



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

NATIONAL SECURITY CONFIDENTIALITY HEARINGS RULES OF PRACTICE AND PROCEDURE

Introduction

On September 10, 2023, the Government of Canada adopted Order in Council P.C. 2023-882, establishing Terms of Reference for the Public Inquiry into Foreign Interference in Federal Electoral Processes and Democratic Institutions (the “Commission” or the “Inquiry”).

Pursuant to clause (a)(i)(D) of its Terms of Reference, the Commission is directed to conduct public hearings at the start of its mandate to identify the challenges, limitations, and potential adverse impacts associated with the disclosure of classified national security information and intelligence to the public to foster transparency and enhance public awareness and understanding.

Subject to the Terms of Reference and the Inquiries Act, R.S.C., 1985, c. I-11 (the “Act”), the Commission has the power to control its own processes and make rules governing its practice and procedure as necessary to fulfill its mandate. The Terms of Reference authorize the Commissioner to adopt any procedures and methods she considers expedient for the proper and efficient conduct of the Inquiry.

These Rules of Practice and Procedure for the Commission's National Security Confidentiality Hearings (the "NSC Hearings Rules" or "Rules") apply to the conduct of the Inquiry referred to in clause (a)(i)(D) of the Commission's Terms of Reference and are designed to guide the Commission's public proceedings and the fulfilment of the Commission's mandate.

The NSC Hearings Rules will be interpreted, applied, or varied in a reasonable manner such that the Commission can complete its mandate in a timely manner, consistent with the deadlines in the Terms of Reference.

NSC HEARINGS RULES

General

1. These Rules apply to the hearings of the Commission related to national security confidentiality (the “NSC Hearings”) referred to in clause (a)(i)(D) of the Terms of Reference.
2. Except as modified by these Rules, the Commission’s *Rules of Practice and Procedure* apply to the NSC Hearings, with any modifications as the Commissioner deems appropriate and as the circumstances require.
3. The Commissioner may amend, add, supplement, or dispense with the application of these Rules as she deems necessary to ensure that the Inquiry is complete, fair and timely, and that the resources of the Commission and the Participants are allocated in a manner proportionate to the objectives of the Commission and the recognized interests of the Participants and the public.
4. The Commissioner may make such orders or give such directions as she considers proper to maintain order and to prevent the abuse of the Commission’s process.
5. In these Rules:

- “Participant” refers to a person who has been granted standing to participate in the factual phase of the Inquiry, including with respect to clause (a)(i)(D), pursuant to the Rules of Standing and Funding;
- “Party” refers to a Participant who has been granted party standing in the factual phase of the Inquiry, including with respect to clause (a)(i)(D).

Location and Method of NSC Hearings

6. The NSC Hearings will be convened in Ottawa. At the Commissioner’s discretion, NSC Hearings may be exclusively in-person, exclusively virtual, or in hybrid forms.
7. The Commissioner may receive any evidence or information that she considers reliable, appropriate, and helpful in fulfilling her mandate under clause (a)(i)(D) of the Terms of Reference, regardless of whether such evidence or information would be admissible in a court of law. The strict rules of evidence will not apply to determine the admissibility of evidence at the Inquiry. The Commissioner may nevertheless decline to receive evidence or information if it is considered unreliable, outside the scope of clause (a)(i)(D) of the Terms of Reference, or otherwise inappropriate.

Consultation Papers

8. Commission counsel may prepare Consultation Papers, which identify challenges in relation to the Commission’s mandate, and seek input and ideas from Participants respecting how the Commission can meet those challenges

throughout the course of the Inquiry.

9. Participants will be asked to provide their comments regarding any Consultation Paper(s) by the date specified in the Consultation Paper.

Institutional Reports

10. At the request of Commission counsel, institutions or organizations may prepare Institutional Reports describing the institution or organization and providing information about their involvement in matters considered to be relevant to the issues under consideration by the Commission. Institutional Reports may be admitted into evidence if adopted by a representative witness as accurate or if admitted into evidence in accordance with the Commission's procedures for admitting documents.

Consultations with Experts or Expert Panels

11. The Commissioner may consult experts or panels of experts during the NSC Hearings.
12. Participants will be given notice of the identity of experts, the topics that they will discuss, and will be provided with a general overview of the substance of their presentation reasonably in advance of the NSC Hearings.
13. Expert consultations may take any form that the Commissioner considers appropriate, including presentations, facilitated discussions, or question and answer sessions.

14. Commission counsel may ask questions of experts.
15. The Commissioner may also ask questions of experts.
16. Participants are entitled to suggest questions or topics to be explored by Commission Counsel before and during the NSC Hearings, by email to aiD@pifi-epie.gc.ca. Commission counsel shall give consideration to suggested questions or topics proposed by the Participants when questioning experts. Commission counsel will ultimately determine what questions are relevant and useful to ask and are not required to ask questions proposed by the Participants.

Use of Documents

17. Commission counsel shall disclose to the Participants a witness's interview summary or statement of anticipated evidence reasonably in advance of the witness's testimony.
18. Commission counsel shall disclose to the Participants the documents anticipated to be introduced into evidence during the NSC Hearings reasonably in advance of their introduction.
19. Participants will be provided with relevant documents and interview summaries in accordance with Rules 29 to 32 of the *Rules of Practice and Procedure*.
20. At least three days before the commencement of a fact witness's testimony at the NSC Hearings, or within such other period as the Commissioner directs,

Parties who intend to cross-examine a witness shall provide the Commission and all Parties with a list of the documents that will be used in the cross-examination, together with copies of any such documents not already provided to the Commission and Parties.

21. The Commissioner may grant the legal representative for a Party or witness leave to introduce a document to a witness at any point during the NSC Hearings upon such terms as are just and fair.
22. Commission counsel may introduce any document to a witness at any point during the NSC Hearings without leave.

Submissions

23. Participants are entitled to make submissions at the conclusion of the NSC hearings. The Commissioner may issue directions respecting the timing and method of making submissions.