to state-sponsored malicious cyber activity and foreign interference.<sup>152</sup> NSICOP referred to its 2019 conclusion that GAC's responsibility for managing Canada's bilateral and multilateral relationships made it a key decision maker when government determines how to respond to foreign interference in Canada.<sup>153</sup>

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<sup>149</sup> NSICOP, *Special Report on the Government of Canada's Framework and Activities to Defend its Systems and Networks from Cyber Attack* (Ottawa: August 11, 2021), **COM0000152(FR)/COM0000324(EN)** at 1, 121.

<sup>150</sup> NSICOP, *Special Report on the Government of Canada's Framework and Activities to Defend its Systems and Networks from Cyber Attack* (Ottawa: August 11, 2021), **COM0000152(FR)/COM0000324(EN)** at 22-26.

<sup>151</sup> NSICOP, *Annual Report 2022* (Ottawa: May 12, 2023), **COM0000153(FR)/COM0000158(EN)**.

<sup>152</sup> NSICOP, *Special Report on the National Security and Intelligence Activities of Global Affairs Canada* (Ottawa: June 27, 2022), **COM0000151(EN)/COM0000163(FR)**. This review is also summarized in NSICOP, *Annual Report 2022* (Ottawa: May 12, 2023), **COM0000153(FR)/COM0000158(EN)**.

<sup>153</sup> NSICOP, *Special Report on the National Security and Intelligence Activities of Global Affairs Canada* (Ottawa: June 27, 2022) **COM0000151(EN)/COM0000163(FR)** at 33.

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## 5.4 Further review of foreign interference

- [95] On 6 March 2023, the Prime Minister asked NSICOP to review foreign interference in Canada’s federal democratic processes with a focus on elections.<sup>154</sup>
- [96] On 8 March 2023, NSICOP announced it would: (1) look at the state of federal election processes; (2) continue its previous work reviewing the Government’s response to foreign interference from 2015 to 2018; (3) examine the state of foreign interference in Canada’s democratic processes since 2018; and (4) consider the third party review of the Critical Election Incident Public Protocol (CEIPP) during the 2021 election (discussed further below).<sup>155</sup>
- [97] The Committee said it would engage with other review bodies, as required, to avoid duplication as it developed its terms of reference.<sup>156</sup>
- [98] On 3 June 2024, a redacted version of NSICOP’s report was published.<sup>157</sup>
- [99] NSICOP’s overall conclusion was that threat actors see Canada as a permissive environment and view foreign interference a low-risk, high-reward endeavour.<sup>158</sup>

### Key conclusions about foreign interference in Canada

- [100] NSICOP concluded Canada is the target of pervasive and sustained foreign interference activities targeting our democratic processes and institutions. Furthermore, these activities are a continuing and significant threat to our national security, and the

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<sup>154</sup> Prime Minister of Canada Justin Trudeau, “Taking further action on foreign interference and strengthening confidence in our democracy” (Ottawa: March 6, 2023), **COM0000176(EN)/COM0000178(FR)**.

<sup>155</sup> NSICOP, Media Room, “National Security and Intelligence Committee of Parliamentarians launches review of Foreign Interference in Canada’s Democratic Processes” (March 8, 2023), **COM0000130(FR)/COM0000145(EN)**.

<sup>156</sup> NSICOP, Media Room, “National Security and Intelligence Committee of Parliamentarians launches review of Foreign Interference in Canada’s Democratic Processes” (March 8, 2023), **COM0000130(FR)/COM0000145(EN)**.

<sup>157</sup> NSICOP, *Special Report on Foreign Interference in Canada’s Democratic Processes and Institutions* (Ottawa: June 3, 2024), **COM0000363(EN)/COM0000362(FR)**.

<sup>158</sup> NSICOP, *Special Report on Foreign Interference in Canada’s Democratic Processes and Institutions* (Ottawa: June 3, 2024), **COM0000363(EN)/COM0000362(FR)** at para 11.

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integrity of our democracy.<sup>159</sup> Foreign interference undermines democratic rights and fundamental freedoms, the integrity and credibility of our parliamentary process, and public trust in government policy decisions.<sup>160</sup>

[101]The Committee found no indication the CEIPP reviews or the ISR were wrong in finding the integrity of the 2019 and 2021 general elections was maintained.<sup>161</sup> However, foreign interference affected some ridings in those elections.<sup>162</sup> There was no indication of cyber attacks targeting the elections, but CSE detected state-directed cyber threat activity outside the election period.<sup>163</sup>

[102]The Committee noted that foreign actors use a mix of overt and covert activities, so it is hard to distinguish foreign influence from foreign interference. A significant amount of foreign interference falls into a legal and normative grey zone.<sup>164</sup>

[103]However, foreign interference activities are distinct from acceptable diplomatic advocacy and lobbying. The host state knows about the latter activities, which occur through recognized channels to achieve specific policy outcomes or objectives and comply with the *Vienna Convention on Diplomatic Relations, 1961*.<sup>165</sup>

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<sup>159</sup> NSICOP, *Special Report on Foreign Interference in Canada's Democratic Processes and Institutions (Ottawa: June 3, 2024)*, **COM0000363(EN)/COM0000362(FR)** at paras 136, 141, 176, Finding F1 (para 179).

<sup>160</sup> NSICOP, *Special Report on Foreign Interference in Canada's Democratic Processes and Institutions (Ottawa: June 3, 2024)*, **COM0000363(EN)/COM0000362(FR)** at para 175.

<sup>161</sup> NSICOP, *Special Report on Foreign Interference in Canada's Democratic Processes and Institutions (Ottawa: June 3, 2024)*, **COM0000363(EN)/COM0000362(FR)** at para 167.

<sup>162</sup> NSICOP, *Special Report on Foreign Interference in Canada's Democratic Processes and Institutions (Ottawa: June 3, 2024)*, **COM0000363(EN)/COM0000362(FR)** at paras 169-170.

<sup>163</sup> NSICOP, *Special Report on Foreign Interference in Canada's Democratic Processes and Institutions (Ottawa: June 3, 2024)*, **COM0000363(EN)/COM0000362(FR)** at paras 77-79.

<sup>164</sup> NSICOP, *Special Report on Foreign Interference in Canada's Democratic Processes and Institutions (Ottawa: June 3, 2024)*, **COM0000363(EN)/COM0000362(FR)** at para 19 and Figure 1.

<sup>165</sup> NSICOP, *Special Report on Foreign Interference in Canada's Democratic Processes and Institutions (Ottawa: June 3, 2024)*, **COM0000363(EN)/COM0000362(FR)** at para 18.

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## Key state threat actors

[104] From 1 September 2018 to 7 November 2023, the Committee found that the key state threat actors were:

- a. **People’s Republic of China** (PRC), which used various methods in a sophisticated, persistent, multidimensional and comprehensive way, and targeted all levels of government and facets of society.<sup>166</sup> The United Front Work Department (UFD) is a department of the Central Committee of the Chinese Communist Party. It is the organization primarily responsible for strengthening the PRC’s influence and interests abroad. “United front work” is the PRC government’s strategy of influencing, overtly and covertly, the Chinese diaspora, foreign governments and others to take actions and positions supportive of the PRC narrative. The UFD works with the PRC’s intelligence agencies.<sup>167</sup> The PRC was the largest foreign interference threat to Canada.
- b. **India**, which targeted politicians, ethnic media and Indo-Canadian ethnocultural communities.<sup>168</sup> India was the second most significant foreign interference threat to Canada’s democratic institutions and processes.
- c. **Pakistan**, during the early phase of the period under review.<sup>169</sup>

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<sup>166</sup> NSICOP, *Special Report on Foreign Interference in Canada’s Democratic Processes and Institutions* (Ottawa: June 3, 2024), **COM0000363(EN)/COM0000362(FR)** at paras 26, 141, 143, text box on pp 13-15 and Finding F1 (para 179).

<sup>167</sup> NSICOP, *Special Report on Foreign Interference in Canada’s Democratic Processes and Institutions* (Ottawa: June 3, 2024), **COM0000363(EN)/COM0000362(FR)** at text box on p 19.

<sup>168</sup> NSICOP, *Special Report on Foreign Interference in Canada’s Democratic Processes and Institutions* (Ottawa: June 3, 2024), **COM0000363(EN)/COM0000362(FR)** at paras 28, 142, text box on pp 13-15 and Finding F1 (para 179).

<sup>169</sup> NSICOP, *Special Report on Foreign Interference in Canada’s Democratic Processes and Institutions* (Ottawa: June 3, 2024), **COM0000363(EN)/COM0000362(FR)** at paras 29, 143 and text box on pp 13-15.

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- d. **Two unnamed states** and **Iran**, which monitored and repressed Canadian diaspora communities.<sup>170</sup>
- e. **Russia**, which had the capacity to engage in foreign interference in Canada but lacked the intent.<sup>171</sup>

[105]The Committee said whether a foreign state will try to interfere depends on state-specific factors and major events, notably elections.<sup>172</sup>

### **Government’s response to foreign interference**

[106]NSICOP concluded government reforms in 2018 (the Plan to Protect Democracy) were insufficient to address foreign interference in democratic processes and institutions. While the government recognized this gap at the time, it still took four years to develop and approve its “Hostile Activities by State Actors” strategy. A key part of the strategy—consultations on legislative reforms—was then delayed by over a year. This lengthy process did not show urgency commensurate with the gravity of the threat and undermined government’s operational responses to the threat.<sup>173</sup>

[107]NSICOP found gaps in authorities and legislation limited the security and intelligence community’s ability to act, particularly through the sharing of information with law enforcement bodies for investigation, charging or prosecution. These gaps also meant CSIS was largely unable to share information with key stakeholders such as parliamentarians and other orders of government. The gaps contributed to a situation

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<sup>170</sup> NSICOP, *Special Report on Foreign Interference in Canada’s Democratic Processes and Institutions (Ottawa: June 3, 2024)*, **COM0000363(EN)/COM0000362(FR)** at paras 29, 143 and text box on pp 13-15.

<sup>171</sup> NSICOP, *Special Report on Foreign Interference in Canada’s Democratic Processes and Institutions (Ottawa: June 3, 2024)*, **COM0000363(EN)/COM0000362(FR)** at para 27; text box on pp 13-15 and pp 60-61.

<sup>172</sup> NSICOP, *Special Report on Foreign Interference in Canada’s Democratic Processes and Institutions (Ottawa: June 3, 2024)*, **COM0000363(EN)/COM0000362(FR)** at para 22.

<sup>173</sup> NSICOP, *Special Report on Foreign Interference in Canada’s Democratic Processes and Institutions (Ottawa: June 3, 2024)*, **COM0000363(EN)/COM0000362(FR)** at para 173 and Finding F2 (para 179).

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where there were few meaningful deterrents to foreign states and their Canada-based proxies from conducting interference activities.<sup>174</sup>

[108]The Committee also found significant differences in how ministers, departments and agencies interpreted the gravity and prevalence of foreign interference, including the threshold for response. Specifically:

- a. The intelligence community increased its reporting to the government on the threat of foreign interference in Canada's democratic processes and institutions in response to a change in Canada's intelligence priorities.
- b. Policy departments (PCO, GAC and Public Safety) did not adequately consider intelligence reporting or assessments or develop policy advice to address specific cases of foreign interference.
- c. Ministers accountable for national security did not request policy advice in response to intelligence reporting and the government was slow to put in place governance structures to consider intelligence and take decisions.<sup>175</sup>

[109]Other NSICOP findings about how government responds to foreign interference were:

- a. The roles, mandates and accountabilities of the National Security Council and supporting governance committees are unclear.<sup>176</sup>

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<sup>174</sup> NSICOP, *Special Report on Foreign Interference in Canada's Democratic Processes and Institutions* (Ottawa: June 3, 2024), **COM0000363(EN)/COM0000362(FR)** at para 174 and Finding F5 (para 179).

<sup>175</sup> NSICOP, *Special Report on Foreign Interference in Canada's Democratic Processes and Institutions* (Ottawa: June 3, 2024), **COM0000363(EN)/COM0000362(FR)** at para 179 and Finding F3 (para 179).

<sup>176</sup> NSICOP, *Special Report on Foreign Interference in Canada's Democratic Processes and Institutions* (Ottawa: June 3, 2024), **COM0000363(EN)/COM0000362(FR)** at Finding F4 (para 179).



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- b. Canada's current legal framework does not enable the security and intelligence community or law enforcement to respond effectively to foreign interference activities.<sup>177</sup>
- c. While departments and agencies conducted operations to disrupt or deter foreign interference, tangible results with respect to the level of actual threat reduction were difficult to measure.<sup>178</sup>
- d. The government's ability to address vulnerabilities in political party administration is limited.<sup>179</sup>

### **What must be done**

[110]The NSICOP 2024 Special Report said the government must act swiftly to address vulnerabilities that make Canada's democratic processes and institutions an easy target. In particular, government must:

- a. Ensure legislation keeps pace with an evolving foreign interference threat. This includes updating laws to give the security and intelligence community the tools to respond to foreign interference, such as the ability to share classified information with the public, parliamentarians, other orders of government and law enforcement agencies.
- b. Clearly define thresholds for response and clarify the roles and mandates of governance bodies.<sup>180</sup>

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<sup>177</sup> NSICOP, *Special Report on Foreign Interference in Canada's Democratic Processes and Institutions (Ottawa: June 3, 2024)*, **COM0000363(EN)/COM0000362(FR)** at Finding F5 (para 179).

<sup>178</sup> NSICOP, *Special Report on Foreign Interference in Canada's Democratic Processes and Institutions (Ottawa: June 3, 2024)*, **COM0000363(EN)/COM0000362(FR)** at Finding F6 (para 179).

<sup>179</sup> NSICOP, *Special Report on Foreign Interference in Canada's Democratic Processes and Institutions (Ottawa: June 3, 2024)*, **COM0000363(EN)/COM0000362(FR)** at Finding F8 (para 179).

<sup>180</sup> NSICOP, *Special Report on Foreign Interference in Canada's Democratic Processes and Institutions (Ottawa: June 3, 2024)*, **COM0000363(EN)/COM0000362(FR)** at para 176.

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- c. Address deficiencies in how intelligence is distributed, assessed and used internally, to build a culture where officials and ministers are accountable for identifying challenges and taking decisions to address them.<sup>181</sup>

[111]The Committee stressed that parliamentarians must be part of the solution. They must recognize that as lawmakers they may be targets of foreign interference. They should carefully consider all ethical and legal ramifications of their engagement with foreign officials or their proxies and act to reduce their vulnerabilities. Foreign interference is not “politics as usual.”<sup>182</sup>

[112]The Committee made six specific recommendations:

1. The government table legislation before the next federal election to address gaps in Canada’s legal framework with respect to foreign interference, specifically to:
  - a. Create a foreign influence transparency registry.
  - b. Amend the *Criminal Code* and the *Security of Information Act* to define foreign interference and introduce relevant offences.
  - c. Modernize the *CSIS Act*, including measures to facilitate wider sharing of classified information.
  - d. Address the intelligence-to-evidence challenge.
  - e. Reduce vulnerabilities in political nomination processes, including leadership conventions.
2. The government engage political parties to determine whether party nomination processes and leadership conventions be included within the framework of the *Canada Elections Act*, and work with Parliament to determine whether the statute governing the Conflict of Interest and Ethics

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<sup>181</sup> NSICOP, *Special Report on Foreign Interference in Canada’s Democratic Processes and Institutions (Ottawa: June 3, 2024)*, **COM0000363(EN)/COM0000362(FR)** at paras 176-177 and Finding F5 (para 179).

<sup>182</sup> NSICOP, *Special Report on Foreign Interference in Canada’s Democratic Processes and Institutions (Ottawa: June 3, 2024)*, **COM0000363(EN)/COM0000362(FR)** at para 178.

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Commissioner and the Senate Ethics Officer should be revised to include foreign interference.

3. The government review and renew legislation, strategies and funding to ensure they keep pace with the evolution of foreign interference activities and other national security threats, and regularly include and respect legislative review provisions in national security legislation.
4. The government ensure that the roles, mandates and accountabilities of the National Security Council and supporting governance committees are clear and publicly communicated to improve transparency and performance.
5. The security and intelligence community develop consistent definitions and thresholds for action with respect to foreign interference, and organizations responsible for intelligence collection and those responsible for providing policy advice, respectively, regularly collaborate to provide the Government timely and comprehensive assessments of threats and advice for action.
6. The government immediately implement and report annually on the briefings for parliamentarians on the threat of foreign interference.<sup>183</sup>

## 5.5 House of Commons motion to expand the Commission's terms of reference

[113]In response to the NSICOP 2024 Special Report, the House of Commons adopted a Bloc Québécois motion ("Motion") on 11 June 2024. The Motion asked the Government to expand the Commission's Terms of Reference to allow the Commission to investigate

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<sup>183</sup> NSICOP, *Special Report on Foreign Interference in Canada's Democratic Processes and Institutions (Ottawa: June 3, 2024)*, **COM0000363(EN)/COM0000362(FR)** at para 180.

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Canada's federal democratic institutions, including Members of the House of Commons elected in 2019 and 2021 and members of the Senate.<sup>184</sup>

[114] On 17 June 2024, the Commission responded to the Motion in its *4th Notice to the Public*. The Commission noted the government's decision to resort to the process of an independent commission of inquiry to shed light on the facts and events discussed in the NSICOP report about the role that certain parliamentarians may have played, wittingly or unwittingly, in foreign interference activities. The Commission will conduct this examination as part of its ongoing work under Clause C of its current terms of reference.<sup>185</sup>

[115] The Commission will examine these issues within the framework it has established for executing its mandate in accordance with the rules and principles applicable to independent commissions of inquiry. These include respecting the principles of procedural fairness and the fundamental rights of any person affected by the Commission's work, in compliance with the rule of law.<sup>186</sup>

## 6. National Security and Intelligence Review Agency (NSIRA)

### 6.1 Background

[116] On 9 March 2023, NSIRA initiated a review of foreign interference. On 28 May 2024, it published its *Review of the dissemination of intelligence on People's Republic of China political foreign interference, 2018-2023* ("NSIRA 2024 Review"). The Prime Minister received a classified version of the NSIRA 2024 Review on 5 March 2024.<sup>187</sup>

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<sup>184</sup> Vote 808, House of Commons, 44<sup>th</sup> Parliament, 1<sup>st</sup> Session, *Journals*, No 329 (June 11, 2024), **COM0000361**.

<sup>185</sup> *4th Notice to the Public*, PIFI (June 17, 2024), **COM0000356(EN)/COM0000376(FR)** at para 6.

<sup>186</sup> *4th Notice to the Public*, PIFI (June 17, 2024), **COM0000356(EN)/COM0000376(FR)** at para 7.

<sup>187</sup> NSIRA, *Review of the dissemination of intelligence on People's Republic of China political foreign interference, 2018-2023* (Ottawa: May 28, 2024), **COM0000364(EN)/COM0000365(FR)**.

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Government bodies reviewed included CSIS, CSE, the RCMP, GAC, Public Safety and the PCO.<sup>188</sup>

[117]The *National Security and Intelligence Review Act* (“*NSIRA Act*”) created NSIRA in July 2019.<sup>189</sup> NSIRA is an independent and external review body reporting to Parliament, not to the government. It reviews and investigates government national security and intelligence activity to ensure it is lawful, reasonable and necessary. It also investigates public complaints about key national security agencies and activities.<sup>190</sup>

[118]The *NSIRA Act* gives NSIRA access to all relevant information for its reviews. It is entitled to access “in a timely manner” any information held by or under the control of any government department, including information protected by litigation or solicitor-client privilege.<sup>191</sup> It is also entitled to receive from the deputy head or employees of a department any documents and explanations NSIRA deems necessary to exercise its powers and perform its duties and functions.<sup>192</sup> Like NSICOP, it is not entitled to access Cabinet confidences as defined in section 39 of the *Canada Evidence Act*.<sup>193</sup>

[119]NSIRA can give information to NSICOP related to NSICOP’s mandate if NSICOP is authorized to receive the information. NSICOP can also provide information to NSIRA in certain circumstances.<sup>194</sup>

## 6.2 Definition of foreign interference

[120]The NSIRA 2024 Review defines foreign interference as including covert, clandestine or deceptive activities undertaken by foreign actors to advance their strategic, geopolitical, economic and security interests. This could occur in any sphere of society, including the

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<sup>188</sup> *Review of the dissemination of intelligence on People’s Republic of China political foreign interference, 2018-2023* (Ottawa: May 28, 2024), **COM0000364(EN)/COM0000365(FR)** at 1.

<sup>189</sup> *National Security and Intelligence Review Agency Act*, S.C. 2019, c. 13.

<sup>190</sup> *NSIRA Act*, s 8.

<sup>191</sup> *NSIRA Act*, s 9.

<sup>192</sup> *NSIRA Act*, s 11.

<sup>193</sup> *NSIRA Act*, s 12.

<sup>194</sup> *NSIRA Act*, s 14, 15; *NSICOP Act*, s 22(1), (2).

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private sector, academia, the media and the political system. “Political foreign interference” was a subset of foreign interference.<sup>195</sup>

### 6.3 Review of foreign interference

[121]The NSIRA 2024 Review assessed the flow of information within government about political foreign interference activities carried out by the PRC between 2018 and 2023. NSIRA’s analysis addressed, among other things: the dissemination practices of CSIS; the operation of key entities established by the government to protect the integrity of Canada’s elections; and the role of senior public servants, including the National Security and Intelligence Advisor to the Prime Minister (NSIA), in disseminating intelligence.

#### **Disagreements within agencies about when and how to share intelligence**

[122]NSIRA found significant disagreements within and across security and intelligence agencies, about when and how to share information and intelligence. Underlying these disagreements and misalignments was how to address the “grey zone” where political foreign interference overlaps with legitimate political and diplomatic activity. The risk of characterizing legitimate political or diplomatic behaviour as a threat led some members of the intelligence community not to identify certain activities as threat actions.<sup>196</sup>

[123]From 2018 to 2023, CSIS faced another dilemma. On the one hand, information about foreign interference in elections was a priority for the government. As a result, CSIS focused on investigating political foreign interference. On the other hand, CSIS was sensitive that the collection and dissemination of intelligence about elections might itself be seen as election interference. Thus, any action by CSIS must not influence or be

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<sup>195</sup> *Review of the dissemination of intelligence on People’s Republic of China political foreign interference, 2018-2023* (Ottawa: May 28, 2024), **COM0000364(EN)/COM0000365(FR)** at 3.

<sup>196</sup> *Review of the dissemination of intelligence on People’s Republic of China political foreign interference, 2018-2023* (Ottawa: May 28, 2024), **COM0000364(EN)/COM0000365(FR)** at v, 6-9, 16-17, 35.



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seen to influence that election. Despite its awareness of this dynamic, CSIS had no policy or guidelines to address it.<sup>197</sup>

[124]As a result, NSIRA found disagreement, uncertainty, poor communication and inconsistency within CSIS about whether, when and how to disseminate intelligence.<sup>198</sup> CSIS did not clearly communicate the threat posed by political foreign interference activities<sup>199</sup> and its decision to use oral briefings during elections made this communication failure worse.<sup>200</sup>

[125]The problem of CSIS intelligence dissemination left decision makers with no clear basis for justifying a decision to act. This in turn led the government to become averse to taking action.<sup>201</sup>

[126]NSIRA discussed two examples of the above problems from the 2019 and 2021 elections.

[127]In the fall of 2019, CSIS collected intelligence on PRC foreign intelligence activities in support of a federal election candidate and widely disseminated it, including to the Security and Intelligence Threats to Elections Task Force (“SITE TF”), the candidate’s party, Elections Canada, the Office of the Commissioner of Canada Elections, senior public servants (including the CEIPP Panel), the Minister of Public Safety and the Prime

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<sup>197</sup> *Review of the dissemination of intelligence on People’s Republic of China political foreign interference, 2018-2023* (Ottawa: May 28, 2024), **COM0000364(EN)/COM0000365(FR)** at v, 8-10, 13-16, 34 and Finding 2 (p 13).

<sup>198</sup> *Review of the dissemination of intelligence on People’s Republic of China political foreign interference, 2018-2023* (Ottawa: May 28, 2024), **COM0000364(EN)/COM0000365(FR)** at 10-11, 17 and Findings 1 and 4 (p 13).

<sup>199</sup> *Review of the dissemination of intelligence on People’s Republic of China political foreign interference, 2018-2023* (Ottawa: May 28, 2024), **COM0000364(EN)/COM0000365(FR)** at Finding 1 (p 13).

<sup>200</sup> *Review of the dissemination of intelligence on People’s Republic of China political foreign interference, 2018-2023* (Ottawa: May 28, 2024), **COM0000364(EN)/COM0000365(FR)** at 14 and Finding 3 (p 13).

<sup>201</sup> *Review of the dissemination of intelligence on People’s Republic of China political foreign interference, 2018-2023* (Ottawa: May 28, 2024), **COM0000364(EN)/COM0000365(FR)** at 14.

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Minister.<sup>202</sup> However, sometimes the dissemination of intelligence lacked timeliness and clarity.

[128] However, sometimes the dissemination of intelligence lacked timeliness and clarity. For example, the Minister of Public Safety was not briefed until March 2020 and the Prime Minister was not directly briefed until February 2021. While the Prime Minister may have orally received the information in late September or early October, there was no documentation about this. Early reporting did not sufficiently distinguish typical political activity from threat-related foreign interference and so consumers may not have appreciated the intended import of the intelligence.<sup>203</sup>

[129] For the 2021 election, PCO and CSIS produced reports meant to be comprehensive syntheses of PRC foreign interference activities, but the NSIA viewed them as merely recounting standard diplomatic activity and so these intelligence products did not reach the political executive, including the Prime Minister.<sup>204</sup>

[130] In response to the above problems, NSIRA recommended CSIS develop a comprehensive policy and strategy about all aspects of how CSIS addresses – investigates, reports about, and acts against – threats of political foreign interference. This would bring internal organizational coherence and signal to government stakeholders that when CSIS provides intelligence it has carefully considered all aspects of political foreign interference, including its unique sensitivities, and is reporting and advising on those threats using rigorous standards and thresholds.<sup>205</sup>

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<sup>202</sup> *Review of the dissemination of intelligence on People's Republic of China political foreign interference, 2018-2023* (Ottawa: May 28, 2024), **COM0000364(EN)/COM0000365(FR)** at 6-8.

<sup>203</sup> *Review of the dissemination of intelligence on People's Republic of China political foreign interference, 2018-2023* (Ottawa: May 28, 2024), **COM0000364(EN)/COM0000365(FR)** at 6-8.

<sup>204</sup> *Review of the dissemination of intelligence on People's Republic of China political foreign interference, 2018-2023* (Ottawa: May 28, 2024), **COM0000364(EN)/COM0000365(FR)** at vii.

<sup>205</sup> *Review of the dissemination of intelligence on People's Republic of China political foreign interference, 2018-2023* (Ottawa: May 28, 2024), **COM0000364(EN)/COM0000365(FR)** at vi, 5, 17-18 and Recommendation 1 (p 18).

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## **SITE TF and CEIPP**

[131]NSIRA also found the SITE TF and CEIPP were geared to addressing broad, systemic and largely online interference (like that witnessed during the 2016 US presidential election). Because of this, they could not adequately address human-based, riding-by-riding interference.<sup>206</sup>

[132]NSIRA recommended several adjustments to the SITE TF and CEIPP to ensure the full range of threats associated with foreign interference is adequately addressed:

- a. Align priorities with the threat landscape, including threats occurring outside the election period.
- b. GAC and PCO should ensure GAC's involvement in the SITE TF leverages GAC's capacity to analyze and address human-based foreign interference.
- c. PCO should empower the CEIPP panel of senior civil servants to develop strategies to address the full threat landscape during elections, including threats manifested in specific ridings.<sup>207</sup>

## **The flow of intelligence on foreign interference**

[133]During the review period, NSIRA found that CSIS lacked the ability to track definitively who had received and read its intelligence. This was partly due to inadequate internal tracking systems of recipient departments like Public Safety. However, NSIRA concluded that CSIS is responsible for controlling and documenting access since it is the originator of sensitive information.<sup>208</sup>

<sup>206</sup> *Review of the dissemination of intelligence on People's Republic of China political foreign interference, 2018-2023* (Ottawa: May 28, 2024), **COM0000364(EN)/COM0000365(FR)** at vi, 18-21, 34 and Finding 5 (p 19).

<sup>207</sup> *Review of the dissemination of intelligence on People's Republic of China political foreign interference, 2018-2023* (Ottawa: May 28, 2024), **COM0000364(EN)/COM0000365(FR)** (FR) at Recommendations 2-4 (p 21).

<sup>208</sup> *Review of the dissemination of intelligence on People's Republic of China political foreign interference, 2018-2023* (Ottawa: May 28, 2024), **COM0000364(EN)/COM0000365(FR)** at vi, 14, 23-24 and Finding 7 (p 23).

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[134]NSIRA also found the limited distribution of some CSIS and CSE products only to senior officials reduced the ability of the RCMP, GAC and the PCO to incorporate this intelligence into their work<sup>209</sup> and the NSIA's role in decisions about disseminating CSIS intelligence products was unclear.<sup>210</sup>

[135]Thus, NSIRA recommended:

- a. CSIS and Public Safety rigorously track and document who has received and read intelligence products.<sup>211</sup>
- b. Regular consumers of intelligence work to enhance intelligence literacy within their departments and that the security and intelligence community develop a common working understanding of what constitutes political foreign interference.<sup>212</sup>
- c. Describing the NSIA's role in a legal instrument, including the NSIA's role in decision-making.<sup>213</sup>

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<sup>209</sup> *Review of the dissemination of intelligence on People's Republic of China political foreign interference, 2018-2023* (Ottawa: May 28, 2024), **COM0000364(EN)/COM0000365(FR)** at 22-23 and Finding 6 (p 22).

<sup>210</sup> *Review of the dissemination of intelligence on People's Republic of China political foreign interference, 2018-2023* (Ottawa: May 28, 2024), **COM0000364(EN)/COM0000365(FR)** at vii, 26-34, Finding 10 (p 26).

<sup>211</sup> *Review of the dissemination of intelligence on People's Republic of China political foreign interference, 2018-2023* (Ottawa: May 28, 2024), **COM0000364(EN)/COM0000365(FR)** at vii, 24-26 and Recommendation 5 (p 26).

<sup>212</sup> *Review of the dissemination of intelligence on People's Republic of China political foreign interference, 2018-2023* (Ottawa: May 28, 2024), **COM0000364(EN)/COM0000365(FR)** at vii, 26-27, Findings 8-9 (p 26) and Recommendations 6-7 (p 34).

<sup>213</sup> *Review of the dissemination of intelligence on People's Republic of China political foreign interference, 2018-2023* (Ottawa: May 28, 2024), **COM0000364(EN)/COM0000365(FR)** at Recommendation 8 (p 34).

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## 7. Commissioner of Canada Elections (CCE)

### 7.1 Background

[136] In March 2023, during her appearance before PROC, the Commissioner of Canada Elections (“CCE”) confirmed her office (“OCCE”) had undertaken a review of allegations of foreign interference.<sup>214</sup>

[137] The CCE is responsible for ensuring compliance with, and enforcement of, the *Canada Elections Act* and the *Referendum Act*, S.C. 1992, c. 30.<sup>215</sup> The Chief Electoral Officer appoints the CCE after consultation with the Director of Public Prosecutions.<sup>216</sup> Although the CCE is administratively located in the Office of the Chief Electoral Officer,<sup>217</sup> the CCE is not part of Elections Canada<sup>218</sup> and the CCE’s decisions and actions are independent of the Chief Electoral Officer.<sup>219</sup> This independence does not preclude the CCE from consulting the CEO on any matter the CCE considers appropriate.

[138] The CCE receives and reviews complaints or allegations of wrongdoing contrary to the *Canada Elections Act* or *Referendum Act* related to a general election, by-election or referendum. When a complaint is received, the CCE conducts an initial reading and screening to verify jurisdiction over the complaint. If there appears to be a contravention of one of these Acts, the file is assigned to the CCE’s enforcement group to determine if

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<sup>214</sup> Commissioner of Canada Elections, *Commissioner of Canada Elections Annual Report 2022* (Ottawa: January 2023), **COM0000030(EN)/COM0000031(FR)** at 5.

<sup>215</sup> See s 509.2 of the *Canada Elections Act* and the *Regulation Adapting the Canada Elections Act for the Purposes of a Referendum*, SOR/2010-20.

<sup>216</sup> *Canada Elections Act*, s 509(1).

<sup>217</sup> *Canada Elections Act*, s 509.1(1).

<sup>218</sup> Elections Canada, Overview of Elections Canada and the Federal Electoral System Briefing Book, “The Chief Electoral Officer and His Office” (October 2021), **COM0000133(FR)/COM0000210(EN)**.

<sup>219</sup> *Canada Elections Act*, s 509.21(1).

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sufficient grounds exist to launch a formal investigation.<sup>220</sup> This *prima face* analysis is referred to as a “review.”<sup>221</sup>

[139]If the investigation leads the CCE to have reasonable grounds to believe there was a contravention of the Acts, the CCE selects the most appropriate compliance or enforcement tool among several measures, including administrative monetary penalty or prosecution.

[140]At the CCE’s request, the Chief Electoral Officer must provide the CCE with any document or information that the Chief Electoral Officer obtained under the *Canada Elections Act* and that the CCE considers necessary to the exercise or performance of their powers, duties and functions under the Act.<sup>222</sup> The CCE has memoranda of understanding with CSIS, the RCMP and the Public Prosecution Service of Canada. The CCE also collaborates with CSE and GAC.<sup>223</sup>

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

[142]The CCE may apply for judicial orders for production, communication or preservation of information and documents, search warrants, witness examinations or a written return.<sup>224</sup> The CCE can also apply to court for an injunction if they have reasonable

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<sup>220</sup> Sufficient grounds are made out if the OCCE has reason to suspect a contravention of the Acts occurred.

<sup>221</sup> Stage 1 Interview Summary, Yves Côté, Mylène Gigou and Al Mathews, **WIT0000025**, paras. 46-48.

<sup>222</sup> *Canada Elections Act*, s 16.5(2) allows the CCE to ask the CEO to provide her with information, while s 540(4.1) provides for the sharing of any document or material evidencing an alleged contravention, usually as part of a referral from EC to the CCE .

<sup>223</sup> Commissioner of Canada Elections, *Commissioner of Canada Elections Annual Report 2022* (Ottawa: January 2023), **COM0000030(EN)/COM0000031(FR)** at 21.

<sup>224</sup> *Canada Elections Act*, ss. 510-510.01.



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grounds to believe a person has committed, is about to commit or is likely to commit a contravention of the *Canada Elections Act*.<sup>225</sup>

## 7.2 Definition of foreign interference.

[143]The CCE can only investigate possible breaches of the *Canada Elections Act* or possible *Criminal Code* offences if committed in conjunction with an offence under the *Canada Elections Act*.<sup>226</sup> Under the Act, examples of prohibited foreign interference include: foreign funding of parties, candidates, electoral district associations and leadership and nomination contestants;<sup>227</sup> using a broadcasting station outside of Canada to try to influence the electoral process;<sup>228</sup> incurring expenses to promote or oppose a candidate, registered party or leader of a registered party; or committing an offence under Canadian law to influence the choice of an elector in a federal election.<sup>229</sup>

## 7.3 CCE reviews of allegations of foreign interference in the 2019 and 2021 general elections

[144]Following media reports in the fall of 2022, the CCE conducted three reviews about allegations of foreign interference in the 2019 and 2021 elections. As of the date of this Overview Report, one review is finished and two are ongoing.

[145]During a meeting of the House of Commons Standing Committee on Procedure and House Affairs on 14 April 2023, Mr. Michael Cooper, Member of Parliament for St. Albert-Edmonton, alleged that before the 2021 election, then-MP Bob Saroya received a cryptic and threatening text message from the Chinese Consul General in

<sup>225</sup> *Canada Elections Act*, s. 516.

<sup>226</sup> Commissioner of Canada Elections, *Commissioner of Canada Elections Annual Report 2022* (Ottawa: January 2023), **COM0000030(EN)/COM0000031(FR)** at 20, 22.

<sup>227</sup> *Canada Elections Act*, ss 349.02, 349.4, 351.1, 363(1), 368, 370; Office of the Chief Electoral Officer of Canada, *Meeting New Challenges: Recommendations from the Chief Electoral Officer of Canada following the 43rd and 44th General Elections (2022)*, **COM0000033(EN)/COM0000033(FR)** at 26.

<sup>228</sup> *Canada Elections Act*, s 330.

<sup>229</sup> *Canada Elections Act*, s 282.4.

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Toronto. The message allegedly indicated that Mr. Saroya would no longer be a Member of Parliament after the election.<sup>230</sup> The CCE initiated a review on her own initiative. The review did not identify tangible or direct evidence to substantiate the elements constituting an offence under the *Canada Elections Act*. The file was closed.<sup>231</sup>

[146] On 10 November 2022, Yves-François Blanchet, leader of the Bloc Québécois, filed a complaint with the CCE following media reports of alleged leaked classified information about foreign interference. This complaint was followed by additional complaints from members of the public. The CCE commenced a review in December 2022 of allegations of foreign interference in the 2021 general election. The review focused on electoral districts within the Greater Vancouver Area, including the campaign of Conservative Party candidate Kenny Chiu. To date, the CCE has not gathered tangible or direct evidence to substantiate the elements constituting a contravention under the *Canada Elections Act*. This review is ongoing as of the date of this Overview Report.<sup>232</sup>

[147] On 15 March 2023, the CCE commenced a review on her own initiative of allegations that a network of individuals in the Greater Toronto Area associated with the Chinese Consulate transferred about \$250,000 to aid a federal candidate in the 2019 general election. This review also addressed allegations that the Consulate became involved in the 2019 Liberal Party of Canada nomination contest in Don Valley North. To date, the CCE has not found tangible or direct evidence indicating foreign funding or illegal participation in the Don Valley North nomination campaign. This review continues as of the date of this Overview Report.<sup>233</sup>

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<sup>230</sup> House of Commons, 44th Parliament, 1st Session, Standing Committee on Procedure and House Affairs, Evidence, No. 061 (April 14, 2023), **COM0000272(EN)/COM0000273(FR)**, p. 19.

<sup>231</sup> OCCE Summary 2022-0925-56, **CEF0000161**.

<sup>232</sup> OCCE Summary 2022-0925, **CEF0000152\_R2**.

<sup>233</sup> OCCE Summary 2022-0925-11, **CEF0000150\_R2**.

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## 8. The Critical Election Incident Public Protocol (CEIPP)

### 8.1 Background

[148] CEIPP is a mechanism for senior public servants (called the “Panel” or the “Panel of Five”) to communicate with Canadians during an election if there is an incident that threatens the integrity of a federal election.<sup>234</sup> The senior public servants who sit on the Panel of Five are the Clerk of the Privy Council, the National Security and Intelligence Advisor to the Prime Minister, the Deputy Minister of Justice and Deputy Attorney General, the Deputy Minister of Public Safety and the Deputy Minister of Foreign Affairs.<sup>235</sup>

[149] In January 2019, the ministers of Democratic Institutions, Public Safety and Emergency Preparedness and National Defence announced the Government’s “Plan to Protect Canadian Democracy.”<sup>236</sup> As part of the Plan, Cabinet created the CEIPP.

[150] The Protocol is not just about foreign interference.<sup>237</sup> It is aimed at election interference more broadly. It is only initiated to respond to incidents occurring during the caretaker period<sup>238</sup> and does not cover incidents within Election Canada’s responsibility.<sup>239</sup>

<sup>234</sup> Government of Canada, Democratic Institutions, “Strengthening Canada’s electoral system” (December 7, 2023), **COM0000192(FR)/COM0000209(EN)**.

<sup>235</sup>: Government of Canada, Democratic Institutions, “Cabinet Directive on the Critical Election Incident Public Protocol,” (August 12, 2021), **COM0000023(EN)/COM0000082(FR)**.

<sup>236</sup> Government of Canada, Democratic Institutions, “Strengthening Canada’s electoral system” (December 7, 2023), **COM0000192(FR)/COM0000209(EN)**.

<sup>237</sup> Morris Rosenberg, *Report on the Assessment of the 2021 Critical Election Incident Public Protocol*, Privy Council Office (2023), **COM0000194(FR)/COM0000195(EN)** at 7-13.

<sup>238</sup> The caretaker period begins when the Government loses a vote of non-confidence or Parliament has been dissolved and ends when a new government is sworn-in or when an election result returning and incumbent government is clear: Privy Council Office, “Guidelines on the conduct of Ministers, Ministers of State, exempt staff and public servants during an election” (August 2021), **COM0000098(EN)/COM0000138(FR)**.

<sup>239</sup> Government of Canada, Democratic Institutions, “Cabinet Directive on the Critical Election Incident Public Protocol,” (August 12, 2021), **COM0000023(EN)/COM0000082(FR)**; Morris Rosenberg, *Report on the Assessment of the 2021 Critical Election Incident Public Protocol*, Privy Council Office (2023), **COM0000194(FR)/COM0000195(EN)** at 23-24.

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[151]The Protocol is as follows:

- a. national security agencies provide regular briefings to the Panel and the Panel can receive information and advice from other sources;
- b. political parties are told on how to report any electoral interference they may experience;
- c. if the head of CSIS, CSE, the RCMP or GAC becomes aware of interference in a general election, they inform the Panel, which will consider all options to address the incident(s);<sup>240</sup>
- d. the Panel evaluates incidents of election interference and determines if the threshold (discussed in more detail below) for informing the public is met;
- e. if the threshold is met, the Panel will inform the Prime Minister, the other major party leaders and Elections Canada that it intends to make a public announcement; and
- f. after the above briefing, the Clerk of the Privy Council, on behalf of the Panel, may issue a statement or ask the relevant agency head(s) to issue a statement to Canadians.<sup>241</sup>

[152]The threshold for informing the public is met if an incident, or an accumulation of incidents, threaten Canada's ability to have a free and fair election. This is a qualitative assessment, and some considerations are: (1) the degree to which the incident(s) undermine(s) Canadian's ability to have a free and fair election; (2) the potential of the incident(s) to undermine the credibility of the election; and (3) the degree of confidence officials have in the intelligence or information.<sup>242</sup>

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<sup>240</sup> As part of their respective responsibilities, CSIS, CSE, the RCMP and GAC, in consultation with each other, also otherwise consider all options to effectively address the interference.

<sup>241</sup> Government of Canada, Democratic Institutions, "Cabinet Directive on the Critical Election Incident Public Protocol," (August 12, 2021), **COM000023(EN)/COM000082(FR)**.

<sup>242</sup> Government of Canada, Democratic Institutions, "Cabinet Directive on the Critical Election Incident Public Protocol," (August 12, 2021), **COM000023(EN)/COM000082(FR)**.

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[153] There is a high bar to overcome before the Panel informs the public about threats to a free and fair election.<sup>243</sup>

[154] After each general election, the CEIPP requires an independent assessment of the Protocol's implementation.<sup>244</sup> The assessments of CEIPP's operation during the 2019 and 2021 elections are summarized further below.

[155] The CEIPP Panel did not find it needed to intervene to warn Canadians about foreign interference during the 2019<sup>245</sup> or 2021<sup>246</sup> general elections.

## 8.2 Review of the CEIPP during the 2019 election

[156] James Judd assessed the operation of the CEIPP during the 2019 general election.<sup>247</sup> He had access to information classified as Secret, but not Top Secret. He used the NSICOP definition of foreign interference.<sup>248</sup>

[157] Mr. Judd concluded the CEIPP was successful during the 2019 general election.<sup>249</sup> The Panel did not intervene, but it was ready to do so if needed.<sup>250</sup> There was no impact on the election because of any action (or inaction) by the Panel. The Panel was well supported by, and coordinated with, its principal partners, Elections Canada and

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<sup>243</sup> Morris Rosenberg, *Report on the Assessment of the 2021 Critical Election Incident Public Protocol*, Privy Council Office (2023), **COM0000194(FR)/COM0000195(EN)** at 12, 27.

<sup>244</sup> Government of Canada, Democratic Institutions, "Cabinet Directive on the Critical Election Incident Public Protocol," (August 12, 2021), **COM0000023(EN)/COM0000082(FR)**.

<sup>245</sup> James Judd, *Report on the Assessment of the Critical Election Incident Public Protocol*, Privy Council Office (May 2020), **COM0000121(FR)/COM0000122(EN)** at 20.

<sup>246</sup> Morris Rosenberg, *Report on the Assessment of the 2021 Critical Election Incident Public Protocol*, Privy Council Office (2023), **COM0000194(FR)/COM0000195(EN)** at 42.

<sup>247</sup> James Judd, *Report on the Assessment of the Critical Election Incident Public Protocol*, Privy Council Office (May 2020), **COM0000121(FR)/COM0000122(EN)**.

<sup>248</sup> James Judd, *Report on the Assessment of the Critical Election Incident Public Protocol*, Privy Council Office (May 2020), **COM0000121(FR)/COM0000122(EN)** at 3.

<sup>249</sup> James Judd, *Report on the Assessment of the Critical Election Incident Public Protocol*, Privy Council Office (May 2020), **COM0000121(FR)/COM0000122(EN)** at 21.

<sup>250</sup> James Judd, *Report on the Assessment of the Critical Election Incident Public Protocol*, Privy Council Office (May 2020), **COM0000121(FR)/COM0000122(EN)** at 20-21.

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Canadian security agencies. The intelligence and information inputs it received were timely, varied and considered.<sup>251</sup>

[158]Nevertheless, Mr. Judd noted some potential challenges with the CEIPP: any decision to intervene must be by consensus; Panel members must continue to discharge all their non-Panel duties during the writ period; potential interference possibilities are vast; and information may not be highly accurate or complete and yet a decision must be made quickly.<sup>252</sup> Another difficulty is how to differentiate between interference activities by domestic actors without any connection to foreign states and interference by domestic actors sponsored by foreign states.<sup>253</sup> Mr. Judd was also concerned about the qualitative nature of the CEIPP threshold.<sup>254</sup> The Panel of Five reviews issues that do not readily lend themselves to detailed, guiding metrics.<sup>255</sup>

[159]After the Review, changes were made to the CEIPP to: (1) align the Protocol's application period with the Caretaker Convention; (2) explicitly allow the Panel to consult with the Chief Electoral Officer and to receive information and advice from sources other than the national security agencies; and (3) clarify the Panel's ability to consider potential incidents of interference involving both foreign and domestic actors.<sup>256</sup>

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<sup>251</sup> James Judd, *Report on the Assessment of the Critical Election Incident Public Protocol*, Privy Council Office (May 2020), **COM0000121(FR)/COM0000122(EN)** at 21.

<sup>252</sup> James Judd, *Report on the Assessment of the Critical Election Incident Public Protocol*, Privy Council Office (May 2020), **COM0000121(FR)/COM0000122(EN)** at 16.

<sup>253</sup> James Judd, *Report on the Assessment of the Critical Election Incident Public Protocol*, Privy Council Office (May 2020), **COM0000121(FR)/COM0000122(EN)** at 16.

<sup>254</sup> James Judd, *Report on the Assessment of the Critical Election Incident Public Protocol*, Privy Council Office (May 2020), **COM0000121(FR)/COM0000122(EN)** at 16, 18-19, 21.

<sup>255</sup> James Judd, *Report on the Assessment of the Critical Election Incident Public Protocol*, Privy Council Office (May 2020), **COM0000121(FR)/COM0000122(EN)** at 16, 21.

<sup>256</sup> Government of Canada, Democratic Institutions, "Cabinet Directive on the Critical Election Incident Public Protocol," (August 12, 2021), **COM0000023(EN)/COM0000082(FR)**.



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### 8.3 Review of the CEIPP during the 2021 election

[160] Morris Rosenberg assessed operation of the CEIPP process during the 2021 election.<sup>257</sup> He had access to the briefing materials prepared for the Panel of Five and their meeting agendas, “government documents,”<sup>258</sup> foreign government publications and publications from Canadian and foreign non-governmental organizations.<sup>259</sup> He interviewed all members of the 2021 Panel, some members of the 2019 Panel, the Chief Electoral Officer, the former Commissioner of Canada Elections, staff of national security agencies and other government officials. He also met with representatives of the major political parties, civil society and academia.<sup>260</sup>

[161] Mr. Rosenberg said the term “interference” is not defined in the CEIPP but is generally understood “to mean involving oneself in a situation where one’s involvement is not wanted or is not helpful.” Foreign interference included trying to: affect the electoral process; shape narratives around strategic interests; reduce public trust in the democratic process; decrease social cohesion; weaken confidence in leaders; or lower trust in the media.<sup>261</sup> It also included trying to divide international alliances.<sup>262</sup>

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<sup>257</sup> Morris Rosenberg, *Report on the Assessment of the 2021 Critical Election Incident Public Protocol*, Privy Council Office (2023), **COM0000194(FR)/COM0000195(EN)**. Mr. Rosenberg was Deputy Minister of Foreign Affairs (2010 to 2013), Deputy Minister of Health Canada (2004 to 2010) and Deputy Minister of Justice and Deputy Attorney General of Canada (1998 to 2004); University of Ottawa, Faculty of Social Sciences\Graduate School of Public and International Affairs\Senior Fellows\Morris-Rosenberg, **COM0000323**.

<sup>258</sup> He does not explain what these are.

<sup>259</sup> Morris Rosenberg, *Report on the Assessment of the 2021 Critical Election Incident Public Protocol*, Privy Council Office (2023), **COM0000194(FR)/COM0000195(EN)** at 5.

<sup>260</sup> Morris Rosenberg, *Report on the Assessment of the 2021 Critical Election Incident Public Protocol*, Privy Council Office (2023), **COM0000194(FR)/COM0000195(EN)** at 4.

<sup>261</sup> Morris Rosenberg, *Report on the Assessment of the 2021 Critical Election Incident Public Protocol*, Privy Council Office (2023), **COM0000194(FR)/COM0000195(EN)** at 6.

<sup>262</sup> Morris Rosenberg, *Report on the Assessment of the 2021 Critical Election Incident Public Protocol*, Privy Council Office (2023), **COM0000194(FR)/COM0000195(EN)** at 7-8.

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[162]In 2021, like in 2019, the Panel did not find large scale foreign interference like Russian actions in the 2016 US election. There were efforts at foreign interference, but they were not sufficient to meet the threshold for the Panel to act.<sup>263</sup>

[163]Like Mr. Judd, Mr. Rosenberg noted the CEIPP threshold relies on several qualitative factors. Further, the threshold and factors considered in applying it are quite vague.<sup>264</sup>

[164]Mr. Rosenberg suggested the CEIPP should not consider the impact of an incident, because of the difficulty determining whether an incident interfered with Canada's ability to have a free and fair election. Even with a high degree of confidence in both the veracity of a particular piece of intelligence and the purpose of the detected foreign interference, the Panel may not be able to assess the impact of an incident of interference during the election period. Mr. Rosenberg recommended clarifying the CEIPP to avoid a situation where an inability to prove an impact prevents the threshold from being met.<sup>265</sup>

[165]As attempts at foreign interference are not confined to the writ period, Mr. Rosenberg also recommended government adopt some kind of specific non-partisan mechanism or body to address foreign interference outside the caretaker period.<sup>266</sup>

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

- a. it is often difficult to differentiate incidents related to views held by Canadians with legitimate interests in supporting good relations with a foreign state from foreign interference;
- b. because of its high threshold, public notification should not be the main instrument for countering foreign interference;

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<sup>263</sup> Morris Rosenberg, *Report on the Assessment of the 2021 Critical Election Incident Public Protocol*, Privy Council Office (2023), **COM0000194(FR)/COM0000195(EN)** at 42.

<sup>264</sup> Morris Rosenberg, *Report on the Assessment of the 2021 Critical Election Incident Public Protocol*, Privy Council Office (2023), **COM0000194(FR)/COM0000195(EN)** at 32-34.

<sup>265</sup> Morris Rosenberg, *Report on the Assessment of the 2021 Critical Election Incident Public Protocol*, Privy Council Office (2023), **COM0000194(FR)/COM0000195(EN)** at 34.

<sup>266</sup> Morris Rosenberg, *Report on the Assessment of the 2021 Critical Election Incident Public Protocol*, Privy Council Office (2023), **COM0000194(FR)/COM0000195(EN)** at 24-25.

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- c. there should be consideration about whether legislative and regulatory tools addressing foreign interference should be updated;
- d. in developing strategies to counter interference and build public resilience, it is important to understand how foreign states' motivations and areas of interest are different and change over time;
- e. diaspora communities may be vulnerable to foreign state actors and to backlash from other Canadians; and
- f. foreign interference is not limited to election campaigns.<sup>267</sup>

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<sup>267</sup> Morris Rosenberg, *Report on the Assessment of the 2021 Critical Election Incident Public Protocol*, Privy Council Office (2023), **COM0000194(FR)/COM0000195(EN)** at 12.