

Initial Report

3 May 2024

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

The Honourable Marie-Josée Hogue, Commissioner



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

Public Inquiry into Foreign Interference in Federal Electoral Processes
and Democratic Institutions – Initial Report.

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Message from the Commissioner

There is growing concern about foreign interference in our electoral processes and democratic institutions. In this context, the government established the Public Inquiry into Foreign Interference in Federal Electoral Processes and Democratic Institutions ("the Commission"). I have the honour of chairing the Commission and presenting this report.

The Commission recently completed the first phase of its work, which focused on three issues.

- The first is to determine whether China, Russia and other foreign actors interfered in the 2019 and 2021 federal general elections and, if so, the potential impact of this interference on the integrity of the elections.
- The second is to examine the flow of information to senior decision-makers, as well as between the Security and Intelligence Threats to Elections Task Force ("SITE TF") and the panel of five senior public servants tasked with informing Canadians in the event of a critical electoral incident that would threaten the integrity of the elections (the "Panel of Five").
- The third is to examine the measures taken by the government in response to the information it had.

In the second stage of its work, the Commission will examine the capacity of various state actors and processes to detect, deter and counter foreign interference, and make recommendations on how to strengthen this capacity. The Commission's work is far from over.

An initial report to share my preliminary findings

This report sets out my preliminary findings and conclusions regarding the first stage of the Commission's work. These findings are preliminary to the extent that my work is ongoing and may shed further light on relevant events. This report should therefore be read and understood with this reservation in mind, understanding that some of its findings may need to be qualified or modified.

Readers should also be aware that the Commission was not in a position to test the information collected by the intelligence agencies or question the conclusions they may have reached. Cognizant of what intelligence is and the limitations it may have, however, I considered the indications given by the agencies as to the degree of reliability of the information collected.

In view of its tight deadlines, and recognizing that its mission is not to make findings of liability, the Commission also did not consider it appropriate to take extraordinary steps to reconcile any contradictory evidence that may have been adduced. However, the issues raised have been instructive for the future of my work.

As to the involvement that some individuals may have had in certain acts of foreign interference, or their degree of knowledge of these acts, I have intentionally avoided making findings on the basis of intelligence alone. I believe that doing so would have been unfair to these individuals because they did not have a meaningful opportunity to respond to the allegations made against them, and it would ignore the inherent limitations of intelligence.

That said, I am pleased with what the Commission's work to date has enabled us to discover. In particular, I am reassured that our electoral system is, all in all, robust and that foreign interference did not impact which party formed the Government in 2019 and in 2021.

I say "all in all" because, as you will see upon reading this report, I nevertheless believe that foreign interference is a real phenomenon that we must reckon with. Interference occurred in the last two general elections, and indeed continues to occur frequently. It is likely to increase and have negative consequences for our democracy unless vigorous measures are taken to detect and better counter it.

The facts revealed by the evidence I have heard so far show that intelligence agencies collected information about troubling events that occurred in a handful of ridings during the 2019 and 2021 elections. However, given the multitude of factors that may affect how someone casts their vote, and the secrecy of their vote, it is impossible for me to determine whether those events had an impact on the election results in these ridings.

The integrity of the electoral system, however, goes beyond the result of the election itself. Our electoral system is based on the principle of fairness among voters: every vote counts equally, and is treated as having the same value, weight, and potential effect. Fairness presupposes that voters have access to reliable information, can take part in robust discussions and are free to think for themselves and form their own opinions. In my view, the events named in this report likely diminished the ability of some voters to cast an informed vote, thereby tainting the process. There may not be many so affected, but even a small number should be a concern.

A report firmly supported by evidence

I have considered all the evidence before me. I have had access to the relevant documents without any redactions for reasons of national security,¹ and I have heard all the witnesses named by the Commission's lawyers as well-placed to shed light on the events that are covered by this aspect of my mandate. I heard most of the Government of Canada witnesses twice: once *in camera*, so that they could testify without fear of publicly disclosing information that could be injurious to national security, and a second time at public hearings.

This report deals with most of the evidence I received, my interpretation of it and my preliminary findings. As certain facts cannot be disclosed publicly for reasons of national security, the report includes a classified supplement that may only be consulted by those with the requisite security clearance and a "need to know", as provided for by the Commission's Terms of Reference. To maximize transparency, I have shown as much information as possible in the public report, and restricted the information contained in the classified supplement to what is strictly necessary. I took the same approach in the public hearings, where I required that all information that could be made public be presented.

I would add that the contents of the classified supplement do not appear to me to be essential to the public's understanding of what happened, although they do contain details relating to particular events described in the report that should be useful to decision-makers.

In the end, the report reveals more information than many expected, and I am confident it gives the public a better understanding of what foreign interference is, why we should be wary of it, how it manifested itself in the last two federal general elections, and how the government responded.

I would like to emphasize that I was pleased with the cooperation I received from all those who took part in the Commission's work. I would like to thank them all.

The Commission's lawyers worked tirelessly to complete the first phase of its mandate in time. Given the tight timeline the Commission was given to complete its work and the complexity (both substantive and logistical) of that work, the hours were extremely long for all Commission staff. But they all demonstrated impeccable dedication and work ethic.

The Government of Canada was cooperative in facilitating the availability and scheduling of the many current and former government interviewees and witnesses. It also made significant efforts to respond to the Commission's requests for public disclosure and enable it to disclose as much information as possible. Timing was sometimes problematic, but the efforts were considerable.

¹ Some documents contained redactions for Cabinet confidence, solicitor-client privilege or protection of personal information. Discussions as to the application of these privileges is ongoing.

The cooperation of other Participants and their counsel was also exemplary. I recognize that the conditions in which they had to work were not always optimal. With the Commission facing very tight deadlines, hearing days often continued well beyond normal hours, and the work needed to disclose some documents often continued until the eleventh hour. But Participants and their counsel all rolled up their sleeves to do their jobs. They understood that it was in the public interest for the Commission to complete the first phase of its work on time, and that this required them to show great flexibility. I thank them for this, and for the professionalism they have shown in working with the Commission.

The Privy Council Office staff provided the Commission with necessary and valuable logistical support while ensuring that the Commission's independence was always respected.

In addition, all those who attended the hearings were respectful, which permitted the hearings to run smoothly and serenely.

A report that concerns us all

We need to take a closer look at attempted foreign interference in our democratic processes if we are to prevent hostile state actors from achieving their goals. To achieve this, we need better communication and collaboration between various players. Several worthwhile initiatives were taken in the run-up to the 2019 and 2021 elections, but there is still room for evolution and improvement.

The evidence seems to demonstrate that the roles of some actors in existing processes are not always well understood, that there are sometimes significant differences of opinion between the intelligence community and elected officials, and that the fear of disclosing information that could undermine national security is a major impediment to information sharing. The nature of the information gathered and shared by intelligence agencies seems to raise the suspicions of many, who may prefer to refrain from acting when such information is brought to their attention. The Commission will investigate these questions more deeply in the next phase of its work.

I believe that foreign interference should be a subject of interest to the Canadian public, and, for this reason, I hope that this report is taken note of and read by as many people as possible. I have therefore tried to write it so that it can be understood by readers less familiar with the details of the electoral system, and who have no knowledge of the machinery of government or foreign interference itself. I hope to have succeeded. The following pages are about our democracy, our values and what can threaten them. That is why this report concerns us all.



Marie-Josée Hogue, Commissioner

Navigating the Report

For an overview of the various events and issues covered in this interim report, I recommend you first read the [Report Highlights](#) on the following pages. This summary contains my key findings on the issues raised to date.

If you would like to learn more about why I came to these conclusions, I strongly encourage you to read on. You will find that the report is divided into three main sections.

First, the introductory chapters

These chapters provide a better understanding of the growing concerns that led to the creation of the Commission on Foreign Interference. They also explore the scope of the Commission's mandate and the various confidentiality issues we face.

- Chapter 1 – Why a Commission on Foreign Interference?
- Chapter 2 – Scope of the Commission's Mandate
- Chapter 3 – Transparency and National Security Confidentiality

Then, the substantive chapters

These chapters delve into the heart of the events and issues the Commission has had to address so far.

- Chapter 4 – What is Foreign Interference?
- Chapter 5 – How Does Canada Respond to Foreign Interference?
- Chapter 6 – The 2019 General Election
- Chapter 7 – The 2021 General Election
- Chapter 8 – Assessing the Impacts




Finally, the annexes

These annexes contain additional information and form an integral part of the report.





- Annex 1 – Glossary (and acronyms)
- Annex 2 – Questions and Answers: Elections, Foreign Interference and Commissions of Inquiry
- Annex 3 – Commission Operations and Organization
- Annex 4 – Participants' Perspectives on How the Commission Should Approach Government Secrecy Claims

Navigating pictograms

To make it easier to navigate through the report, you can click the three pictograms at the top right of each page.

-  to see the bookmarks pane, in the margin of the text
-  to access the Glossary
-  to access the Table of contents

If you use a keyboard, you can also use the following functions to move between pages you have already viewed:

Previous page	 : Alt + Left Arrow  : Command + Left Arrow
Next page	 : Alt + Right Arrow  : Command + Right Arrow

Note on the translation of hearing transcripts

Several footnotes in the report contain references to the transcripts of the Commission’s hearings. These footnotes refer to the pagination of the bilingual version of the transcripts (the “floor” version, as spoken) and not to the pagination of the English-only version.

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Report Highlights

In the following pages, I present an overview of the events and issues the Commission has addressed to date, and the main conclusions I have drawn from them. To learn more about why I have reached these conclusions, I strongly encourage you to read the full text of the initial report.

This report should be read with the following caveats in mind:

First, the report presents findings that are not definitive: the Commission's work is ongoing and is likely to shed a different or more comprehensive light on certain events. Accordingly, some of the findings in this report may need to be qualified or modified in the final report.

Secondly, pursuant to its Terms of Reference and Rules of Practice and Procedure, the Commission had access to the documents relevant to its mandate, including classified documents, without redaction for national security confidentiality. The obligation to protect sensitive information has therefore in no way prejudiced the Commission's truth-seeking role.

Thirdly, the Commission has examined the evidence of possible foreign interference identified by many Canadian government agencies. While further investigation was done, its Terms of Reference and resources did not allow the Commission to conduct a separate, comprehensive, and stand-alone investigation to uncover evidence of interference that these agencies had not already found. These agencies have the skills to gather relevant information and, above all, to analyze it, thus making it possible to produce useful intelligence and information for the Commission to consider.

Fourthly, in this report, I use the term “diaspora” to refer to very diverse and heterogeneous communities, whose experience cannot be generalized. I will come back to this in more detail in the final report.

Finally, I am not in a position at this stage to comment on the credibility of the witnesses who have testified during the hearings. The investigation is ongoing, and for the moment I have not given witnesses whose credibility might be called into question a real opportunity to explain themselves. I will see in due course whether there are good reasons to do so.

Transparency and National Security

The nature of the interests at stake

One of the greatest challenges faced by the Commission is striking a balance between the transparency of its work and the protection of Canada's national security interests.

On the one hand, the public needs to know whether Canada's democratic processes have been targeted by foreign states or their intermediaries and, if so, whether their actions have had an effect on our democratic system. It also needs to know whether the government is doing enough to protect democracy. These considerations favour transparency.

On the other hand, information that could reveal the sources of intelligence, the manner in which it is collected, or the targets of investigations is particularly sensitive. Its disclosure to hostile actors could cause serious harm to both individuals and Canada as a whole. These considerations favour confidentiality, to protect national security.

A pragmatic approach to this challenge

Several administrative and legislative standards govern the way in which sensitive information is handled and the conditions under which it may be disclosed. These standards set out a sophisticated system for protecting and classifying information, which complicates the goal of achieving the objective of transparency. They may, for example, require the redaction of documents or the holding of hearings that are not open to the public or participants (“*in camera* hearings”).

Pursuant to its Terms of Reference and its Rule of Practice and Procedure, the Commission was given access to the unredacted versions of all relevant documents.² The challenge was to find ways to make as much information and as many documents public as possible, in a context where time was extremely limited.

The Commission has taken a pragmatic approach to this challenge. The Commission focused on priority documents and negotiated with the government to determine what information had to be redacted from the documents or, depending on the situation, to find an acceptable way to summarize sensitive information. In all cases, the Commission required the government to provide a convincing justification for the need for redaction.

The Commission also required justification for the government's requests to hold hearings *in camera*.

² Save for a small number of documents that have been redacted to protect Cabinet confidences, solicitor-client privilege and personal information.

Beyond national security

In addition to national security, two other considerations can affect the transparency of our work. The first is that some people, especially members of diaspora communities, are afraid to speak publicly about their experience because of trauma suffered in the past or for fear of reprisals for themselves or their family. The Commission has offered to provide protective measures to witnesses who establish the need for them, such as testifying *in camera*. The second consideration that may limit transparency is that the Commission cannot disclose to participants, or the public, information that would compromise ongoing investigations.

Overall, given the context in which the Commission conducted its work, I believe it was able to strike the right balance between transparency and adequate protection of important interests.

What is Foreign Interference?

A persistent and evolving phenomenon

Foreign interference is not new, but it is evolving. It reflects changes in geopolitics: certain countries have gained power and have begun to use that power to influence others. It also reflects changes in technology: the evolution of the digital environment – including alternative social media platforms and artificial intelligence – offers foreign countries new ways of targeting individuals and organizations, including through surveillance and harassment.

Foreign interference activities are persistent, multifaceted, and target all aspects of Canadian society whether an election is taking place or not.

That said, the Canadian Security Intelligence Service (“CSIS”) has observed persistent state-sponsored threat activity targeting elections for many years.

It may seem easy to draw the line between (legitimate) foreign influence and (illegitimate) foreign interference. Diplomacy, and even aggressive attempts to influence other countries, are legitimate when they are done in the open and do not involve threats to individuals or groups. Foreign interference is different because it is covert or threatening. But there is often a grey zone: foreign actors may use established, legitimate channels to engage in covert activities to advance their national interests. Also referred to as “malign influence”, this form of foreign interference is difficult to detect because it uses channels that are generally understood as acceptable.

Multiple targets and multiform tactics

There are many targets of foreign interference in Canada. A range of groups contribute to Canada's democratic institutions, and foreign countries may try to exploit all of them. Political candidates, elected officials, civil servants, political staff, voters, interest groups and media are all targets of foreign interference.

However, states may have a distinct interest in targeting diaspora communities, notably to silence dissidents, amplify their own messages, control public opinion and sow discord. Members of diaspora communities experience some of the most harmful impacts from foreign interference. For example, foreign countries can target people's families who live outside of Canada. Members may rely on foreign-language media to obtain information, which may be more easily exploited by foreign countries.

Foreign countries use a range of tactics to interfere with Canada's democracy. Examples include long-term cultivation of long-lasting relationships with their target, financial support, bribery, blackmail, threats, cyberattacks, disinformation campaigns and the use of proxies.

Foreign actors targeting Canada

During the hearings, many countries were identified as engaging in elections-related foreign interference against Canada. These assertions are based largely on Canada's intelligence holdings.

As previously mentioned, there are limits on what intelligence I am at liberty to disclose, and there are also limits on the reliability of the intelligence that I may discuss. Intelligence is not proven fact.

With these limitations in mind, the intelligence collected by Canada indicates that the People's Republic of China ("PRC") stands out as a main perpetrator of foreign interference against Canada. China has been assessed by Canadian authorities as the most active foreign state actor engaged in interference directed at government officials, political organizations, candidates for political office and diaspora communities.

Though this assessment may vary over time, CSIS views China as the biggest threat to the Canadian electoral space by a significant margin. Foreign interference by the PRC is generally thought to be independent of political parties. The PRC does not support any particular party, but rather supports politics and positions that it views as pro-PRC, regardless of the political affiliation of a particular candidate.

Canada's intelligence holdings also identify Russia, India, Pakistan and the Islamic Republic of Iran, among other countries, as possible foreign interference actors in Canada.

How Canada Responds to Foreign Interference

Protecting fundamental rights and Canadian values

Canada is a liberal democracy. As such, its capability to respond to foreign interference is limited by its obligation to respect freedom of thought, opinion and expression, the right to privacy, the right to vote and the impartiality of the civil service.

People or organizations can advocate for policies that favour foreign states or oppose policies that disfavour them: this does not mean that they are involved in foreign interference. Government intervention to respond to these messages risks undermining their right to hold and express their opinions.

Privacy also limits the tools that can be used to detect foreign interference: the government does not and cannot access private online communities to identify disinformation. The fact that this cannot be monitored is something that foreign countries may use to their advantage.

Finally, public servants in Canada are committed to non-partisanship and impartiality: intervening to respond to foreign interference during an election could be seen as favouring one party over another, undermining the confidence in the democratic system and in the public service. As a result, the tendency can be to set the bar for intervention remarkably high. Foreign actors may be aware of this and use methods that stay below those high thresholds in order to avoid provoking a response.

A whole-of-government approach

Foreign interference is a complex threat, which requires a whole-of-government response. A range of federal entities are involved in protecting Canada's democratic institutions against foreign interference. Among them: Canadian Security Intelligence Service ("CSIS"), Communications Security Establishment ("CSE"), Royal Canadian Mounted Police ("RCMP"), Global Affairs Canada ("GAC"), Privy Council Office ("PCO"), Office of the Commissioner of Canada Elections ("OCCE"), and Elections Canada.

Many of these are members of the security and intelligence community, but others are involved, including ministers and political staff.

To ensure an effective response to foreign interference, it is necessary for these entities to coordinate and collaborate. To meet this challenge, the government has established a number of procedures and committees intended to allow for cooperation across the government.

Special measures for elections

Most of these procedures and committees are at work whether an election is taking place or not. This is because foreign interference is not something that only happens during elections.

But when elections do occur, the usual flow of information to elected officials changes, because of what is known as the “Caretaker Convention”. This convention provides that during election campaigns, Government becomes more restrained, less involved in day-to-day work, and norms surrounding non-partisanship become particularly significant. It is thus very rare for ministers to receive intelligence briefings during this period and ministers may have limited contact with their deputy ministers. Importantly, events that form the focus of this report occurred during the caretaker periods in 2019 and 2021. It is also relevant that the 2021 general election took place during the COVID-19 pandemic, which also impacted the flow of information within government.

In 2019, against the backdrop of foreign interference in the 2016 US and the 2017 French presidential elections, the government announced a strategy called the Plan to Protect Canadian Democracy (the “Plan”). It established a distinct set of structures during the election period to respond to foreign interference. These structures reflect the Caretaker Convention.

Information exchange and coordination processes

Under the Plan, the government has two key processes to respond to foreign interference threats during an election period: the Security and Intelligence Threats to Election Task Force (“SITE TF”)³ and the Critical Election Incident Public Protocol (“CEIPP”).

The SITE TF is an information-sharing and coordinating forum, not a decision-making body. The SITE TF is always active but particularly so during elections. During both the 2019 and 2021 general elections, it provided Secret level briefings to security cleared political party representatives. However, one of its main functions was to provide regular briefings to a group called the Panel of Five,⁴ established under the CEIPP. This is a group of senior public servants tasked with communicating with Canadians if there is an incident or an accumulation of incidents that threatens the integrity of a federal election.

³ SITE TF is composed of representative members of CSE, CSIS, RCMP and GAC.

⁴ Members of the Panel are the Clerk of the Privy Council, the National Security and Intelligence Advisor to the Prime Minister (NSIA), the Deputy Minister of Justice and Deputy Attorney General, the Deputy Minister of Public Safety and the Deputy Minister of Foreign Affairs.

By selecting nonpartisan senior public servants to form the Panel, the CEIPP sought to remove partisan interests from the decision to make a public statement about threats to the electoral process.

In assessing the information received from the SITE TF or other sources, if the Panel concluded that an incident, or an accumulation of incidents, threaten Canada's ability to have a free and fair election – referred to as “the threshold” – it would issue a public statement to Canadians.

The threshold is high for such a statement to be issued. The mere possibility of a threat would not suffice. This is because of concerns that an intervention by the Panel could do more harm than good. The moment a public announcement is made, confidence in the election could be undermined and this could have a broader impact on public confidence in Canada's democracy as a whole. There is also the potential for the Panel to be seen as partisan and interfering in the election. There is a concern that foreign countries could exploit a low threshold and intentionally prompt overreactions that undermine confidence in elections or amplify disinformation.

In the 2019 and 2021 general elections, the Panel concluded the threshold for an announcement was not met. The Panel found some foreign interference occurred, but nothing that threatened Canada's ability to have a free and fair election.

The 2019 General Election

Canadian intelligence agencies have gathered information respecting troubling events in a handful of ridings during the 2019 election.

Before considering those incidents, it is worth remembering that much of the information that I heard stems from intelligence holdings that either cannot be publicly disclosed or can only be disclosed in summary form. Moreover, much of the intelligence is uncorroborated or otherwise cannot be taken as a proven fact. My discussion of the 2019 election must be read with these caveats in mind.

The nomination contest in Don Valley North

A matter that received much attention during the proceedings involves allegations of irregularities in the Liberal Party of Canada (“LPC”) nomination contest in Don Valley North (“DVN”), Ontario.

Canada has intelligence indicating that irregularities in the DVN nomination contest may have included activities undertaken by individuals close to PRC

officials. This information originated from a variety of sources with various levels of corroboration.

Before the election, intelligence reporting, though not firmly substantiated, indicated that Chinese international students would have been bused in to the nomination process in support of Han Dong, and that individuals associated with a known PRC proxy agent provided students with falsified documents to allow them to vote, despite not being residents of DVN.

After the election, some intelligence indicated that veiled threats were issued by the PRC Consulate to the students, implying that their student visas would be in jeopardy and that there could be consequences for their families living in the PRC if they did not support Mr. Dong.

Mr. Dong denies any involvement in these matters.

CSIS reported the intelligence that it had at the time to the Panel of Five and told the Panel that election authorities were also informed. The Panel indicated that the LPC should be informed, and the security-cleared party representatives were duly briefed by CSIS.

The Panel ultimately concluded that the threshold to make an announcement was not met.

Jeremy Broadhurst, the National Campaign Director of the LPC,⁵ was informed by the party representatives of the allegations relating to busing. He decided that the information needed to be brought to the attention of Prime Minister Trudeau in his capacity as Liberal Party leader. Mr. Broadhurst did so, and also advised Mr. Trudeau that Mr. Dong should not be removed as the LPC candidate. His reasons included the fact that the LPC itself had not identified any irregularities in the contest, and the results were not being contested by the unsuccessful candidate.

In his testimony, Mr. Trudeau said he asked to what extent CSIS was certain that China was involved and whether they had information that Mr. Dong knew about. The answers were inconclusive.

Mr. Trudeau did not feel there was sufficient or sufficiently credible information to justify removing Mr. Dong but considered that the matter would have to be revisited after the election.

This incident makes clear the extent to which nomination contests can be gateways for foreign states who wish to interfere in our democratic process. This is undoubtedly an issue that will have to be carefully examined in the second phase of the Commission's work.

⁵ As Chief of Staff to the Minister of Foreign Affairs, he held a Top Secret clearance and could receive classified information.

Other allegations and incidents

Several other incidents that allegedly occurred during the 2019 election were discussed during the hearings. They too provide context and raise issues to be discussed during the Commission's second-phase hearings. I mention the most significant ones below.

There is intelligence indicating that, in the Greater Vancouver Area, some PRC officials coordinated the exclusion of some political candidates, perceived as anti-China, from attending local community events related to the election.

There is also intelligence suggesting that before and during the 2019 general election, a group of both known and suspected PRC threat actors in Canada worked in loose coordination to engage in foreign interference. Eleven political candidates (seven LPC and four Conservative Party of Canada ("CPC")) and 13 political staff members either had a connection (witting or unwitting) with these threat actors or were directly affected by their activities. Some of the threat actors may also have received financial support from the PRC, though there is no indication that any candidates did.

The Panel of Five was informed of allegations of financial support from the PRC for foreign interference activities. The Panel did not make a public announcement because there was substantial ambiguity and lack of clarity as to the intent and purpose behind the money transfer.

The Commission's investigation also revealed that CSIS implemented a specific measure to reduce a threat in relation to Pakistan, who had attempted to clandestinely influence Canadian federal politics. The TRM was assessed to have effectively reduced the threat of interference.

There were some discussions in relation to negative articles about the Prime Minister on a website called the Buffalo Chronicle. Certain mainstream sources in Canada amplified these articles, but others debunked them. The Panel of Five considered that the media ecosystem had cleansed itself. Facebook ultimately removed the article following discussion with PCO officials.

The 2021 General Election

There were a number of alleged incidents of foreign interference during the 2021 general election, including disinformation targeting the CPC, its leader Erin O'Toole, and one of its British Columbia candidates Kenny Chiu; events in the Vancouver riding of NDP MP Jenny Kwan; and potential interference activity by the Governments of India and Russia.

Before turning to these allegations, it is important to recall that the SITE TF provided Secret level briefings to security cleared political party representatives in both the 2019 and 2021 elections. The information that they received through this process provides important context.

A communications problem

The evidence I heard reveals that there were communication problems during the 2021 election. There was a gulf between the political parties' expectations and what SITE was actually able to provide to them.

It is clear that party representatives feel they were not sufficiently informed by SITE, and even said that they were unduly reassured by what they heard, causing them to lower their guard.

Disinformation about the CPC and Erin O'Toole

During the election period, the CPC and its then leader, Erin O'Toole, were the subject of inaccurate reports that circulated widely on Chinese-language media outlets that are known to have, or may have, ties to the PRC or the CCP.

Mr. O'Toole believes he and the CPC were targeted due to a number of positions that they had taken that were critical of China.

The reports stated that Erin O'Toole would ban the social media platform WeChat, that he was the "Canadian version of Trump" and that he almost wanted to break diplomatic relations with China.

Disinformation targeting CPC MP Kenny Chiu

CPC MP Kenny Chiu was the target of false narratives related to his proposal to implement a foreign influence registry: reports claimed that any individual or group with ties to China could be considered a spokesperson and would need to register.

Mr. Chiu attempted to respond to this narrative in the media, but his messaging was not picked up or circulated by Chinese-language outlets. In fact, according to his testimony, Mr. Chiu was shunned by Chinese-language media.

He reported these issues to the CPC central campaign and to CSIS. He did not hear back from CSIS until he received a briefing from them in the fall of 2023, following media reporting about alleged leaks of CSIS intelligence reports.

While it is not obvious what government could or should have done during the election, it raises an important question about responses to online misinformation and disinformation (including during an election). This will likely be explored in the second phase of the proceedings.

Government agencies were aware of these online narratives, and this was conveyed to the Panel of Five by SITE.

The Panel noted the difficulty of attributing this activity to foreign actors and, furthermore, was not inclined to intervene because the agencies could not distinguish this activity from ordinary political debate that occurs during an election. Even falsehoods can be a legitimate exercise of freedom of expression during an election, so long as it is not state-sponsored or amplified. The Panel concluded that the threshold for an announcement was not met.

The Panel's conclusion was also informed by its impression that there was a self-cleansing media ecosystem: Mr. Chiu made public statements responding to the online narratives, and narratives about Mr. O'Toole died down prior to election day.

I am concerned by this reliance on the idea of a self-cleansing media ecosystem. By the time that disinformation fades away, it may be too late. I am also concerned by the absence of clear guidelines for when the government will act short of a public announcement by the Panel. These are issues also I will return to in the second phase of the Commission's work.

After the election, the CPC campaign put together a package material that they sent to government officials documenting their concerns. According to the SITE TF the allegations were taken seriously, and CSIS in particular invested significant resources in following up. Ultimately, SITE's conclusions remained unchanged, though they underlined that they observed indicators of potential coordination between Canada-based Chinese-language news outlets and PRC-associated outlets.

This, in my mind, raises questions about the challenge of attributing activities to foreign states actors and the importance of the threshold for intervention. These questions merit further consideration.

The election campaign in Vancouver East

There was also concern about foreign interference in the Vancouver East electoral contest involving NDP MP Jenny Kwan. Ms. Kwan believes that her positions that were critical of China resulted in her being targeted for foreign interference.

Since 2019 she has ceased being invited to certain key events organized by Chinese communities' organizations to which she was invited in the past along with other elected officials. She also observed her constituents being more fearful of voting for her because of concerns about the safety of their families in China.

Intelligence holdings indicate that the PRC worked to exclude particular political candidates from public events in 2019, and that their strategy continued in 2020 and 2021.

Ms. Kwan also raised concern about a prominent member of the Chinese community in Vancouver hosting a free lunch for her Liberal Party opponent. The NDP filed a complaint with OCCE alleging a violation of third-party election rules. OCCE concluded that there was no such violation by the host but issued an administrative monetary penalty to the Liberal campaign for not reporting the lunch as a contribution.

Ms. Kwan also reported the lunch to the RCMP and CSIS but, in her opinion, none of them seemed interested in the issue.

In two reports, SITE noted the lunch and allegations that organizers had connections with the PRC.

The case of India and Russia

Intelligence holdings indicate that the Government of India may have attempted to clandestinely provide financial support to preferred candidates during the 2021 election without the candidates' knowledge. I have not identified any shortcomings with respect to information flow or the government's response to this issue.

As for Russia, the Panel did not receive any evidence of a concerted Russian disinformation campaign during the 2021 election. Intelligence indicates that Russia is likely not currently a significant foreign interference threat to Canadian federal elections.

Assessing the Impacts

Foreign interference is an ever-present reality around the world and there is ample evidence that some foreign states engaged in foreign interference in the past two Canadian elections.

Did foreign interference undermine the integrity of the electoral system?

The answer is no.

I agree with the conclusion of the Chief Electoral Officer, Stéphane Perreault, that both elections were administered with integrity at both the national and individual riding levels. There is no evidence to the contrary.

Did foreign interference have an impact on which party came into power in 2019 or 2021?

The answer is no.

Attempting to measure the impact of foreign interference on an electoral outcome is inherently difficult. It is generally impossible to draw a straight line between a particular incident and the outcome of an election, just as it is to assess how the varied, often subtle, foreign activities impacted the final seat count in the House of Commons.

However, I can conclude with confidence that the Liberal Party would have been in government with or without foreign interference in 2019 and 2021.

The Commission is not the only one to so conclude. The CPC and its representatives⁶ have all told the Commission that foreign interference did not keep the CPC out of power.

Did foreign interference have an impact on any election results at a riding level?

This is a more difficult question to answer. It is possible that results in a small number of ridings were affected, but this cannot be said with certainty.

The number of ridings at issue is relatively small, and the ultimate effect of foreign interference on those remains uncertain. Two examples illustrate this conclusion.

Available intelligence respecting the 2019 Liberal nomination contest DVN reflects a well-grounded suspicion that the busing of international students was tied to the PRC. Given that DVN was considered a “safe” Liberal seat, this would likely not have impacted which party won the seat. It could, however, have impacted who was elected to Parliament. This is significant.

Another example is the electoral race in Steveston–Richmond East where media outlets painted the CPC and its candidate Kenny Chiu as anti-China and attempted to dissuade Chinese Canadians from voting for him.

Although no definitive link between these false narratives and the PRC has been proven, there are strong indicators of PRC involvement and there is a reasonable possibility that these narratives could have impacted the result in this riding.

Votes are secret in Canada. It is therefore not possible to directly link the misleading media narrative with how any given voter cast their ballot. Furthermore, even assuming that some votes were changed, there is no way to know whether there was enough to affect the result.

Therefore, there is a reasonable possibility that the false narratives could have impacted the results in this riding, but I cannot go further.

⁶ Mr. O’Toole, leader of the CPC in 2021, Walied Soliman, his campaign co-chair, and Michael Chong, another CPC MP with standing at the Inquiry.

Did foreign interference nevertheless impact the broader electoral ecosystem?

Yes, it did.

The fact that foreign interference may not have impacted the outcomes in many ridings does not mean, however, that it did not impact the election. Foreign interference in 2019 and 2021 undermined the right of voters to have an electoral ecosystem free from coercion or covert influence. Foreign interference has an impact when there is a single instance where a ballot is cast in a certain way, or not cast at all, because of a foreign state's direct or indirect enticement.

This impact has likely been slight to date but may become more severe in the future.

Did foreign interference undermine public confidence Canadian democracy?

Regrettably, it did.

Undermining faith in democracy and government is a primary aim of many of the states that engage in foreign interference. They succeeded in part in 2019 and 2021 because some Canadians have now reduced trust in Canada's democratic process.

This is perhaps the greatest harm Canada has suffered as a result of foreign interference.

The government must re-establish this trust by informing the public of the threat of foreign interference, and by taking real and concrete steps to detect, deter and counter it.

Did foreign interference impact everyone equally?

As previously discussed, diaspora communities are a common target of foreign interference and transnational repression. Tactics are varied, but one is commonly used: the threatening of diaspora family members living in their country of origin.

Because of foreign interference, diaspora members are discouraged from getting involved in their communities and in the electoral process or to engage freely in public discourse.

While all Canadians are victims of foreign interference, the impacts of the latter are more present within some diaspora communities.

The Next Phase of the Commission's work

In its next phase, the Commission will, among other things, look at how to reconcile the importance of informing the public about the danger of foreign interference without unnecessarily eroding public confidence in a system that remains fundamentally sound.

In doing so, the Commission will consider a range of issues that could include the challenges of responding to online misinformation or disinformation short of an announcement by the Panel of Five, bearing in mind the difficulty of attributing electoral interference to foreign state actors.

The Commission will look at how intelligence and information about foreign interference should be communicated to government, the public and those likely vulnerable to foreign interference and whether it is advisable for our intelligence agencies to share more information.

The Commission will also examine the rules, or lack of rules, governing nomination contests. Our inquiry has shown that these contests are particularly vulnerable to foreign interference.

Finally, the Commission is also mindful that there may be evidence during that phase that would require revisiting the factual findings or expanding the conclusions contained in this report.

CHAPTER 1

How the Commission on Foreign Interference Came About

A Chronological Review of Events Leading to Its Creation

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1.1 A Commission in the Making

Commissions of inquiry do not come and go just for the sake of it.

They are significant temporary organizations created by governments to expose facts and make recommendations about important public interest issues. As such, they often call into question current public policies and procedures.

Commissions are usually set up *after* troubling events unfold or are reported. Therefore, most of the time, there is a story behind the creation of such commissions, and this one is no exception.

The story or context I am sharing in this chapter summarizes the events leading to the Federal Government creating the Public Inquiry into Foreign Interference in Federal Electoral Processes and Democratic Institutions (the “Commission”). Providing such context is important to better understand the Commission’s scope and objectives, as well as the guiding principles for its conduct.

1.2 Rising Awareness of Foreign Interference

The notion that foreign states or non-state entities are attempting to interfere in Canadian affairs, more specifically in our democratic life and institutions, is not new. However, what is relatively new is the rise of public awareness of this issue and the rapidly evolving technical means to successfully conduct interference.

Since at least the mid-2010s, the government has been increasingly concerned about foreign interference with our democratic institutions. After reports of Russian interference in the 2016 United States presidential election and the leaks relating to the French presidential election, Canadian security and intelligence agencies began to report publicly about this situation.

In 2018, in anticipation of our 2019 federal elections, concern about foreign interference in the electoral process continued to grow. This change in policy was no surprise to Canada’s security and intelligence agencies. They confirmed the threat and provided detailed descriptions of its magnitude in a series of reports.

1.3 2017–18: Security Experts Make Initial Diagnoses

The progression of foreign interference through the lens of expert reports is worth reviewing. This section highlights some of their content.

Communications Security Establishment (CSE) focusses on cyber threats

- 2017 CSE provides technical and operational assistance to federal law enforcement agencies such as the Canadian Security Intelligence Service (“CSIS”), the Royal Canadian Mounted Police (“RCMP”), the Canadian Armed Forces and the Department of National Defence. In 2017, CSE publishes a public report focussing on foreign interference.⁷ CSE’s assessment is driven by cyber threats to democratic processes in the 2016 US presidential election and in Europe. The report focusses on cyber threats because CSE’s mandate deals with electronic communications.
- CSE concludes that cyber threats to worldwide democratic processes exist. In its view, these democratic processes are composed of three elements: elections, political parties and politicians, and media. CSE reaches other important conclusions at the time of writing in 2017:
- Foreign state attempts to influence Canadian elections using cyber capabilities have yet to take place.
 - Political parties and politicians as well as media are more vulnerable to cyber threats than election activities like voting.
 - Threats to Canada’s democratic processes at the provincial, territorial and municipal levels are likely to remain low, but some will come under increasing threat.
 - Worldwide, over the next year and maybe beyond, it is highly probable that cyber threat activity against democratic processes will increase in both quantity and sophistication.

⁷ COM0000049: CSE, *Cyber Threats to Canada’s Democratic Process* (2017).

Canadian Security Intelligence Service (CSIS) announces a change in the type of threat

- 2018 The following year, in 2018, CSIS publicly reports on foreign interference.⁸ CSIS is a civilian security and intelligence service. Its core mandate is to investigate threats to the security of Canada outside or inside the country and advise government.⁹ Its report says terrorism occupied a significant portion of attention for almost two decades. But now, other threats to Canada's national security and strategic interests, like foreign interference and espionage, persist and pose long-term challenges for Canada.
- CSIS warns that hostile states and state-sponsored actors are targeting Canada's democratic institutions and processes. While Canada's electoral system is still strong, the interference threat has targeted our politicians, political parties, elections, and media outlets to manipulate the Canadian public and interfere with our democracy.
- Interference by foreign spies, or people acting on their behalf, remains the greatest danger. However, CSIS notes the scale, speed, range, and impact of foreign interference have grown because of the Internet, especially social media platforms, and the availability of cheaper and more accessible cyber tools.

National Security and Intelligence Committee of Parliamentarians (NSICOP) supports better response

- 2017 NSICOP was created in 2017 to provide oversight of government intelligence operations.¹⁰ It reviews any government department activity relating to national security or intelligence (unless it is an ongoing operation) and any matter a minister refers to it about national security or intelligence. NSICOP includes members from both the House of Commons and the Senate.

⁸ COM0000053: CSIS, *2018 CSIS Public Report* (June 2019).

⁹ "Threats to the security of Canada" are defined as (*Canadian Security Intelligence Service Act*, c C-23, s 2): (a) espionage or sabotage that is against Canada or is detrimental to the interests of Canada or activities directed toward or in support of such espionage or sabotage, (b) foreign influenced activities within or relation to Canada that are detrimental to the interests of Canada and are clandestine or deceptive or involved a threat to any person, (c) activities within or relating to Canada directed toward or in support of the threat or use of acts of serious violence against persons or property for the purpose of achieving a political, religious or ideological objective within Canada or a foreign state, and (d) activities directed toward undermining by covert unlawful acts, or directed toward or intended ultimately to lead to the destruction or overthrow by violence of, the constitutionally established system of government in Canada, but does not include lawful advocacy, protest or dissent, unless carried on in conjunction with any of the activities referred to in paragraphs (a) to (d).

¹⁰ Including the legislative, regulatory, policy, administrative and financial framework for national security and intelligence.

2018 In 2018, NSICOP issues two reports about foreign interference.¹¹ It first publishes a special report into the allegations associated with the Prime Minister’s official visit to India in February 2018. It then publishes its first annual report. NSICOP discusses foreign interference in both reports.

NSICOP learns from CSIS that espionage and foreign interference are growing in Canada and will likely require a more significant response in the years ahead. In its annual report, NSICOP states that cyber threats are an important national security problem, with Russia and China among the most active states. NSICOP also notes that the public has little awareness of threats to Canada’s national security, which includes foreign interference in domestic politics.

1.4 2019 and Beyond: Security Experts Expand Their Findings

Given the reports mentioned in Section 1.3, one can understand why the government began focusing on foreign interference as a threat to Canada’s security, in addition to the terrorism threat.

CSE warns Canadian voters and notes positive countermeasures

2019 In 2019, CSE updates its 2017 assessment of cyber threats to Canada’s democratic processes and reiterates its initial assessment, namely that:

- Cyber threat activity is increasing around the world, including in Canada.
- A small number of countries are responsible for most cyber threat activity against democratic processes worldwide.
- At the federal level, political candidates, parties, and voters are more vulnerable than the election exercise per se, through online media platforms.¹²

¹¹ COM0000149: NSICOP, *Special Report into the allegations associated with Prime Minister Trudeau’s official visit to India in February 2018*, public version (12 October 2018); JKW0000001: NSICOP, *Annual Report 2018*, public version (21 December 2018).

¹² COM0000050: CSE, *2019 update: Cyber threats to Canada’s democratic process* (2019).

CSE also warns Canadians that voters are very likely to experience some form of foreign cyber interference related to the 2019 election. Activities are likely to resemble what happened in other advanced democracies in recent years, such as attempts to polarize people and promote one party over another. The official Canadian vote count is unlikely to be affected, and it is improbable the foreign interference will be on the scale of Russian activity during the 2016 US presidential election.

Despite this, CSE notes some positive developments since its 2017 report. Extensive media coverage and analysis of foreign cyber interference greatly raised public awareness of this situation, as did more frequent reporting and public attribution of major cyber incidents by CSE and its allies. Also, internet companies now indicate they are willing to reduce illegitimate use of their platforms that could lead to foreign cyber interference.

2020 Later, in 2020, CSE’s public facing arm, the Canadian Centre for Cyber Security, says that foreign efforts to influence public discourse through social media are now the “new normal”.¹³ State-sponsored cyber activity is generally the most sophisticated threat to Canadians.

2021 In 2021, CSE issues another cyber threat update.¹⁴ It mentions:

- Since 2017, the proportion of OECD (Organisation for Economic Co-operation and Development) and G20 countries’ democratic processes targeted by cyber threat actors has been relatively stable.
- Globally, from 2015 to 2020, most cyber threat activities affecting democratic processes were state-sponsored.
- Globally, Russia, China and Iran are very likely responsible for most of the foreign state-sponsored cyber threat activity against democratic processes.
- Online foreign influence is the most significant cyber threat to voters.

CSE adds that Canada’s democratic processes remain a lower priority target for state-sponsored cyber threat relative to other target countries. Nevertheless, Canadian voters will very likely encounter foreign cyber interference ahead of, and during, the next federal election, but it is unlikely to be at the scale seen in the US.

2022 In its 2022 *National Cyber Threat Assessment*, the Canada Centre for Cybersecurity says cybercrime is still the number one cyber threat activity facing Canadians, with the cyber programs of China,

¹³ Canadian Centre for Cyber Security, *National Cyber Threat Assessment, 2020* (CSE, 2020) at 5.

¹⁴ COM0000051: CSE, *Cyber Threats to Canada’s Democratic Process* (July 2021 Update).

Russia, Iran and North Korea continuing to pose the greatest strategic cyber threat to Canada. The trend of online foreign influence activities seeking to impact elections and international discourse continues.

CSIS says interference threat has accelerated and evolved

- 2020** For its part, in 2020-2023, CSIS continued to raise foreign interference as a security issue to Canada in its public reports. In its opinion, democratic institutions, and processes, including elections, are valuable targets for hostile state actors. CSIS says key national security issues related to foreign interference are accelerating, evolving, and becoming much more serious, with increasing scale, scope and complexity.
- 2021** According to CSIS, misinformation and disinformation activities by state and non-state actors continue to spread, and are becoming important means to undermine confidence in governmental institutions and electoral processes. Foreign interference activities in Canada continue to be sophisticated, persistent and pervasive. They target all levels of government, the private sector, civil society groups and Canadian communities, especially diaspora groups.
- In July 2021, CSIS issues a special public report to increase public awareness about foreign interference.¹⁵ Also in 2021, for the first time, CSIS publicly reviews its response to threats of foreign interference separately from espionage.

NSICOP states Russia, China and others target Canada

- 2019** In 2019, NSICOP devoted a chapter of its annual report to the government's response to foreign interference, which excludes activities directed at the 2019 federal election and cyber threats. NSICOP concludes that Canada is the target of significant and sustained foreign interference activities by states, including China and Russia. Activities include using deceptive means to cultivate relationships for political influence, seeking to sway media reports and elections as well as coercing or inducing diaspora communities to advance foreign interests in Canada.
- According to NSICOP, foreign interference has received minimal media and academic coverage in Canada and is not yet part of the wider discourse. The government must engage the public and

¹⁵ CAN007953: CSIS, *Foreign Interference: Threats to Canada's Democratic Process* (July 2021).

democratic institutions at each level of government to raise awareness about interference.

- 2020** In its 2020 annual report, NSICOP mentions that cyber threat actors have refined their ability to conduct online disinformation campaigns to amplify social differences, create conflict and undermine confidence in governmental institutions. It says the number of states involved has grown since January 2019 and state-sponsored online activity is likely to continue to target Canadian political discourse, especially around elections. However, NSICOP concludes that Canada's 2019 federal election did not appear to have been a significant target of online influence and misinformation.
- 2021** In 2021, NSICOP reiterates that cyber threats are a significant and pervasive risk to Canada's national security. Governments are highly attractive targets for cyber-attacks. China and Russia are the most sophisticated cyber threat actors targeting the Canadian government. Iran, North Korea, and a state not named by NSICOP have moderately sophisticated capabilities.
- 2024** On 22 March 2024, NSICOP announces that it provided the Prime Minister with its classified Special Report on Foreign Interference in Canada's Democratic Processes and Institutions. The report was also provided to the Minister of Public Safety, Democratic Institutions and Intergovernmental Affairs, the Minister of Foreign Affairs, the Minister of Justice and the Attorney General of Canada and the Minister of National Defence. The Prime Minister must table a declassified version of the report within 30 sitting days of Parliament from March 22, 2024.

This overview of various reports written by Canada's national security and intelligence community experts shows that the foreign interference threat is real and growing. The next section explores what is being done about this threat.

1.5 Government Adopts Some Measures

The government is concerned about foreign interference with Canada's democratic institutions and has taken some measures to address the issue. The following describes these.

- 2017** On 1 February 2017, Prime Minister Trudeau delivers a mandate letter to then-Minister of Democratic Institutions Karina Gould, in which he tasked her, in collaboration with the Minister of National

Defence and the Minister of Public Safety and Emergency Preparedness, to lead the Government of Canada's efforts to defend the Canadian electoral process from cyber threats.¹⁶

2018

In June 2018, Canada hosts the G7 Summit in Charlevoix, Québec, and discusses foreign interference, in particular cyber threats. The parties agree to establish the G7 Rapid Response Mechanism (G7 RRM). The G7 RRM aims to prevent, thwart, and respond to malign and evolving threats to G7 democracies by sharing information and analyses and by identifying opportunities for coordinated responses.

Global Affairs Canada ("GAC") is the permanent secretariat to the G7 RRM. GAC is responsible for Canada's international relations, in accordance with foreign policy. GAC is therefore involved in helping to prevent and respond to threats to Canada and our international interests. Its work is informed by intelligence collected by domestic agencies and allies on the capabilities, intentions, and activities of foreign states. GAC also produces specialized diplomatic and open-source reporting on foreign interference-related issues, as well as strategic intelligence assessments.

In December 2018, Parliament amends the *Canada Elections Act* to address foreign interference.¹⁷

2019

In January 2019, pursuant to the mandate given to them by the Prime Minister in 2017, the Ministers of Democratic Institutions, Public Safety and Emergency Preparedness and National Defence announce the government's *Plan to Protect Canadian Democracy* (the "Plan").

The Plan creates the Critical Election Incident Public Protocol ("CEIPP"), a mechanism for a panel of five senior public servants¹⁸ (the "Panel" or the "Panel of Five") to communicate with Canadians if one or several incidents threaten the integrity of a federal election.

The CEIPP directs the Panel to determine this by considering the following criteria:

¹⁶ COM0000018: Minister of Democratic Institutions Mandate Letter, 1 February 2017.

¹⁷ The amendments: (1) prohibit a foreign person or entity from unduly influencing an elector to vote or refrain from voting or voting for a particular candidate or a registered party; (2) require online platforms to publish a registry of partisan advertising during the pre-election period and all advertising during the election period; (3) make it an offence to knowingly make or publish a false statement to affect election results; (4) prohibit third parties from using foreign funds; (5) prohibit foreign third parties from spending on partisan advertising and activities in pre-election and election periods; and (6) prohibit Canadian media from selling election advertising space to foreign third parties.

¹⁸ Clerk of the Privy Council, National Security and Intelligence Advisor to the Prime Minister, Deputy Minister of Justice and Deputy Attorney General, Deputy Minister of Public Safety and Deputy Minister of Foreign Affairs.

- The degree to which the incident(s) undermine(s) Canadians' ability to have a free and fair election.
- The potential of the incident(s) to undermine the credibility of the election.
- The degree of confidence officials have in the intelligence or information.

The Plan also creates the Security and Intelligence Threats to Elections Task Force (SITE TF). With representatives from CSE, the RCMP, GAC and CSIS, SITE TF reviews and assesses intelligence during elections and gives information to government departments and to the Panel of Five.

2021 In 2021, the government amends the CEIPP based on a third-party assessment by James Judd of CEIPP's operation during the 2019 election.

Still in 2021, the G7 RRM notes that disinformation is an increasingly prominent method of foreign interference with democracies.

2022 In November 2022, the House of Commons Standing Committee on Procedure and House Affairs ("PROC") begins studying foreign interference. PROC is a Parliamentary committee that studies and reports on the rules and practices of the House of Commons, its committees, and its internal administration, as well as electoral matters, members of Parliament's conflicts of interest, etc.

A few weeks later, the House of Commons Standing Committee on Access to Information, Privacy and Ethics ("ETHI") adopts 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." ETHI issues its report in October 2023, concluding Canada is not immune to foreign interference.¹⁹

All these reviews, reports and government actions provide a picture of what took place prior to the 2019 and 2021 federal elections. The next section gives a summary of what happened during these elections.

¹⁹ COM0000089: House of Commons, Standing Committee on Access to Information, Privacy and Ethics, *Foreign Interference and the Threats to the Integrity of Democratic Institutions, Intellectual Property and the Canadian State* (24 October 2023) (Chair: John Brassard).

1.6 The Last Two General Elections in the Spotlight

This section presents the sequence of expert reports and assessments resulting from the 2019 and 2021 general elections or shortly thereafter.

- 2019** After the 2019 election, the Chief Electoral Officer announces that there were no significant cybersecurity threats during the election on Elections Canada’s infrastructure, beyond those faced daily by any federal government organization.
- October 2019 saw at least one media report about possible foreign interference in Canada. However, NSICOP concludes in its 2020 annual report that Canada’s 2019 federal election did not appear to have been a significant target of online influence and misinformation.
- 2020** But, in the summer of 2020, Kenny Chiu, Member of Parliament (MP) from the Conservative Party of Canada representing the riding of Stevenston-Richmond East in British Columbia, expresses a different opinion. He alleges China’s consul-general in Vancouver targets Canadian politicians who criticize China’s actions in Hong Kong.
- 2021** In April 2021, Kenny Chiu introduces a private member’s bill aimed at exposing relationships between Canadian lobbying agents and foreign states.²⁰ After the 2021 election, he tells the media that China targeted him with a disinformation campaign in response to his bill and that he lost his seat because of it.
- News reports about possible foreign interference in the 2019 and 2021 federal elections begin to increase following the 2021 election. Still, the CEIPP Panel did not find large-scale foreign interference in the 2021 election and any foreign interference efforts did not meet the threshold for the Panel to act.
- As for Elections Canada, as with its 2019 findings, it concludes there were no serious cybersecurity threats to its infrastructure during the 2021 election beyond those faced daily by any federal government organization.
- 2022** In June 2022, the Office of the Chief Electoral Officer of Canada publishes a report with recommendations following the 2019 and 2021 general elections. It recognizes that malign entities, foreign

²⁰ COM0000022: House of Commons, *Bill C-282: An Act to establish the Foreign Influence Registry*, 43-2, First Reading (13 April 2021).

and domestic, have attempted to create division and cast doubts on the integrity of electoral processes and their results.

The reports and testimony about foreign interference activities gathered over recent years contributed to convincing many that such interference was real and building. Media and public pressure to do more to safeguard Canada’s democracy was also increasing. The story only gathered more momentum in 2023.

1.7 2023 Becomes a Pivotal Year

Significant developments occurred in 2023 in foreign interference, and at a much-accelerated pace than previous years. Here are some of them, in chronological order.

JANUARY	The year begins with the Commissioner of Canada Elections (“CCE”) announcing that she will review allegations of foreign interference with the 2019 and 2021 elections. The CCE can only review allegations about breaches of the <i>Canada Elections Act</i> and the <i>Referendum Act</i> .
FEBRUARY	February sees a sharp increase in media reports about possible foreign interference by China in Canadian elections, including information reported to be CSIS information. This is reflected on 1 March 2023 when the Angus Reid Institute discloses that most Canadians believe China attempted to meddle in Canadian elections. Of those polled, 53% say attempted interference represents a serious threat to democracy. Two thirds of respondents say the federal government needs to put additional focus on foreign interference.
MARCH	<p>Several developments occur in March. On March 6, the Government asks NSICOP to review foreign interference in Canada’s federal democratic processes, with a focus on elections. This includes a request to develop a plan to address outstanding recommendations about foreign interference from NSICOP reports and the CEIPP reviews.</p> <p>Two days later, on March 8, PROC tables a report in Parliament.²¹ It calls on the government to launch a national public inquiry into allegations of foreign interference in Canada’s democratic system,</p>

²¹ COM0000040: House of Commons, Standing Committee on Procedure and House Affairs, Twenty-fifth Report, *Study: Foreign Election Interference* (2 March 2023) (Chair: Bardish Chagger).

including allegations of interference in general elections by foreign governments.

A week later, on March 15, the Government appoints the Right Honourable David Johnston as “Independent Special Rapporteur on Foreign Interference” (“ISR”). His mandate is to assess the extent and impact of foreign interference in Canada’s electoral processes, including during the 2019 and 2021 elections, and to consider innovations and improvements in public agencies to counter foreign interference in federal elections. Meanwhile, media interest in foreign interference in Canadian politics continues steadily.

On 23 March 2023, the House of Commons passes a New Democratic Party (“NDP”) motion to adopt the PROC report.

APRIL

In April, the government outlines recommendations from the NSICOP reports and CEIPP reviews, summarizes actions taken and proposes further action.²² Throughout the month, the media continues to be quite active regarding foreign interference.

MAY

The frequency of developments picks up again in May. On May 8, Canada declares Chinese diplomat Zhao Wei *persona non grata* because of his foreign interference activities. On the same day, the House of Commons debates and passes a Conservative Party motion to establish a federal public commission of inquiry on foreign interference. The motion also calls for a registry of foreign agents.

On 10 May 2023, the House of Commons refers²³ to PROC a matter dealing with “contempt concerning the intimidation campaign orchestrated by Zhao Wei against the member for Wellington-Halton Hills [Michael Chong] and other members.” In response, in May, June, October and November 2023 and early 2024, the Committee hears more testimony about foreign interference. On 10 April 2024, PROC presented its report to the House of Commons.²⁴ The Committee concludes that the PRC threatened Mr. Chong and the former leader of the Conservative Party, Mr. Erin O’Toole. It further concludes that this foreign interference was aimed at all members of the House of Commons and took aim at Canada’s democracy, and was therefore a contempt of Parliament.

²² COM0000048: Government of Canada, Democratic Institutions, Countering an Evolving Threat: Update on Recommendations to Counter Foreign Interference in Canada’s Democratic Institutions (6 April 2023).

²³ The House of Commons can raise claims about infringement of parliamentary privilege or contempt of Parliament by a “question of privilege”. See Marc Bosc & André Gagnon, eds, *House of Commons Procedure and Practice*, 3rd ed. (2017). 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 Speaker’s motion is to refer the matter to a House committee, the House can either adopt the motion and refer it to a committee or defeat the motion.

²⁴ PROC, Report 63: *Question of Privilege Related to the Intimidation Campaign Against the Member for Wellington-Halton Hills and Other Members* (21 March 2024).

On 16 May 2023, the government announces the SITE TF will provide enhanced monitoring and assessment of foreign interference directed at four federal by-elections to be held in June 2023. A week later, on May 23, the National Security and Intelligence Review Agency (“NSIRA”) starts a review of foreign interference. At the time of writing this Initial Report, NSIRA’s report had not yet been made public.

Meanwhile, the eagerly anticipated ISR report is issued on 23 May 2023.²⁵ In his initial report, Mr. Johnston concludes that foreign governments are attempting to influence Canadian candidates and voters and that these efforts are omnipresent, especially from China. However, he adds that there is no reason to question the validity of the 2019 or 2021 elections. The report goes on to explain that leaked intelligence was misinterpreted without its full context. Specific instances of interference were less concerning than media reports suggested and sometimes the full story was quite different from the media’s version.

The ISR also announces plans to hold public hearings with diaspora communities and other Canadians, government officials (including retired civil servants), experts and other interested parties about foreign interference. The ISR intends to issue policy and governance recommendations after these hearings. However, on 30 May 2023, the NDP asks the House to call on the ISR to step aside and for the government to urgently establish a public commission of inquiry. Parliament adopts the motion on May 31.

Also in late May, the Angus Reid Institute announces results from another poll about foreign interference. Of the Canadians polled, 52% believe a commission of inquiry is needed despite the ISR’s work. Other findings indicate serious concerns with foreign interference: 43% of Canadians believe elections are becoming less free and less fair and 67% believe the Chinese government likely tried to interfere in past Canadian elections.

On May 31, PROC submits Report 44 to Parliament. The report reaffirms PROC’s call for a national public inquiry. It demands that government consult with recognized parties within 24 hours with a view to launching a commission of inquiry within two weeks.²⁶ All this feeds media reports on foreign interference, which continue steadily.

²⁵ COM0000104: Canada, Independent Special Rapporteur, *First Report: The Right Honourable David Johnston, Independent Special Rapporteur on Foreign Interference* (Ottawa: 23 May 2023). As explained further below, the ISR resigned before completing the second phase of his mandate.

²⁶ COM0000041: House of Commons, Standing Committee on Procedure and House Affairs, Forty-fourth Report, *Study: Foreign Election Interference* (25 May 2023) (Chair: Bardish Chagger).

JUNE	In early June, opposition parties continue to call on the Liberal Government to end the ISR's mandate and establish a public commission of inquiry. Diaspora groups join parliamentarians in calling for a public inquiry. On 9 June 2023, Mr. Johnston resigns as ISR. He says his role was too mired in political controversy for him to continue and the highly partisan atmosphere around his appointment, work and leadership is negatively impacting trust in Canada's democratic institutions. The media covers this news and continues to raise questions about the government's handling of foreign interference intelligence. Also in June, the SITE TF reports it did not observe any indication of foreign interference directed at the four federal byelections in Manitoba, Ontario and Québec.
AUGUST	In early August, the G7 RRM detects an "information operation" targeting Conservative MP Michael Chong and concludes it is "highly probable" China is behind it. Despite this, media interest in foreign interference declines for the first time in months.
SEPTEMBER	On 7 September 2023, the government creates the Commission through an Order in Council. ²⁷ All four recognized political parties agree on the Terms of Reference and on my appointment as Commissioner.

1.8 Summary of How the Commission Came About

The above chronology explains how the Commission came to be. Let us briefly recap. The government had growing concerns about foreign interference in our country and its potential impact on federal elections since at least the mid-2010s. The emergence of new technologies has been exacerbating this situation.

Official analyses and reports on foreign interference mentioned its existence, with limited impact in the beginning, but with progressively increased risk in the 2021 general election timeframe. Subsequent to this, Parliament's concern grew, with House committees studying the issue, MPs debating the response from the government and all opposition parties calling for a public commission of inquiry. Pressure to find innovative ways to detect, investigate and counter such foreign interference increased. As a result, new entities were created, further reports were published and additional actions were taken. Ultimately, this growing public and parliamentary pressure led to the appointment of the ISR and later to the creation of the Commission and my appointment.

²⁷ Order in Council P.C. 2023-0882.

The Commission is a non-partisan, independent and public process. As such, it must be fundamentally transparent. However, given its subject matter, the public nature of the Commission's investigation is limited to some extent by the need to protect national security and the security of some individual witnesses (see [Chapter 3](#) for more details).

The Commission's aim is to investigate foreign interference in Canadian democratic institutions comprehensively and rigorously. In the next chapter, I will explain the Commission's mandate as set out in its Terms of Reference.

CHAPTER 2

Scope Of The Commission’s Mandate

As Guided by my Interpretation of the Commission’s Terms of Reference

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2.1 Overview of the Mandate

My mandate is to examine and assess the following:

- 1 Interference by China, Russia and other foreign states or non-state actors, including any potential impacts on the 43rd (2019) and 44th (2021) general elections at the national and electoral district levels.
- 2 The flow of information about foreign interference within government and to decision-makers before, during and after those elections.
- 3 Government’s capacity to detect, deter and counter foreign interference.

In doing so, I also hope to enhance public awareness and understanding about the challenges of disclosing classified national security information.

At the end of all my work, I will also make recommendations to the federal government on how it can better protect federal democratic processes from foreign interference.

The Commission’s Terms of Reference²⁸ specify the issues to be investigated and are the primary source of my mandate. However, other guiding principles also inform my role. These are described below along with my working definitions of the following key terms found in the Terms of Reference: “foreign interference”, “democratic institutions” and “democratic processes”.

2.2 The Commission’s Guiding Principles

In achieving my mandate, I am committed to the following guiding principles:

Proportionality

Transparency

Fairness

Thoroughness

Expeditiousness

These principles not only guide how the Commission does its work, but they also inform my interpretation of my mandate’s scope.

²⁸ Order in Council P.C. 2023-0822 (“Terms of Reference”).

Proportionality

Proportionality is of paramount importance to the Commission’s work. Given the limited time available, the Commission team and I allocate investigative and hearing time in proportion to the importance and relevance of matters to my mandate. Furthermore, at the public hearings I determine the relative contributions each Participant can make to an issue and allocate time accordingly.

Transparency

Commission proceedings and processes must be as open and available to the public as reasonably possible, respecting the requirements of national and personal security as well as other applicable confidentiality and privileges. In [Chapter 3](#), I discuss in detail the challenge of maximizing transparency, both by the Commission and by the federal government more generally, while remaining consistent with security and confidentiality requirements.

Fairness

We must treat all those involved or implicated fairly and impartially. To that end, I must consider and balance the interests of the public (including the right to be informed), the interests of individuals (including the right to privacy), and the interests of national security. I must also respect principles of fundamental justice.

Thoroughness

I must examine the relevant issues, past and present, with care so there is no doubt I explored and answered the questions raised by the Commission’s mandate as completely as possible within the specified timeframe.

Expeditionessness

The Commission has a tight timeline to complete its mandate and the subject-matter is of such importance that I decided I must do everything possible to meet the deadline. Therefore, I must conduct my work rapidly and efficiently without sacrificing quality or adherence to my other guiding principles.

2.3 The Commission’s Mandate as Defined in the Terms of Reference

This section gives an overview of the Commission’s Terms of Reference and of my work as Commissioner.

My mandate, as defined in Clauses A to E of the Terms of Reference, involves both fact-finding and policy work. The first phase of the Commission’s work only relates to fact-finding (Clauses A, B and D) while the second phase relates to both fact-finding (Clause C) and policy (Clause E).

I must submit two reports to the Governor in Council detailing the evidence collected as well as my findings and conclusions for each Clause A to E. In addition to this Initial Report (submitted on 3 May 2024),²⁹ I must submit a Final Report to the Governor in Council by 31 December 2024. Also, if I rely on classified information not suitable to disclose to the public, I must submit a separate classified report containing this information.

The Terms of Reference do not require me to cover how and to what extent to disclose classified national security information to the public (Clause D) in my Initial Report. Despite this, I have decided to provide my findings and conclusions on the challenge of balancing transparency and the public nature of the Commission with national security confidentiality in Chapter 3 of this Initial Report. What I learned in investigating the issue is fundamental to the Commission’s purposes and processes. I will also address national security confidentiality in my Final Report.





The Terms of Reference direct me to cover the potential impacts of foreign interference on the 2019 and 2021 general elections (Clause A) and the flow of information within the federal government before, during and after those elections (Clause B) in my Initial Report.

However, the Commission’s work on this part of my mandate cannot and will not end on 3 May 2024. Clauses A to E are not watertight compartments. There is overlap and interchange among all these topics and thus I may hear evidence relevant to Clauses A and B during other stages of the Commission’s investigation.³⁰ Therefore, my Final Report will necessarily also address the issues mentioned in these Clauses.

²⁹ The Terms of Reference in Order in Council P.C. 2023-0822 required an Initial Report by 3 February 2024. However, Order in Council P.C. 2023-1316 changed the Terms of Reference to require an Initial Report by 3 May 2024.

³⁰ On some occasions, the investigation into Clauses A and B was referred to as “Stage 1” of the Commission, and the next step of the Commission’s work (Clause C) was referred to as “Stage 2”.

The following table sets out the five divisions of my mandate according to the two aspects of my work (fact-finding and policy) and my two reports (Initial and Final).

Commission’s Mandate in its Terms of Reference	 Fact-Finding	 Policy	 Initial Report	 Final Report
Clause D – Challenge of disclosing classified information Hearings on the disclosure of classified national security information to the public.	●		●	●
Clause A – Potential impacts of foreign interference on 2019 and 2021 elections Foreign interference and its potential impacts on the 2019 and 2021 federal elections.	●		●	●
Clause B – Flow of information to government and its response Flow of information to, and response by, the federal government before, during and after the 2019 and 2021 elections.	●		●	●
Clause C – Government’s detection and response capacity The federal government’s capacity to detect, deter and counter foreign interference targeting democratic processes.	●			●
Clause E – Policies and recommendations Policies and recommendations to better protect democratic institutions and processes from foreign interference.		●		●

Topics covered in this Initial Report

As summarized in the table above, my Initial Report addresses the potential impacts of foreign interference in the 2019 and 2021 general elections (Clause A) and the flow of information about foreign interference within the federal government and to decision-makers relating to those elections (Clause B). I have also chosen to address at the start the challenge of disclosing classified national security information to the public (Clause D).

Clause D - Challenges of disclosing classified national security information to the public

I begin by discussing Clause D, because as directed by the Terms of Reference, the Commission undertook this part of its mandate first (see [Chapter 3](#)).

Clause D requires me to hold public hearings to identify challenges, limitations and potential adverse impacts associated with disclosing classified national security information and intelligence to the public.³¹ The aim is to foster transparency and enhance public awareness and understanding about the difficult balance between government accountability and legitimate security concerns.

Part of my work is to inform the public about foreign interference as much as possible without jeopardizing national security. In other words, I must maximize public transparency while taking necessary steps to protect national security. This is important at all times.

As I discuss in Chapter 3, the preliminary public hearings examining the challenges of publicly disclosing national security information helped me increase public awareness about the challenge of balancing government transparency and national security confidentiality. They also helped me determine how to maximize transparency while protecting national security interests in the context of a public inquiry that involves mainly classified evidence.

Clause A - Potential impacts of foreign interference on the 2019 and 2021 general elections

Clause A of the Terms of Reference relates to fact-finding and directs me to assess possible foreign interference in the 2019 and 2021 federal elections. Clause A directs me to examine the integrity of these elections at the national and electoral district levels and the potential impact on those caused by any interference by China, Russia and other foreign state or non-state actors.

³¹ The hearings on Clause D from 29 January to 2 February 2024, were also called the “National Security Confidentiality” or “NSC” hearings.

My investigation of possible foreign interference covers two separate periods. The first period is from when the writ of election dropped on 11 September 2019 until the formation of the government, and the second period is from 15 August 2021, when the Governor General issued the writs of election, until the formation of government.

I recognize foreign interference can be the cumulative effect of acts that may not have occurred within the above period. However, the principles of proportionality, thoroughness and expeditiousness require me to limit my investigation to a period that can be comprehensively reviewed within the time allowed. That being said, I will consider all information helpful to my mandate about events that might have taken place outside the primary investigation period.

Evidence about possible foreign interference primarily comes from governmental organizations and other witnesses. My mandate does not include assessing all security and intelligence data to try to uncover interference not already found by the national security and intelligence agencies. The Commission is thoroughly reviewing evidence about possible foreign interference identified by governmental organizations and determining whether this affected the outcome of the 2019 and 2021 elections. However, forensic investigation is outside the scope of the Terms of Reference and contrary to the Commission’s principles of proportionality and expeditiousness.

Clause B - Flow of information regarding foreign interference in the 2019 and 2021 general elections

Clause B also relates to fact-finding and directs me to examine and assess the flow of information about foreign interference to senior decision-makers, including elected officials. This applies to the weeks leading up to, during, and following the 2019 and 2021 federal elections. I must also review the flow of information between the Security and Intelligence Threats to Elections Task Force (“SITE TF”) and the Critical Election Incident Public Protocol Panel (“Panel of Five”). Finally, I must examine governmental actions in response to these flows of information.

Topics to be covered in the Final Report

Clauses A, B, and D - Building on the findings of my Initial Report

My investigation into the potential impacts of foreign interference and the flows of governmental information regarding the 2019 and 2021 general elections (Clauses A and B) will continue beyond 3 May 2024 and my Initial Report. Therefore, my Final Report will have my complete set of conclusions and recommendations about these issues.

The Final Report will also return to the challenge of disclosing classified national security information (Clause D).

Clause C - Government capacity to detect and respond to foreign interference

Clause C also relates to fact-finding and directs me to examine and assess the capacity of relevant federal departments and agencies, as well as institutional structures and governance processes, to detect, deter and counter any form of foreign interference directly or indirectly targeting Canada’s democratic processes. Such governmental action could include:

- Intelligence and advice to senior decision-makers, including elected officials.
- Support and protection for members of diasporas.
- Introduction of new mechanisms to protect federal elections from foreign interference.

Unlike Clauses A and B, the focus of Clause C is largely placed on the present and intended to feed forward-looking recommendations.

Clause E - Policy and recommendations

The final aspect of my mandate relates to policy. This will involve hearing from experts, including the Commission’s Research Council and other witnesses. Clause E also directs me to recommend ways to better protect federal democratic processes from foreign interference. My recommendations will be mainly based on my conclusions from the first four aspects of the Terms of Reference (i.e., Clauses A to D).

2.4 Definitions of Concepts Important to the Commission’s Mandate

The terms “foreign interference,” “democratic institutions” and “democratic processes” in the Terms of Reference are important in defining the scope of my mandate. In this section, I discuss how I am interpreting and applying these terms to the Commission’s work.

The following are working definitions. They may change based on the work and findings of the Commission before submitting my Final Report. My working definitions are based on the material referenced in the Commission’s *Overview Report: Definitions of key terms in the Commission’s Terms of Reference*.³²

³² COM0000331: Foreign Interference Commission, *Overview Report: Definitions of key terms in the Commission’s Terms of Reference*.

Foreign interference

At the time of this Initial Report, my working definition of “foreign interference” considers definitions used by federal government organizations and task forces, parliamentary committees, as well as international and academic sources. As such, I adopt a definition foreign interference grounded in the definition of threats to the security of Canada in section 2 of the *Canadian Security Intelligence Service Act*³³ (“CSIS Act”). According to this definition, foreign influenced activities that are threats to the security of Canada are activities:

- Within or relating to Canada
- Detrimental to the interests of Canada, and
- Clandestine or deceptive or involving a threat to any person

These elements are relied on by federal government organizations and parliamentary committees. Variations of some or all the elements are also used in the definition of foreign interference by the G7 Rapid Response Mechanism, the Australian federal government, and the European Union.

For my definition of foreign interference, in addition to the three elements from the *CSIS Act*, the activities must be done by a foreign state, either directly or indirectly through intermediaries such as proxies, agents or co-opted individuals. Clause A of the Terms of Reference refers to foreign states, and the following entities also define foreign interference in relation to foreign state activity:

- Canadian Security Intelligence Service (CSIS)
- Communication Security Establishment (CSE)
- National Security and Intelligence Committee of Parliamentarians (NSICOP)
- Public Safety Canada (PS)
- Security and Intelligence Threats to Elections Task Force (SITE TF)
- G7 Rapid Response Mechanism (G7 RRM)
- US Department of Homeland Security
- Australian federal government
- European Union

Clause A also refers to “non-state actors.” I define this to mean entities connected to, or aligned with, foreign states in some way. Including “non-state actors” in the Terms of Reference recognizes the fact foreign state interference may be the result of activities by domestic or foreign actors who are intermediaries of a foreign state (e.g., proxies, agents, or co-opted individuals). When I consider the text of Clause A in the context of the entire Terms of Reference, I conclude the government intended to limit the reach of the Commission to entities connected to foreign states.

³³ *Canadian Security Intelligence Service Act*, RSC 1985, c C-23.

The Commission’s principles of proportionality, thoroughness and expeditiousness also inform my interpretation. To complete the Commission’s mandate within the given timeframe requires a proportional and expeditious approach. Interpreting the Commission’s mandate as including interference by any foreign non-state entity would be contrary to this goal. Furthermore, the Commission could not thoroughly consider such a broad definition of foreign interference within the allotted time.

In conclusion, my working definition of foreign interference is as follows: clandestine, deceptive, or personally threatening activities by a foreign state, or those acting on its behalf, that are detrimental to the interests of Canada. This working definition is appropriate at this stage. It has a broad scope and, importantly, federal government organizations and processes and parliamentary committees use it.

Democratic institutions and processes

The Terms of Reference refer expressly to both the “electoral process” and to “democratic institutions,” which indicates the government intended the Commission to look at foreign interference beyond elections. If I am to investigate foreign interference in electoral processes and democratic institutions, then I must interpret what the government intended by these terms.

For a start, I conclude “democratic institutions” and “democratic processes” refer to the same thing. While institutions and processes are not synonymous, the terms are used interchangeably by federal government organizations, parliamentary committees, and others.

In defining “democratic institutions”, I look to the federal government’s use of the term, which expressly includes Parliament, the division of powers and the formation of government.

Therefore, in the context of the Commission’s mandate, democratic institutions refer to Parliament and the executive branch. This is consistent with a key focus of my mandate, which is the federal electoral process. The outcome of which is the election of politicians to govern and legislate in the interests of Canada.

In summary, my mandate is to investigate potential foreign interference with:

- The federal electoral process.
- Law-making by elected members of Parliament.
- Executive decision-making by Cabinet and its ministers in relation to their departments, including indirect foreign interference with ministerial decisions when such decisions are based on information originating at a lower level of government covertly influenced by a foreign state (or its proxy, agent, etc.).

2.5 **Summary of the Commission’s Mandate and Guiding Principles**

In this chapter, I discussed the scope of my mandate as stipulated in the Commission’s Terms of Reference, which specify I must examine and assess foreign interference and its impact on Canada’s democratic institutions, including the 2019 and 2021 general elections. I must also investigate the flow of information about foreign interference within the federal government and to decision-makers during those elections. Finally, I must evaluate and make recommendations regarding the government’s capacity to detect, deter and counter foreign interference.

I also outlined the clauses of the Terms of Reference which are included in this Initial Report, as well as the ones which will be included or expanded upon in the Final Report.

In addition, I discussed the Commission’s five guiding principles (proportionality, transparency, fairness, thoroughness, and expeditiousness), as well as my working definitions of key terms that also inform my mandate.

I also acknowledged the subject-matter of this inquiry requires me to strike an appropriate balance between transparency and the importance of keeping classified material secret. In the next chapter, I will dive deeper into this duality.

CHAPTER 3

Balancing Transparency and National Security Confidentiality

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3.1 The Challenge of Informing the Public While Protecting National Security

The Commission must be open and transparent. At the same time, it must protect Canada’s national security interests. This is one of the greatest challenges the Commission faces in conducting this inquiry.

On the one hand, the very purpose of a public inquiry is to be public. To be successful, a public inquiry must have a transparent process and produce a report that the public can review, understand and evaluate.

On the other hand, disclosing certain information to the public could harm Canada’s national security interests. Both the government and the public benefit from keeping this type of information confidential. A public inquiry that reveals highly-sensitive information could do more harm than good.

The challenge I face as Commissioner is how to fully consider and balance both interests. Other commissioners have also had to address national security interests in the context of a public inquiry. However, this Commission stands out for how closely and extensively its mandate is linked to state secrets. Throughout the inquiry, the Commission must carefully balance the need for both openness and secrecy. In this chapter, I explain how the Commission does this.

3.2 Why the Commission Must Be Open and Transparent

The Commission must be open and transparent so the public can understand its inquiry and have confidence in it. This includes carrying out a transparent process and issuing a public report.

A basic purpose of public inquiries is to “bring facts to public light in a thorough way that pursued the public’s interest in knowing what happened and why.”³⁴ In the case of this inquiry, the public has a vital interest in understanding whether Canada’s democratic processes have been targeted by foreign state or proxy actors. If so, the public should know whether those efforts have had an impact on our democratic system.

Canadians deserve to know whether the government has done enough to protect their democracy. The existence of a vibrant democracy depends on

³⁴ The Hon. J. Michael MacDonald, Leanne J. Fitch & Dr. Kim Stanton, *Turning the Tide Together: Final Report of the Mass Casualty Commission* (His Majesty the King in Right of Canada, 2023), vol. 7, p. 6.

public confidence in the democratic process itself. This Commission aims to uphold confidence in our democratic institutions. This can only be achieved through transparency.

A commission can show transparency in different ways. At its simplest, a commission must issue a public report that explains the truth about the thing being investigated. A transparent report clearly sets out a commissioner's findings, and the reasons for them. A report that states only conclusions or is full of redacted passages falls short of what a public inquiry should accomplish.

A commission must also have a transparent process. A transparent report is not enough. The purpose of an inquiry is not only to tell the truth to the public, but to show it to them. This means a public inquiry must pursue the truth in a public fashion. A commission that works entirely behind closed doors cannot fully accomplish the mission of a public inquiry. The public learns the truth not only from reading a report, but from observing a commission's proceedings, seeing witnesses testify and hearing the evidence alongside the Commission.

Public proceedings are a critical component of public inquiries, but they alone do not ensure the transparency needed to promote public confidence. In fact, public hearings are only one small part of what public inquiries do. Much of a commission's work occurs in private. This includes most of their investigations, which occurs before public hearings ever begin. Despite this, a commission of inquiry must itself be a transparent body at all phases of its work. Members of the public should be able to comment on and criticize what commissions do in addition to what commissions ultimately say. Without this form of openness, members of the public may lack confidence in a commission's work.

The Supreme Court of Canada underlined the importance of different forms of transparency for a commission's success in its often-quoted decision in the *Westray Mine Tragedy* case:

One of the primary functions of public inquiries is fact-finding. They are often convened, in the wake of public shock, horror, disillusionment, or scepticism, in order to uncover "the truth". Inquiries are, like the judiciary, independent; unlike the judiciary, they are often endowed with wide-ranging investigative powers. In following their mandates, commissions of inquiry are, ideally, free from partisan loyalties and better able than Parliament or the legislatures to take a long-term view of the problem presented. Cynics decry public inquiries as a means used by the government to postpone acting in circumstances which often call for speedy action. Yet, these inquiries can and do fulfil an important function in Canadian society. In times of public questioning, stress and concern they provide the means for Canadians to be apprised of the conditions pertaining to a worrisome community problem and to be a part of the recommendations that are

aimed at resolving the problem. Both the status and high public respect for the commissioner and the open and public nature of the hearing help to restore public confidence not only in the institution or situation investigated but also in the process of government as a whole. They are an excellent means of informing and educating concerned members of the public.³⁵

Transparency is as important to this Commission as it was to others. I must pursue transparency and openness for the public to understand the integrity of Canada’s democratic systems and to have confidence in public institutions. The public deserves no less.

3.3 Why the Commission Must Protect National Security Confidentiality

While the Commission must be open and transparent, it must also keep some information private to protect national security.

Openness and transparency are important. But in some cases, secrecy is important as well. To use a simple example, a secret ballot is essential to the democratic process. Casting a vote has an undeniable importance to public life. Still, we do everything possible to protect the secrecy of each person’s vote. In the ballot box, secrecy helps to foster a robust, democratic life.

However, secrecy often appears more worrying when it comes to information held by the government. The public often views government secrecy with suspicion, or even hostility. This is particularly true when the government invokes the “need” for secrecy to shield information relevant to matters of great public interest. Governments sometimes refuse to reveal information to members of the public. They may also refuse to reveal why that is the case and give only undefined national security reasons. It is not surprising that members of the public would question this sort of claim. Indeed, public pushback against such claims is itself a sign of a healthy democracy.

Still, it is in the public’s interest to protect at least some forms of government secrets. Maintaining government secrecy can enhance safety, protect lives, and even maintain the rule of law, as Professor Michael Nesbitt noted in his comments before the Commission. The government often invokes these reasons to justify keeping information secret in matters related to national security.

³⁵ *Phillips v. Nova Scotia (Commission of Inquiry into the Westray Mine Tragedy)*, [1995] 2 SCR 97 at para. 62.

National security is a contested concept that is difficult to define. In a court case arising from the Arar Inquiry, Justice Noël of the Federal Court of Canada wrote that national security “means at minimum the preservation of the Canadian way of life, including the safeguarding of the security of persons, institutions and freedoms in Canada.”³⁶ The concept’s lack of a precise definition can be challenging. Still, it describes a vital set of interests that should be protected.

Governments seek to protect national security through various means. Some are ordinary, while others are the stuff of spy novels. Those falling into the second category, like signals intelligence or confidential human sources, require the most secrecy.

Certain types of information may have to be kept secret for Canada to engage in activities vital to its national security. This can be particularly true in the area of foreign interference, where sophisticated state actors collect information about Canada. Many of them use techniques and methods just as advanced as Canada’s. Also, they may not have to follow the same liberal democratic norms that apply to Canada’s government. In this context, Canada’s security agencies are very concerned about information being disclosed. Information that could reveal where intelligence comes from, how it is collected, or the targets of investigations is particularly sensitive. Exposing it to hostile actors could cause grave harm to both individuals and to Canada as a whole.

This does not mean all information related to national security is secret or must be kept from the public. Disclosing information to the public can also enhance national security. For example, Canadian Security Intelligence Service (“CSIS”) Director David Vigneault testified about how sharing information about foreign interference with the public can help Canadians build resilience to interference in the future.

However, witnesses and Participants generally agreed that some information related to national security must be kept secret. This would include at least some information relevant to the mandate of the Commission.

³⁶ *Canada (Attorney General) v. Canada (Commission of Inquiry into the Actions of Canadian Officials in Relation to Maher Arar)*, 2007 FC 766 at para. 68.

3.4 What Classified Information is and How Access to it is Limited

I will now discuss what classified information is, how it can be handled, and how it can be disclosed to the public. Basic knowledge of these issues will help understand the challenge I face in balancing openness with protecting national security.

The difference between classified and protected information

Certain types of information can cause injury (harm) if they are disclosed without authorization. To reduce the risk of harm, government directives limit access to this information.³⁷ These directives create categories of information with their own sets of rules.

Information is categorized as either “protected” or “classified”, depending on the kind of injury that could occur if it is disclosed. The information is protected if the potential injury is to an interest other than the national interest, such as a person’s wellbeing. The information is classified if the national interest could be injured.

Within each category, there are three sub-categories. They relate to the level of injury that is reasonable to expect if the information is disclosed without authorization. The level of injury ranges from “limited” to “extremely grave” injury.

	Protected Information	Classified Information
Disclosure could reasonably be expected to cause...	(harm outside the national interest)	(harm to the national interest)
Limited or moderate injury	Protected A	Confidential
Serious injury	Protected B	Secret
Extremely grave injury	Protected C	Top Secret

Classified information generally has greater restrictions and controls than protected information. Similarly, Top Secret information has greater restrictions and controls than Secret or Confidential information.

³⁷ Treasury Board Secretariat, *Directive on Security Management*; Treasury Board Secretariat, *Standard on Security Screening*.

Control systems for more sensitive information (compartmented information)

Some information is so sensitive that it is placed under greater restrictions than “regular” Top Secret information. This information is put under a “control system”, which is an administrative set of rules about access, marking, handling and control of information. A control system can be understood as a “compartment” that restricts the way information can be accessed, handled and shared. These restrictions go beyond those already imposed by classifying information. Information that is under a control system is also referred to as “compartmented information”.

Within a control system, there can be additional control systems (or sub-compartments). They contain even more sensitive information which needs to be more tightly restricted. A good example is information about signals intelligence, which is foreign intelligence obtained from secretly accessing or intercepting other entities’ communications. Signals intelligence is placed under the “Special Intelligence” or “SI” compartment. Two sub-compartments within the SI compartment are more tightly controlled because they contain even more sensitive information. The GAMMA sub-compartment protects especially sensitive signals intelligence reporting. The ECI sub-compartment protects especially sensitive capabilities, methods or techniques used by Canada and its allies. Within GAMMA and ECI, there are further sub-sub-compartments which are even more restricted.

Compartmented information is some of the most sensitive information the government possesses. Accordingly, it has the strictest limits available on access and handling.

As I will discuss below, a significant proportion of highly relevant material handled by the Commission contains compartmented information.

How documents are classified

Documents are classified based on the most sensitive information contained in them. A document could contain mostly non-sensitive information, but if a single sentence were to disclose Top Secret information, the whole document is classified as Top Secret.

The process of classifying information follows established policies and procedures. The entity that creates a document or record is responsible for classifying it. Where documents are prepared by Canadian officials, such as CSIS, experts who understand the context of the relevant information are responsible for classification. In the case of signals intelligence products prepared by the Communications Security Establishment (“CSE”), most are classified as Top Secret//SI or higher.

Canada imports more intelligence than it exports. The government obtains a significant amount of the classified information it possesses from foreign allies. In these cases, the foreign ally determines the classification level and control measures of the information. Canadian officials must respect the classification determinations and control measures of its allies to preserve relationships with originating agencies and foster information sharing.

How access is limited: security clearances, indoctrinations and the need-to-know principle

As I have discussed above, the level of control on who can access information depends on the degree of harm which is reasonable to expect if it is disclosed without authorization. The higher the degree of harm, the stricter the controls on who can access the information. By limiting access to classified information, the government seeks to better protect it from unauthorized disclosure.

Three measures limit access to classified documents: security clearances, indoctrinations, and the “need to know” principle.

To access classified information, a person must first possess the necessary security clearance. Government institutions grant security clearances after screening by security officials. The higher the clearance, the more in-depth and intrusive the screening. Security clearances exist at the “reliability status”, Secret or Top Secret levels, and may include enhanced clearance levels.

To access compartmented information, a person must have received an appropriate “indoctrination”. A security clearance alone is not enough. Indoctrination is the term used by Canada’s intelligence agencies to describe the required training and briefings given to individuals before they are granted access to a control system or sub-control system. Without proper indoctrination, not even a Top Secret clearance authorizes a person to access compartmented information. Having access to one control system also does not guarantee access to other control systems.

Even if someone has the necessary clearance and indoctrination to access a piece of information, they can only access it if it is required for them to perform their official duties. This is known as the need-to-know principle.

Lowering or removing classification: sanitizing, declassifying and writing to release

A document's classification level may be lowered or removed, but only in specific circumstances.

One way this can happen is by altering the text of a document, such as by redacting (removing or covering) words, sentences or pages.

Classification may also be lowered or removed due to changing circumstances. Over time, information that was once classified at a particular level may no longer risk causing as much harm or any harm if disclosed. In such a circumstance, a document's classification level could be changed without any alteration to the document itself.

Lowering the classification level of a document is referred to as “sanitizing” the document. Removing a document's classification is called “declassification”.

The decision to sanitize or declassify a document belongs to the agency that created it (e.g., CSIS or CSE). However, if a document contains classified information from a foreign partner, the partner must agree to the sanitization or declassification, even if the information is reproduced in a Canadian-made document. This principle of “originator control” is an important aspect of Canada's intelligence sharing relationships. Canada's ability to keep the confidence of its partners and the access to intelligence that it brings depends largely on Canada respecting its allies' classification determinations.

An alternative process to release information is producing summaries of sensitive information contained in documents, which is often referred to as “write to release”. An agency will produce a document based on classified information but write it in such a way that the document itself is not classified. Writing to release allows agencies to disclose important information about a topic to a wider audience without revealing classified information, such as how the information was collected.

Writing to release can be an effective way to convey information to the public even when the information comes from classified sources. Speaking about releasing classified information more generally, former CSIS Director Richard Fadden stated, “you can take a lot of intelligence and aggregate it up a level. It doesn't change the substantive message, but you just lose a little bit of the detail, but in the end, nothing is lost.”³⁸

³⁸ Evidence of Richard Fadden, January 31, 2024, Transcript, vol. 3, p. 25.

3.5 The Legal Rules that Protect National Security Confidentiality

The system of classification discussed above is the product of government directives and agreements between allied agencies. These systems do not themselves have the force of law. However, the Commission's Terms of Reference require my staff and me to respect these rules at all stages of the inquiry.

On top of Canada's classification rules, a set of laws regulate access to sensitive information. These laws have a significant impact on how the Commission can handle, use, and disclose information to the Commission's Participants and the public. I will now discuss the relevant legal rules contained in some of these laws:

- Section 38 of the *Canada Evidence Act*
- Section 37 of the *Canada Evidence Act*
- The *Security of Information Act*
- Sections 18 and 18.1 of the *Canadian Security Intelligence Service Act*
- Section 55 of the *Communications Security Establishment Act*

Section 38 of the *Canada Evidence Act*: injury to international relations, national defence or national security

The *Canada Evidence Act* sets rules around the disclosure of information when it could injure Canada's international relations, national defence or national security. These rules are referred to collectively as "section 38". They must be followed in certain legal proceedings, including this inquiry. In practice, section 38 allows the Commission to examine significant amounts of highly sensitive information, but prohibits the Commission from disclosing that information to the public unless the government agrees to it.

Section 38 forbids government officials and participants in legal proceedings from disclosing sensitive information that:

- Relates to international relations, national defence or national security and that the government is taking measures to protect, or
- Could injure international relations, national defence or national security, if disclosed.

This information can only be disclosed if either the Attorney General of Canada agrees to it, or the Federal Court orders that it can be released.

To make my work easier, the Government authorized individuals and entities to disclose this type of information to the Commission. However, under section 38, the Commission can only disclose this information with the consent of the Attorney General of Canada or according to an order from the Federal Court of Canada.

The details of the section 38 rules are complex. To put it simply, the government can object to the Commission releasing information to the public if the government believes it would cause injury to international relations, national defence, or national security. If the Commission and the government disagree on the matter and cannot resolve the disagreement, the Federal Court decides it. The Court will decide whether the information would in fact cause injury if released, and if so, whether the public interest in disclosing it outweighs the public interest in keeping it secret. In reaching its decision, the Court may consider reasonable alternatives such as permitting the disclosure of redacted documents or summaries of information designed not to cause injury.

This is a very simplified description of the section 38 rules. In practice, the process is complex and time-consuming. As I discuss below, the time required to obtain a court decision in a section 38 proceeding presents a challenge for this Commission, which operates under a very tight timeline.

Section 37 of the *Canada Evidence Act*: specified public interests

The government can also object to information being disclosed based on specified public interests. This is known as “specified public interest immunity” under section 37 of the *Canada Evidence Act*. Unlike section 38, this protection is not limited to a particular type of harm or interest. Any sufficiently compelling public interest not related to national security can justify not disclosing information. Each case must be evaluated individually. In practice, the specified public interest immunity has been used to protect the following interests, among others:

- the identity of confidential informants
- information about ongoing criminal investigations
- information about sensitive investigation techniques
- information that would endanger the safety of public officers or members of the public, if disclosed

Under section 37, if the government objects to the information being disclosed because of a specified public interest, the information can only be disclosed with a court’s authorization.

In the case of the Commission, most information the government would not agree to release publicly falls under section 38. Specified public interest immunity plays a secondary role. However, some information about ongoing investigations into election interference may fall under section 37 and not under section 38.

The *Security of Information Act*: persons permanently bound to secrecy and special operational information

The *Security of Information Act* seeks to keep certain types of information secret. In some ways it is like section 38 of the *Canada Evidence Act*: both laws share the purpose of protecting the confidential information vital to certain national interests. However, they do this in different ways. Section 38 governs how information is produced or disclosed in legal proceedings. Meanwhile, the *Security of Information Act* makes it a crime to communicate, store, receive or use certain types of information without authorization.

Two elements of the *Security of Information Act* are particularly relevant to the Commission's work: the categories of "persons permanently bound to secrecy" and "special operational information".

A relatively small group of people are permanently bound to secrecy due to the nature of their work or the sensitive information they are exposed to. These people must keep certain information secret, forever. They have increased responsibilities to protect information and to prevent it from being disclosed without authorization, and may face criminal charges for failing to do so. People who are permanently bound to secrecy include, for example: employees of CSIS, the CSE, and the Intelligence Assessment Secretariat within the Privy Council Office. The Commission's staff and I are also permanently bound to secrecy.

Once a person is permanently bound to secrecy, they have that status for life. They must respect certain obligations even if they are no longer employed by a designated agency or no longer have access to confidential information.

Persons permanently bound to secrecy must follow rules that restrict communicating any sensitive information, particularly "special operational information". Special operational information is information that the government is taking measures to protect, either because it reveals certain types of information listed in the *Security of Information Act*, or because it can allow someone to infer information listed in the *Security of Information Act*. This includes information such as:

- the identity of confidential human sources of intelligence
- military plans
- how Canada collects intelligence secretly
- the targets of secret operations
- any similar information

For a person who is permanently bound to secrecy, it is a crime to communicate or confirm special operational information intentionally and without authorization.

The *Security of Information Act* is relevant to the Commission's work because a very large part of the documents provided by the government contain

special operational information. As persons permanently bound to secrecy, the Commission's staff and I cannot legally disclose this information without authorization.

Sections 18 and 18.1 of the *CSIS Act*: covert operatives and confidential human sources

Two sections of the *Canadian Security Intelligence Service Act* are also relevant to materials held by the Commission.

Section 18 protects the identity of CSIS employees who have or are likely to engage in covert (secret) operations. Within their duties under the *CSIS Act* or in their participation in the enforcement of the Act, individuals may have access to information that could disclose the identity of such CSIS employees. Section 18 prohibits them from disclosing this information.

Section 18.1 protects the identity of CSIS's confidential human sources. In some ways, this protection is narrower than section 18 because it specifically prohibits disclosing information as part of a legal proceeding. On the other hand, it is broader because it prohibits anyone from disclosing the information, regardless of how they obtained that information.

There are some exceptions to the protection in section 18.1. But, in practice, it prevents the Commission or Participants from publicly disclosing any document that tends to reveal a CSIS human source.

Section 55 of the *Communications Security Establishment Act*: persons or entities giving confidential assistance

Section 55 of the *CSE Act* protects the identity of individuals and organizations who give or have given confidential assistance to CSE to enable it to perform its duties and functions. It is similar to the protection for CSIS human sources. Any information that could reveal the identity of a person or entity who provides or has provided assistance to the CSE on a confidential basis cannot be disclosed during a legal proceeding. Again, while some limited exceptions exist, this means the Commission or Participants generally cannot disclose documents that would tend to identify a person or entity who assists or has assisted CSE.

3.6 Other Concerns that Favour Confidentiality

The legal rules relating to national security concerns are some of the most significant constraints on the Commission's ability to operate publicly and transparently. However, they are not the only ones. Beyond national security, other concerns weigh in favour of keeping certain information confidential. Two examples can help illustrate the diverse interests that may have to be balanced against the public interest in transparency.

Protecting diaspora communities and other targets of foreign interference

The first example relates to concerns raised by members of diaspora communities and others who are alleged to be the targets of foreign interference activities. People in Canada who are targets of repression by foreign regimes (transnational repression) may have very real fears about speaking out publicly about their experiences. This may be due to the trauma they have experienced from past events, or out of fear of retaliation for speaking publicly. The fear of retaliation may relate to a person's own safety, or that of their family, friends, and community members. We can take the example of a member of a diaspora community who has relatives living in a foreign state. That person could reasonably fear for their relatives' safety if they speak out against that state, or are even perceived by the foreign state to be doing so.

Obtaining the views and insight of members of these communities is critical to the Commission's success. Indeed, the Commission's Terms of Reference explicitly refer to diaspora communities as potentially being "especially vulnerable" and "the first victims of foreign interference in Canada's democratic processes".³⁹ Yet to learn from the lived experiences of those most impacted, the Commission might need to offer witnesses protections that make the process not fully transparent.

Under the Commission's *Rules of Practice and Procedure*, I have authorized potential witnesses to apply to me confidentially for a wide range of protections. These include measures that would allow me to receive their evidence in a manner not fully accessible to the Participants and the public. The Commission has also developed additional procedures to obtain information from members of the public confidentially, even without a formal application by a witness. These measures are critical for the Commission to fulfill its mandate. Still, by their nature, they go against full public transparency.

³⁹ Order in Council P.C. 2023-0882, cl. (a)(i)(C)(II).

The need to protect witnesses was not significant during the Commission’s initial investigations into the 2019 and 2021 general elections. Witnesses who had information relevant to our Initial Report were ultimately prepared to speak in a public hearing without any special protections. However, as the Commission continues the second phase of its investigation, I expect that concerns about witness protection will grow, and will feature more prominently in our work. This will bring its own set of transparency challenges to navigate.

Protecting ongoing investigations

Another concern played a more significant role in the first phase of the Commission’s investigation: protecting ongoing investigations. I cannot share information that would compromise ongoing investigations with Participants or the public. The Terms of Reference directs me to perform my duties “in such a way as to ensure that the conduct of the Public Inquiry does not jeopardize any ongoing criminal investigation or proceeding, or any other investigation”.⁴⁰

Even without this limitation in the Terms of Reference, there would have been limits to how much the Commission could disclose information related to ongoing investigations. As noted earlier in this chapter, this type of information could be protected under section 37 of the *Canada Evidence Act*, and possibly other legal protections. Here too, fully investigating the matters within my mandate triggers strong interests in confidentiality. Therefore, while I heard some evidence about ongoing investigations by law enforcement in public hearings, it was frequently in the form of summaries. More detailed information obtained by the Commission about such investigations could not be publicly disclosed.

3.7 The Challenge of Maximizing Transparency with Limited Time

The Commission faces a serious challenge in aiming to be transparent considering how much information it receives, the need to protect sensitive information and the limited time available.

To put the challenges facing the Commission in concrete terms, I will discuss the documents the government provided to the Commission. These documents form the bulk of the evidence obtained by the Commission during

⁴⁰ Order in Council P.C. 2023-0882, cl. (a)(iii)(B).

the first phase of its proceedings. They contain a wealth of information about possible foreign interference into Canada’s electoral processes and democratic institutions. Unsurprisingly, Participants, the media and members of the public are interested in seeing these documents. It is also unsurprising that many of these documents are highly classified.

Most commissions of inquiry do not encounter any classified materials. When they do, the classified materials are exceptional, making up an extremely small part of the evidence they receive. For example, only a small fraction of exhibits was classified as Top Secret in the Public Order Emergency Commission, which examined the federal Government’s declaration of a public order emergency in response to the Freedom Convoy protests of 2022.

Our inquiry is fundamentally different. So far, of the documents received from the federal government, about 83% are classified as Secret or above and 64% are classified as Top Secret or above.

Of course, the subject of this inquiry impacts the types of documents the Commission receives. They tend to include information about highly-sensitive methods of collection, or information that would be particularly harmful to individuals or the Canadian national security interest, if disclosed. A very large proportion of documents received contain compartmented information and constitute special operational information under the *Security of Information Act*.

How national security confidentiality impacts the Commission’s work

Documents being classified has only a limited impact on conducting my investigation. All lawyers working for the Commission obtained Top Secret clearances. They received the “indoctrinations” required to access all relevant compartmented information. My staff have access to Canada’s most closely guarded secrets. The Commission has independently selected who to interview and who to call as a witness to testify before me under oath. Also, the Commission had access to the most senior levels of Canada’s bureaucracy and political leadership, up to and including the Clerk of the Privy Council and the Prime Minister.

Put simply, national security confidentiality has not affected my ability to seek out the truth, even if it presents real challenges in maintaining an open and transparent process and report.

How national security concerns impact the Commission's transparency

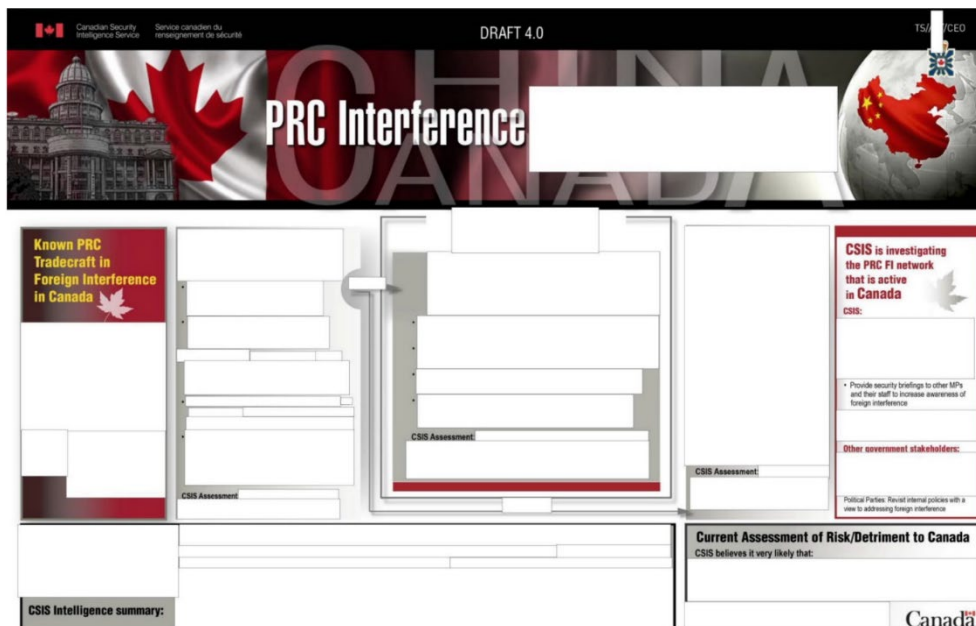
I return to where I began this chapter: public inquiries must be public to be successful. Transparency is part of their very fabric. Every limit on the public nature of a commission is a missed opportunity. Being open and transparent helps foster public confidence, educate the public and enable the public to participate in finding the truth on a matter of grave public concern.

But the reality of this inquiry means that limits on transparency are inevitable. Everyone agrees that this inquiry must limit the information it discloses to some extent, even the people most in favour of openness. The challenge is finding ways to maximize transparency given the realities of the information the Commission handles.

I held preliminary hearings in January and February 2024 to explore ways of maximizing transparency while protecting national security. At the start, the Commission identified a sample of 13 documents provided by the government. The Commission asked the government to redact them (to remove information) into a format that could be publicly disclosed. The results are striking.

In some cases, very little text is removed, and the redactions do not prevent a reader from fully understanding the document. For example, a 32-page report classified at the Secret Level had only a single redaction of approximately 4 lines of text.⁴¹ Anyone reading this document would fully understand its nature, context, and content.

In other cases, however, documents are so heavily redacted that they are impossible to understand. Here is an example of one such document:



⁴¹ CAN000900: Report on the Assessment of the Critical Election Incident Public Protocol.

A range of considerations can explain the differences in how documents are redacted. In some cases, documents are only classified because of a single sentence or piece of information and the classified information can be precisely removed. Those documents can then be publicly disclosed with almost no changes. Some types of documents are created to be distributed to a wide audience. They are worded to avoid potentially disclosing sources, methods, or other highly-sensitive details.

However, other documents are drafted differently, often for very specific audiences who already hold the highest security clearances. CSIS Director David Vigneault testified about one such document, a CSIS Intelligence report. Its content was almost entirely removed. Director Vigneault explained that CSIS Intelligence Reports contain essentially “raw intelligence.” They are meant to be read by a very small number of people within the federal government. These documents are drafted to be precise and direct. They often disclose highly-sensitive information related to sources or methods of collection, for example.

It is interesting to note that some documents containing, on the face of it, very similar information have fewer redactions. These documents are designed to be shared with a wider audience and can be disclosed to the public in a far more accessible way.

To sum up, many documents the Commission received could not be disclosed to the public in a useful format. Sometimes, the Commission identified documents it could disclose more easily that conveyed the same information about foreign interference and Canada’s responses.

How limited time poses a problem

The exercise testing the 13 sample documents revealed a second challenge: the problem of time. The government said it took some 200 person-hours to redact those 13 documents. Director Vigneault also testified that the government experts who had to review the documents to assess the risk of harm from disclosing them have other important duties. The same experts collect information and produce intelligence the government relies on to protect Canadians. In other words, not only did the redaction exercise take a lot of time, but as a result, Canada’s intelligence agencies had to divert resources from other important tasks.

I accept the government’s assessment that the mass review and redaction of documents “is not sustainable if replicated over a longer term”.⁴² Indeed, I doubt the government could review every classified document for public release before the Commission’s deadline to file its final report.

⁴² CAN.DOC.000001: *Letter to Commission from Government of Canada – National Security Confidentiality Review*, p. 6.

The redaction exercise helped me understand challenges that the Commission faces in maximizing transparency. It also confirmed that some documents are both informative and can be released in a way that allows Participants and the public to understand them. However, repeating the same process for the thousands of classified documents the Commission received is simply unrealistic.

The Commission's preliminary hearings then turned to other potential strategies for ensuring transparency and maximizing the information disclosed to the public. The Commission heard from academic experts, current and retired members of Canada's intelligence community, and the current Minister of Public Safety, Democratic Institutions and Intergovernmental Affairs, Dominic LeBlanc. The Commission also received proposals from the Participants both before and after the hearings. They put forward their own ideas for how the Commission should address national security concerns during its work. Their perspectives helped me develop the approach I take to these issues. I summarize what Participants submitted in [Annex D](#) of this Report.

3.8 My Practical Approach to Balance Transparency and National Security

I have adopted an approach to this Inquiry that I believe carefully balances the strong public interest in openness and transparency with the need to protect national security confidentiality. I have also tried to remain flexible and to be creative to promote openness, while respecting the legal rules I must follow and the practical limitations the Commission is working under. This approach does both and can, in my view, live up to the ideals of what a public inquiry should be.

My approach to national security confidentiality focused on three scenarios that likely will arise in the inquiry:

- The Commission wishes to disclose documents received from the government, but the government believes these documents should be redacted.
- The government requests that testimony be given *in camera* (i.e., in the absence of the public and Participants, other than the Attorney General of Canada) because the evidence deals with classified information.
- Persons who fear for their safety but would like to contribute to the Commission's work request to testify and to provide documents *in camera*.

Disclosing government documents

The Commission's *Rules of Practice and Procedure* take into account that the Commission will receive unredacted documents from the government, and will identify what it wishes to present as evidence or disclose to the Parties. These *Rules* were adopted after consulting with the Parties.

The Commission has carefully reviewed the thousands of documents provided by the government. I can confidently say that not all of them are relevant or useful for the public to understand what may have happened regarding foreign interference. Also, in many cases multiple documents convey the same relevant information in different ways. Some of them are more suitable for public disclosure than others.

Because of this and of the limited time available to the Commission, the government and the Parties, the focus was and will continue to be obtaining public disclosure of the documents and information the Commission considers the most relevant and useful. I believe we should measure the Commission's success in promoting transparency and openness by the quality of the information it produces, not by the number of pages it publishes.

First, the Commission identified its priority documents. It then worked with the government to agree on what information to remove from documents, or on an acceptable way to summarize classified information, depending on the situation. The Commission's approach varies from document to document. It depends on the best option to convey meaningful information to the public, while also protecting national security confidentiality. There is no one size fits all approach.

When the government proposes removing information to protect national security confidentiality, I do not accept it without question. The Commission requires the government to justify any redactions when the Commission disagrees. If the Commission considers the information relevant and useful and the redaction not justified, its lawyers challenge the redaction. In some cases, they work to agree with the government on a summary in the way set out in the *Rules of Practice and Procedure*.

In all cases, I require the government to convince me that redacting information is justified. In other words, the government must prove that disclosing the information could be injurious (harmful) to the critical interests of Canada or its allies, national defence, or national security, as written in the Terms of Reference.

Where the government and the Commission cannot resolve a disagreement, litigation remains open as a final means to decide the issue. Asking the Federal Court to make decisions on section 38 (injury to international relations, national defence or national security) is, however, far from ideal. It is especially challenging given the short deadline for my Final Report. However, if I believe the government has not proven the need for secrecy, I will not hesitate to litigate the matter in court in appropriate cases. I have not yet had to do so.

Evaluating government requests for in camera hearings

My Terms of Reference permit the Attorney General of Canada to request that I receive information in the absence of the public (i.e. *in camera*) and in the absence of any Participant and their counsel (i.e., *ex parte*). I must do it if I believe that disclosing the information could cause injury to the critical interests of Canada or its allies, national defence or national security. The *Rules of Practice and Procedure* also provide for this.

When the government has requested such a hearing, I have required it to prove why it is necessary to protect national security confidentiality. The Commission's lawyers challenged the government's claim that *in camera*, *ex parte* hearings were necessary before the *in camera* hearings were even held. Subsequently, during the *in camera* hearings, Commission counsel also questioned the government's assertions that certain evidence could not be shared with the public.

In all cases, if ever the government does not convince me that *in camera*, *ex parte* hearings are needed, I require it to present the evidence in a public hearing.

Conversely, if I am convinced that the government has proven that hearing some evidence could cause injury to the critical interests of Canada or its allies, national defence or national security, I accept the evidence in the absence of the public, the Participants and their counsel. After any such hearing, the Commission and the government prepare a summary or summaries of the evidence presented that discloses as much evidence as possible. This is what has been done.

As with documents, asking the Federal Court to decide if an *in camera* hearing is needed under section 38 is not an ideal way to solve disagreements. That said, it remains my last option to seek maximum transparency. I am prepared to use it if the government insists on an *in camera* hearing when I do not think one is appropriate, or if the government and the Commission cannot agree on a summary of such an *in camera* hearing.

Protecting individuals who fear for their safety

Protecting the legitimate interests of individuals who fear for their safety is a matter I take seriously. While not a question of national security confidentiality, it presents a challenge in maximizing transparency and openness. I therefore considered this issue together with the national security confidentiality concerns discussed earlier in this chapter.

If a person asks to testify before me *in camera* because they fear for their safety or that of those close to them, I will answer their request promptly. I will make sure they know my decision well before they would be expected to testify. If I conclude that protections are required, I will also determine what

they are. Again, the person will know those protections in detail well before they would be expected to testify.

To maximize transparency, I will approach testimony received *in camera* due to safety concerns similarly to how I deal with *in camera* hearings requested by the Attorney General of Canada. First, the Commission prepares a summary of the testimony. Before making it public, the Commission makes sure with the witness that nothing contained in it would put them, or anyone close to them, at risk.

3.9 **Summary of the Challenge the Commission Faces and of my Approach to Transparency and to Protecting National Security**

In this chapter, I discussed the challenge the Commission faces in balancing essential but competing interests.

On the one hand, the Commission must be as open and transparent to the public as possible. This is part of any commission's purpose and is necessary for public trust.

On the other hand, I must be careful to protect sensitive information that could harm Canada's national security interest or certain other interests, if it became public. This is especially true given the nature of my mandate and the amount of classified information I received as evidence.

There are also limits to what I can do. I have a short deadline to deliver my reports. Asking the government to review, edit or redact thousands of documents to release them publicly is unrealistic.

Considering all this, I created a flexible and balanced approach. The Commission's lawyers will work with the organizations within government to disclose as much information as possible, trying to find solutions in case of disagreement. If I disagree with a request to keep information confidential, I may ask the Federal Court to decide as a last resort. I will also be careful to protect people who want to participate in the Commission, but fear for their safety.

The remaining Chapters of this Report review the evidence and my conclusions about Clauses A and B of the Commission's Terms of Reference.

Chapter 4 provides the context for the evidence and my conclusions. It addresses the nature of foreign interference, who foreign countries target, the

methods they use, and which state actors are of the biggest concern to Canada.

Chapter 5 describes federal entities and processes that respond to foreign interference and how information about foreign interference circulates within government.

Chapters 6 and 7 discuss the specific allegations of foreign interference in the 2019 and 2021 elections, including government’s response to these allegations during the elections.

In Chapter 8, I assess the impacts of foreign interference in the 2019 and 2021 elections. I also assess the flow of information to senior decision-makers and between the Security and Intelligence Threats to Elections Task Force (“SITE TF”) and the panel of senior public servants operating under the Critical Election Incident Public Protocol (“Panel of Five”) and actions taken in response.

CHAPTER 4

What is Foreign Interference?

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4.1 Introduction

Foreign interference is not new. Apparently, Canada has been a target for decades. Many of the threats that we face today are the same as the ones we seemingly have faced in the past. However, foreign interference is also evolving, reflecting changing geopolitics and technology.

Foreign interference does not only threaten elections, which are just one target for countries who seek to advance their own interests in Canada. Canada is continuously targeted.

Foreign interference is not always clear and obvious. In practice it can be hard to draw the line between legitimate diplomatic activity and foreign interference. Foreign countries take advantage of this.

Foreign interference is not easy to counter. Canada is a country of rights, freedoms and values. These are the things that make Canada's democracy worth protecting, but also impose limits on what Canada can do to respond to foreign interference.

Foreign interference is not one thing. It involves many different strategies and targets many different groups.

Foreign interference is not done by just one country. However, China currently stands out as the most persistent and sophisticated foreign interference threat to Canada.

4.2 The Nature of Foreign Interference

In Chapter 2, I described Foreign Interference as clandestine, deceptive, or personally threatening activities by a foreign state, or those acting on its behalf, which are detrimental to the interests of Canada. In this chapter, I discuss the nature of foreign interference targeting Canada in more detail.

I wish to start with four observations that I believe are central to understanding the foreign interference threat that Canada faces.

Foreign interference is not new, but it is evolving

Foreign interference is not new. Canada has identified foreign interference as a national security threat for decades.

In some respects, the foreign interference Canada faces today is the same as what it faced in the past. Because of Canada's robust measures to protect voting in elections, including a paper ballot system and strong cyber defense

mechanisms, foreign countries are often forced to use more traditional means of interference. Direct, person-to-person activities remain a significant threat. In the lead up to the 2019 general election, the Security and Intelligence Threats to Elections Task Force assessed that HUMINT (human intelligence) based threat activities would likely be the most pervasive threat to the Canadian electoral process.

However, there are ways in which the foreign interference threat in Canada has evolved in recent years.

The global balance of power has shifted. New countries have gained power and have begun to use that power to influence others. There are more countries that have the ability and the interest to target Canada today than in the past.

Technology is also changing. While old methods of foreign interference remain available, new methods have emerged. The digital environment provides foreign countries with new ways to target individuals and organizations, including monitoring and harassment.

Even in the brief time between the 2019 and 2021 elections, there were significant changes to the online landscape. Alternative social media platforms have become more common, and artificial intelligence has changed the way that disinformation can spread. This rapid evolution is likely to continue.

Foreign interference is not just about elections

Foreign interference activities are persistent, multifaceted, and target all areas of Canadian society. Canada has been, and will continue to be, a target.

Foreign interference is not something that only happens during elections. There is a constant baseline of foreign interference in Canada. It happens in all elements of society whether or not an election is taking place.

Transnational repression provides a good example of this. Some countries use a range of coercion and threats directed at diaspora communities within Canada. Sometimes this conduct may relate to Canada's democratic processes, but often it does not. This conduct is still contrary to Canada's national interests, as well as the basic rights of the people that it targets. However, it may not necessarily bear any relationship to Canadian elections, or even democratic institutions more broadly.

That said, elections are attractive targets. They are the focal point of many of Canada's democratic institutions. The Canadian Security and Intelligence Service ("CSIS") has observed persistent state-sponsored threat activity targeting elections for many years. Yet even activities targeting elections may occur months, or even years, before an election period begins.

The line between foreign interference and legitimate influence can be difficult to draw

All states, including Canada, attempt to influence other countries to advance their national interest. These activities can be legitimate, even if they are aggressive.

Diplomats engage in friendly activities, like holding meetings, briefing media, and making statements. But they can also place substantial pressure on foreign governments. A country may, for example, threaten trade retaliation during negotiations around a trade agreement. Legitimate diplomacy is not always a polite sport, and it may not always be appreciated by host governments.

What makes these activities legitimate is the fact that they are done in the open and do not involve threats to individuals or groups. Even when Canada's diplomats are working behind closed doors, the fact that they are Canadian diplomats acting for Canada is known. Foreign interference is different because it is covert or threatening.

It may seem that the line between (legitimate) foreign influence and (illegitimate) foreign interference is easy to draw. In practice it is not. There is often a grey zone, and countries may use both at the same time to advance their interests.

For example, foreign actors may use established, legitimate channels to engage in covert activities to advance their national interest. This is sometimes referred to as “malign foreign influence”. It is a form of foreign interference, but one that can be difficult to detect because it uses channels that are generally understood as acceptable.

A declassified Global Affairs Canada document provides an illustration of how it can be difficult to know when the line between influence and interference has been crossed:

A diplomat of country X, stationed in Canada, asks a prominent Canadian academic to write an op-ed opposing the Government of Canada's approach to a particular international issue, and urging Canadians to likewise disagree. The academic writes the op-ed and it is published in a widely circulated national newspaper. [...] The academic does not disclose their relationship with the individual employed by the foreign government.⁴³

There is nothing wrong with a diplomat discussing government policy with an academic. There is nothing wrong with a diplomat trying to convince

⁴³ CAN008822: *Influence and Interference: Distinctions in the context of diplomatic relations and democratic processes*, p. 6.

influential Canadians to agree with them. There is nothing wrong with academics writing op-eds critical of Canada.

But what if the diplomat offered the academic a reward in exchange for publishing the op-ed? What if the diplomat asked the academic to hide their relationship? Or what if the diplomat did not expressly ask them to do that, but the academic implicitly understood that they should hide their relationship? An outside observer would likely never become aware of these facts, making it difficult to identify the activities as foreign interference.

Canada's values shape the threat of foreign interference

Liberal democracies are often the targets of foreign interference. This may be because countries like Canada uphold rights and have systems with important features that make responding to foreign interference more difficult.

Three sets of rights and features can contribute to this dynamic: freedom of belief, opinion and expression; the right to privacy; and the impartiality of the civil service.

The *Charter of Rights and Freedoms* protects freedom of belief, opinion and expression. These freedoms are central to a democratic system. They can also make it challenging to respond to foreign interference.

Canadians have the right to express views that align with those of foreign countries, even when those countries are hostile towards Canada. The mere fact that people or organizations advocate for policies that favour foreign states or oppose policies that disfavour them does not mean that they are involved in foreign interference. They may simply be exercising their constitutional rights, even if by doing so they advance a foreign country's interests. Government intervention to respond to these messages risks undermining the right of Canadians to hold and express their opinions.

This reality may make government officials less likely to respond to cases that are suspected of constituting foreign interference unless they can be sure of a foreign link. However, reaching such a level of certainty may be difficult. Waiting for such certainty may leave room for further foreign interference. Foreign states may exploit this by engaging in tactics that rely on Canadians expressing or amplifying particular views or messages.

Privacy is another value that can make responding to foreign interference difficult. Privacy is a right that has a basis in the *Charter*, as well as laws such as Québec's *Charter of Human Rights and Freedoms*, provincial *Privacy Acts*, and the common law.

Privacy may limit the tools the Canadian government can use to detect foreign interference. For example, while several government entities monitor publicly available social media to identify disinformation, they generally do not and

cannot access private online groups out of a respect for privacy. The Communications Security Establishment (“CSE”) is legally prohibited from targeting Canadians or persons in Canada. The fact that there are parts of the online world that Canadian authorities will not monitor is something that foreign countries may use to their advantage.

Finally, the commitment by the public service to non-partisanship has an impact on Canada’s ability to respond to foreign interference. The public service provides its best advice to political leaders, and then faithfully executes Government decisions to the best of its ability, without regard to political opinion. Non-partisanship can be particularly important during an election period, when the Caretaker Convention is in effect. Similarly, the people who oversee elections must maintain impartiality in order to preserve the integrity of the electoral process.

Intervening to respond to foreign interference during an election period presents a challenge. Any intervention by the public servants could be seen as favouring one party over another, undermining confidence in the democratic system. As a result, the temptation is to set the bar for intervention very high. Foreign actors may be aware of this and use methods that stay below those high thresholds in order to avoid provoking a response.

4.3 Who is Targeted by Foreign Interference?

There are many targets for foreign interference in Canada. A range of groups contribute to Canada’s democratic institutions, and foreign countries may try to exploit all of them.

Candidates and elected officials

Elected officials are an obvious target for foreign interference. As people who exercise state power on behalf of voters, they can be usefully exploited. This is true for federal officials, those at the provincial and municipal level, and representatives of Indigenous governments.

Candidates for office are also attractive targets. They may be more vulnerable than elected officials due to their reliance on fundraising and community support and lack of institutional protections available to elected officials. Foreign countries are often patient and are willing to cultivate relationships over an extended period of time, hoping that candidates may eventually become office holders.

Civil servants and political staff

Elected officials are not the only individuals who hold significant power. Civil servants play a significant role in how Canada's democratic institutions operate and can also present attractive targets for foreign countries.

Political staffers are also targets. They are important because they are part of the information flow to elected officials and can influence decision making. Even campaign staffers can be an important lever of influence for foreign states over political candidates and their campaigns.

Voters

Voters represent an obvious target. They are generally viewed as vulnerable and can be effectively targeted by disinformation and interference campaigns. While election periods are particularly important times, foreign countries engage in ongoing activities targeting the public whether or not an election is imminent.

Diaspora communities

The targeting and manipulation of diaspora communities is one of the primary ways in which countries carry out foreign interference in Canada. Many diaspora members are voters, and so are targeted for the same reason as other voters.

However, states may have a distinct interest in targeting diaspora communities, such as silencing dissent, amplifying their own messaging, controlling public opinion, and sowing discord. Such targeting may have nothing to do with Canada's democratic institutions, yet it is unquestionably contrary to Canada's national interest. Transnational repression is not only contrary to basic values of human rights, it also may cause diaspora members to refrain from fully participating in Canadian public life.

Members of diaspora communities experience some of the most harmful impacts from foreign interference. For example, foreign countries can target peoples' families who live outside of Canada. Members may rely on foreign-language media to obtain information, which may be more easily exploited by foreign countries.

Interest groups

Foreign countries also target various third-party interest groups in the electoral process, such as donors, lobbyists, and community groups. These groups may be used either wittingly or unwittingly to carry out activities that support a foreign country's preferred candidate, or attack and undermine candidates that they oppose.

The media

Foreign states target a wide range of media outlets. This includes both traditional outlets such as television, radio and newspapers, as well as online sources and social media. Both mainstream media outlets as well as community sources – such as Canadian-based foreign-language media – are targets.

4.4 What are the Methods Used to Engage in Foreign Interference?

Just as foreign countries target a range of people, they use a range of tactics to interfere with Canada's democracy.

Long-term cultivation

Foreign interference is not a single act, but rather a lengthy process. Countries expend significant time and energy to cultivate deep, long-lasting relationships with their targets. What may begin with a simple introduction can, over time, develop into durable bonds that can be exploited.

The willingness to develop relationships over prolonged periods of time explains why foreign countries target candidates or office holders at lower levels of government. Today's school board trustee may become tomorrow's Member of Parliament. Foreign countries are willing to wait.

Financing

Financial support is a common method of developing relationships, particularly with political candidates. Donations to candidates can overtly or implicitly come with strings attached. Officials may feel beholden to those

who gave them the financial support that helped get them elected. Donations may also simply help to elect candidates that foreign countries think will be favourable to their interests.

While the *Canada Elections Act* prohibits foreign funding in elections, countries can use intermediaries to hide the origins of a donation. Campaigns that receive funds may believe that the money is coming from a legitimate Canadian source when in fact it is being provided by a proxy working for a foreign country.

Bribery, blackmail and threats

Bribes in the form of material benefits, and blackmail in the form of threats, can be used by foreign states to influence the actions of range of individuals.

As noted above, members of diaspora communities may be particularly vulnerable. The government of a person's country of origin may be able to hold out significant incentives, such as access to travel authorizations necessary to enter or exit that country, or preferential economic access. They can also exploit some individuals' sense of patriotism in order to wittingly or unwittingly advance that country's interest.

Foreign countries are also able to make credible and significant threats against members of their diasporas. This can include the denial of travel documents or targeting family members who continue to reside in the foreign state. CSIS has identified this form of transnational repression as a particular concern in countering foreign interference.

Cyber-attacks

Cyber-attacks involve attempts to breach information systems. Foreign states can use sophisticated technical abilities to compromise electronic devices and systems as part of foreign interference strategies. Due to their access to extensive resources, advanced technologies, and planning and coordination, some hostile foreign countries represent the most advanced and persistent threat to cybersecurity.

Cyber-attacks can target electoral systems, undermining the integrity of an election. They can also target government officials, members of the public, candidates and their campaigns. A foreign state may engage in cyber-attacks to obtain sensitive information that can be used in the future to influence the conduct of candidates, officials, or the public. Another reason may be to disrupt elections, or simply cause chaos.

Disinformation campaigns

Disinformation is false or distorted information spread through mass or social media to cause harm, for example, to manipulate public opinion. The digital era has opened up new avenues for the spread of disinformation and has made it an attractive tool for foreign interference. Foreign countries can manipulate media to spread disinformation, amplify a particular message, or sow distrust. A growing number of countries build programs dedicated to undertaking online influence as part of their daily business.

Social media is not the only platform for disinformation. By exerting influence on existing media outlets, foreign countries can generate and amplify disinformation. Some foreign states can engage in sophisticated campaigns that effectively obscure the sources of disinformation.

Proxies

Many countries engage in foreign interference through the use of proxies. A proxy is an individual or organization who takes direction (either explicit or implicit) from a foreign state to engage in an activity. One of the advantages of using a proxy is that it can obscure the link between the activity in question and the foreign state.

4.5 Who Engages in Foreign Interference?

In this section, I discuss who engages in elections-related foreign interference against Canada.

There are important limits on the information that can be disclosed here, since it is based largely on Canada's intelligence holdings. As I discussed earlier, there are limits on what intelligence I can disclose. There are also limits on the reliability of intelligence. As several witnesses emphasized during the hearings, intelligence is not proven fact. Evidence is usually collected in pieces, and it is only after gathering enough such pieces that a reliable assessment can be made. Not all of the information provided below necessarily has been corroborated or fully assessed. This section should be read with these limitations in mind.

The People's Republic of China

Based on the intelligence collected by Canada's intelligence agencies, the People's Republic of China ("PRC") stands out as a main perpetrator of foreign interference against Canada. Globally, China is recognized as using foreign interference as a common tool to advance its own interests and has been assessed by Canadian authorities as the most active foreign state actor engaged in interference directed at government officials, political organizations, candidates for political office, and diaspora communities. CSIS currently views the PRC as the biggest threat to the Canadian electoral space by a significant margin, though this assessment may vary over time.

The PRC uses a range of tools, including Canada-based proxies. These tools include the monitoring of diaspora communities and transnational repression; activities meant to impact the outcome of Canadian democratic processes (including providing financial support to preferred candidates); and clandestinely shaping narratives in support of PRC strategic interests.

The PRC also uses a range of actors. These include PRC officials in Canada, Canadian-based proxies, and bodies of both the Chinese Communist Party ("CCP") and the PRC.

A key CCP entity engaged in foreign interference is the United Front Work Department ("UFW"). Internationally, the UFW attempts to control and influence the Chinese diaspora, shape international opinions, and influence politicians to support PRC policies. It has a budget in the billions. The UFW blurs the lines between foreign influence and foreign interference. It engages in clandestine, deceptive, and threatening activity around the world, often by leveraging influence and exerting control over some diaspora communities.

PRC state institutions involved in foreign interference include the Ministry of State Security and the Ministry of Public Security, both of which operate covertly internationally and remotely from the PRC.

The PRC seeks to ensure public narratives and policies in Canada are either complementary to, or reflect those of the PRC, especially with respect to the PRC's human rights record, its territorial claims, or other matters it assesses as a threat to its stability.

The PRC attempts to influence members of Chinese diaspora communities around the world. This is especially true for members of communities who hold views the PRC considers particularly threatening: Falun Gong practitioners, Uyghurs, Tibetans, supporters of Taiwanese independence, and pro-democracy activists (collectively referred to by PRC officials as the "Five Poisons"). PRC transnational repression is most often directed at individuals who are – or who are thought to be – affiliated with these groups.

The PRC also targets individuals whom it perceives as having status or influence in Canada. This includes community and business leaders, academics, current and former elected officials, and members of both the traditional and online media.

The PRC takes a long-term approach to influence operations. It invests in developing relationships through both overt and covert means, in order to build cooperation over time. It uses incentives given to individuals or persons who are close to them, such as paid trips, business opportunities, prestigious invitations, or political support (including financial support). It also uses disincentives, such as visa denials, harassment and intimidation both of individuals as well as PRC-based family members, economic coercion and community isolation.

The PRC also uses its control and influence over Chinese-language media and social media applications, like WeChat, to assert influence over the Chinese diaspora. This influence extends beyond China-based media that may be read in Canada, and extends to influence over some Canada-based Chinese-language media. The PRC uses this influence to promote pro-PRC narratives, spread disinformation, and suppress anti-China content.

The PRC engaged in foreign interference activities related to the 2019 and 2021 general elections. The resources that it expended on those activities exceeded those of other states.

Foreign interference by the PRC is generally thought to be party-agnostic. The PRC does not support any particular party, but rather supports outcomes that it views as pro-PRC, regardless of the political affiliation of a particular candidate. In 2019, intelligence reporting indicated that PRC officials in Canada expressed political preferences at a riding level that were party-agnostic and that, more broadly, changed based on the ongoing PRC-related positions of different political parties during the campaign. In 2021, there was reporting that some individual PRC officials in Canada expressed a preference for a minority Liberal government because they viewed minority governments as being more limited in terms of being able to enact anti-China policies. They did not view any political party as being particularly pro-China.

The PRC targets not only federal officials, but also those at the local level and indigenous communities.

Russia

Russia carries out disinformation operations as part of its foreign interference efforts in the West, including Canada. Its overarching goal is to undermine perceived United States global dominance, discredit the US and Western policies, and undermine support for US-led institutions, partnerships and alliances. It also seeks to shape public opinion, manipulate existing social issues, and exacerbate existing social divides. Russia seeks to undermine public confidence in political systems and democratic processes in the West.

Russia coordinates its messaging efforts with an established network of media influencers in the West that are comprised of pro-Kremlin or opportunistically aligned activists which Russia uses to amplify pro-Russian narratives on a wide range of issues through various platforms.

While Russia's intentions are directed towards the West broadly (including the Five Eyes Alliance and NATO, both of which include Canada), Canada

does not have the same profile for Russia as some of our allies as a target for its disinformation activities. While Russia had the means to engage in foreign interference in Canadian elections, it appears to lack the intent to do so.

The potential for Russian foreign interference was a concern prior to the 2019 general elections, but this concern decreased over the course of the election. According to officials at Global Affairs Canada, Russia's attention was directed elsewhere during the 2019 and 2021 federal election. In 2019, CSIS assessed that Russia did not have significant interest in Canadian elections. Canadian intelligence agencies did not observe Russian attempts at interfering in either the 2019 or 2021 general elections.

India

Indian officials, including Canada-based proxies, engage in a range of activities that seek to influence Canadian communities and politicians. These activities include foreign interference, which aim to align Canada's position with India's interests on key issues, particularly with respect to how the Indian government perceives Canada-based supporters of an independent Sikh homeland (Khalistan).

India's interest in Canada relates to Canada's large South Asian community. India views part of these communities as fostering an anti-India sentiment, and represents a threat to Indian stability and national security. India does not differentiate between lawful, pro-Khalistani political advocacy and the relatively small Canada-based Khalistani violent extremism. It views anyone aligned with Khalistani separatism as a seditious threat to India. Targets of Indian foreign interference are often members of the Indo-Canadian communities, but prominent non-Indo-Canadians are also subject to India's foreign influence activities. These activities may not be directed at influencing Canada's democratic institutions, but are still significant.

Indian officials in Canada have increasingly relied on Canadian and Canadian-based proxies and the contacts in their networks to conduct foreign interference. This obfuscates any explicit link between India and the foreign interference activities. Proxies liaise and work with Indian intelligence officials in India and in Canada, taking both explicit and implicit direction from them.

India directed foreign interference activities related to the 2019 and 2021 general elections.

A body of intelligence indicates that Indian proxy agents may have attempted to interfere in democratic processes, reportedly including through the clandestine provision of illicit financial support to various Canadian politicians as a means of attempting to secure the election of pro-India candidates or gaining influence over candidates who take office. In some instances, the candidates may never know their campaigns received illicit funds.

There was no indication of Indian-based disinformation campaigns in the 2021 general election.

Pakistan

The Government of Pakistan has conducted foreign interference against Canada primarily to promote political, security and economic stability in Pakistan and to counter India's growing global influence. Canada is an attractive target for Pakistan because of its significant South Asian community and the presence of Canada-based groups and individuals that can be leveraged as proxy agents against India.

Pakistan targets various facets of Canadian society for foreign interference, including all levels of government (e.g., federal, provincial, municipal), specific Canadian communities, as well as Canadian media entities.

In previous federal and provincial elections, Pakistan engaged in foreign interference by, for example, attempting to clandestinely affect the selection of politicians and candidates who are perceived to be more pro-Pakistan than pro-India. That said, Pakistan was a limited foreign interference actor during the 2019 and 2021 general elections.

The Islamic Republic of Iran

Iran is not currently, nor has it been historically, a significant foreign interference threat actor in relation to Canadian federal elections. This includes the 2019 and 2021 general elections.

However, intelligence reporting indicates that officials from Iran are likely monitoring, influencing, and collecting information on the Iranian diaspora community in Canada as part of its efforts to prevent criticism of the regime. In some cases, Iran seeks to silence Canada-based critics through harassment and intimidation. These activities may not be directed at Canadian democratic institutions, but remain detrimental to Canada's interests.

4.6 The Importance of a Strong Response

Foreign interference is a threat to Canada's democratic institutions. Foreign countries use many different tools to covertly influence Canada, some of which are very sophisticated or difficult to detect. Countries exploit individuals and groups through the use of powerful technologies, subtle manipulation, and powerful threats.

Responding adequately to foreign interference is not easy. It takes significant knowledge, skills and resources.

Canada is aware of this threat, and has taken some measures to respond. In the next chapter, I discuss the federal entities that contribute to responding to foreign interference, and how they share information with one another.

CHAPTER 5

How Does Canada Respond to Foreign Interference?

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5.1 Introduction

Canada has many entities that play a role in responding to foreign interference. Most are part of the security and intelligence community, but there are also a range of others like electoral authorities. Each has their own mandate, responsibilities, and powers, which are useful to know to better understand how Canada responds to foreign interference.

In order to effectively respond to foreign interference, it is often necessary for these entities to coordinate and collaborate. Doing so can be a challenge, particularly in terms of effective and efficient sharing of sensitive intelligence.

To meet this challenge, the government has established a number of procedures and committees intended to allow for cooperation across the whole government. Most of these processes exist whether or not an election is taking place.

When elections do occur, however, some of these procedures change. During campaigns, the Caretaker Convention means the government is more restrained in engaging in non-routine business. Ministers are hardly involved in the day-to-day work of government, and norms surrounding non-partisanship become particularly significant.

In 2019, to address the threats of foreign interference during elections, Canada established two specialized non-partisan bodies – the SITE Taskforce, and the Panel of Five – which, alongside a range of other federal entities, work to preserve the integrity of Canadian elections.

5.2 Federal Entities with Responsibility for Responding to Foreign Interference

Foreign interference is a complex threat, which requires a whole-of-government response. A range of federal entities are involved in protecting Canada's democratic institutions against foreign interference.

The Canadian Security Intelligence Service (CSIS)

CSIS is Canada's civilian intelligence agency. CSIS collects and assesses information and advises on threats to the security of Canada and conducts foreign intelligence collection within Canada. Foreign interference activities are threats to the security of Canada (defined in the *CSIS Act*) and therefore fall under CSIS's mandate.

Since 2015, in addition to conducting investigations, in certain circumstances CSIS can take measures to reduce threats to the security of Canada.

The Communications Security Establishment (CSE)

CSE is Canada’s foreign signals intelligence agency, and technical authority for cyber security and information assurance.

CSE is responsible for collecting foreign intelligence by intercepting electronic means of foreign communications and information, including from the Internet. CSE collects signals intelligence to determine motivations, intentions and capabilities of foreign entities in response to the government’s intelligence priorities. CSE cannot direct activities at Canadians or at anyone in Canada. It produces reports that inform government decision-makers about the intentions, capabilities and activities of foreign-based entities, including with respect to foreign interference.

CSE also assists other agencies. When it provides assistance, it is subject to the other department’s mandates, policies, and authorities. In these cases, CSE could collect on Canadians or individuals in Canada, but it would be on behalf of the other agency and the information would belong to the other agency and not to CSE.

CSE also provides advice and assistance to defend against cyber-attacks, can engage in defensive cyber operations and can provide technical assistance to various federal entities.

The Royal Canadian Mounted Police (RCMP)

The RCMP is Canada’s national police force. It has a federal policing mandate that includes responsibility for addressing complex criminal threats including those directed at democratic institutions and cyber infrastructure. It investigates offences arising from conduct that is a threat to the security of Canada, provides personal protection to party leaders, and gives technical and investigative assistance to the Office of the Commissioner of Canada Elections.

Global Affairs Canada (GAC)

GAC is the government department responsible for advancing Canada’s international relations. It is one of the largest consumers of intelligence.

GAC houses the Rapid Response Mechanism Canada Secretariat (“RRM”), which monitors open-source online disinformation and information manipulation coming from foreign entities.

The Privy Council Office (PCO)

PCO is the federal department that reports directly to the Prime Minister. It supports the development and implementation of the Government of Canada's policy and legislative agendas. It has a wide mandate that covers all areas of government activity, including the response to foreign interference.

Within PCO, the National Security and Intelligence Advisor to the Prime Minister ("NSIA") provides policy and operational advice, as well as intelligence to the Prime Minister and Cabinet on issues related to national security, including foreign interference.

Elections Canada (EC) and the Office of the Commissioner of Canada Elections (OCCE)

EC is the entity responsible for administering federal elections. It is headed by the Chief Electoral Officer, an independent official appointed directly by Parliament.

The OCCE is responsible for the enforcement of the *Canada Elections Act*. It investigates potential violations of the law, brings charges, imposes administrative sanctions, and issues warnings. The Commissioner of Canada Elections is appointed by the Chief Electoral Officer, but operates independently of EC.

5.3 Tools Available to Respond to Foreign Interference

In the previous chapter, I discussed how foreign interference was carried out by a range of countries against a range of targets using a range of methods. Here I discuss how Canadian authorities respond using a variety of tools.

Monitoring and detection

In order to respond to foreign interference, Canadian officials must first determine that it is taking place or has been attempted. There are several ways that this is done.

CSIS can collect foreign intelligence within Canada. Foreign intelligence relates to the intentions, capabilities and activities of a foreign state, a group of foreign states or any foreign person. CSIS may only collect such

intelligence at the personal request of the Minister of Foreign Affairs or the Minister of National Defence and with the personal consent of the Minister of Public Safety. While CSIS collects intelligence at a minister's request, CSIS has control of its investigative techniques.

CSIS may apply for warrants to conduct its activities where there are reasonable grounds to believe that a warrant is required to enable CSIS to investigate a threat to the security of Canada or perform its duties related to foreign intelligence. CSIS has longstanding investigations into specific threat actors and countries that target Canada for foreign interference.

The CSE's foreign intelligence collection activities can be used to identify foreign interference.

GAC, through the RRM, monitors online activity for foreign sponsored disinformation campaigns.

Law enforcement investigations

The RCMP has authority to enforce the *Criminal Code* and the *Security of Information Act*. This authority can include investigating foreign interference activities that involve criminal conduct, such as uttering threats or accessing computer systems without authorization. The RCMP did not open any criminal investigations into foreign interference during the 2019 and 2021 elections, but currently has one or more open investigations.

Foreign interference that violates the *Canada Elections Act*, such as violations of financial contribution rules, can be investigated by the OCCE. The OCCE received complaints related to 15 separate allegations of foreign interference in the 2019 general election, and complaints related to 16 separate allegations of foreign interference in the 2021 general election. It subsequently conducted additional reviews related to alleged foreign interference.

Providing unclassified information

Canadian officials have the authority, in certain circumstances, to give information about foreign interference activities to individuals and organizations to make them aware of the situation and permit them to protect themselves.

Starting around 2018 or 2019, CSIS began to provide “defensive briefings” to elected officials who were believed to be potential foreign interference targets. This process has now been formalized through a 2023 Ministerial Direction that requires CSIS, whenever possible, to inform Parliamentarians of threats directed at them.⁴⁴

⁴⁴ JKW0000021: Minister of Public Safety, *Ministerial Direction on Threats to the Security of Canada Directed at Parliament and Parliamentarians*.

Threat reduction measures

While defensive briefings only disclose unclassified information, CSIS can sometimes disclose more through the use of a threat reduction measure (“TRM”).

Before CSIS can use a TRM, it must have reasonable grounds to believe a threat to the security of Canada exists. A TRM must also be reasonable and proportional, which requires CSIS to consider the nature of the threat as well as the availability of other means to reduce it. CSIS consults other government departments to see if others can reduce the threat. If a TRM would limit a right under the *Charter of Rights* or would violate a Canadian law, CSIS is required to first obtain a warrant authorized by a judge.

In the context of foreign interference, CSIS has used TRMs to permit it to speak with affected individuals about the foreign interference activities of a specific threat actor. These briefings can include the disclosure of classified information.

Defending digital systems

The CSE’s mandate includes defending Canada’s federal elections infrastructure from malicious cyber activity. For the 2019 and 2021 elections, CSE worked with EC to help it secure the elections cyber infrastructure.

The CSE also gives advice to political campaigns and parties about cyber security and has a telephone hotline for candidates to report cyber security incidents.

Defensive cyber operations

CSE has the mandate to conduct defensive cyber operations to respond to cyber-attacks against critical systems. A defensive cyber operation is an activity carried out on or through the “global information infrastructure” (i.e., the Internet) to help protect federal institutions. An example would be to target a foreign server being used to conduct a cyber-attack.

During the 2019 and 2021 elections, CSE prepared to conduct defensive cyber operations to protect EC’s systems if needed.

Diplomatic measures

Canada has diplomatic tools to respond to foreign interference. These include:

- public attributions of hostile activities by foreign actors,
- issuing demarches (a political step or initiative),
- cancelling high level visits,
- closing missions abroad,
- adjusting Canada's performance of obligations under bilateral agreements,
- ongoing dialogues with foreign countries, and
- raising concerns through diplomatic channels about a state's conduct.

Canada can also advise against the issuance of a visa to a potential foreign threat actor seeking diplomatic cover or declare a diplomat *persona non grata*, requiring them to leave Canada. Canada could implement economic sanctions against foreign countries. Use of these tools is often constrained by the need to consider broader Canadian interests.

5.4 Information Sharing

Given the many different entities that work to respond to foreign interference, it is important that they be able to coordinate with one another. To do so, they must be able to effectively share information and intelligence. It is helpful to understand how this occurs.

Limits on information sharing

CSIS has broad authority to share information across the government, but its ability to share information outside of the federal government and its formal arrangements with foreign partners is limited. CSE has much wider scope to share information with people and entities beyond the government and foreign state partners.

How CSIS and the CSE share intelligence

CSIS distributes intelligence to cleared recipients across the Government, including at the RCMP, CSE, PCO, Public Safety Canada, Global Affairs Canada, the Prime Minister’s Office (“PMO”) and the Prime Minister.

CSIS shares intelligence electronically, in hard copy, and verbally. A specific unit within CSIS oversees distribution of its written products. Some intelligence products are shared broadly, while other more sensitive intelligence goes only to specific named recipients. Evidence showed that CSIS cannot guarantee that a recipient reads a document that is sent to them or know if it has been read.

CSIS will also meet with ministers, deputy ministers, PCO and the PMO on request. The CSIS Director may also brief senior officials on his own initiative, including the Prime Minister.

The RCMP Commissioner and the CSIS Director meet at least weekly during various inter-departmental meetings. A framework known as “One Vision 3.0” allows the RCMP and CSIS to discuss security and intelligence issues, to ensure investigations are not in conflict and potentially to permit the RCMP to begin a criminal investigation.

CSIS shares information with both EC and the OCCE before and during elections. This can occur directly, or through larger inter-departmental meetings. This generally involves providing background information about foreign interference threats, but can also involve more specific briefings related to particular incidents.

The main audience for CSE reports are CSIS, GAC, the RCMP and PCO. Because CSE cannot target Canadians or persons in Canada, it provides much less information to the RCMP than to partners like CSIS.

CSE shares most intelligence through a centralized database. CSE decides who can access specific information, and can flag intelligence reports for specific clients. The CSE can track who has actually accessed a given report.

CSE also shares certain intelligence in hard copy, hand delivering it to named persons, and usually regaining possession after it has been read.

How the Privy Council Office processes intelligence

PCO plays a critical role in coordinating government-wide responses to foreign interference, including advising the Prime Minister.

The PCO’s senior leadership is a regular consumer of intelligence. Both the National Security and Intelligence Advisor to the Prime Minister (“NSIA”) and the Clerk of the Privy Council – who heads PCO – receive a daily package of intelligence from agencies and may receive further intelligence directly from the heads of agencies.

The NSIA is supported by the Intelligence Assessment Secretariat (“IAS”), which assembles all-source intelligence assessments. These include the Daily Foreign Intelligence Brief (a short summary of daily intelligence highlights that is shared with the Prime Minister’s Office and a range of officials), and the Prime Minister’s Weekly Intelligence Brief (a weekly digest of intelligence for the Prime Minister and some deputy ministers).

PCO can brief the Prime Minister on intelligence matters directly, as well as through the Prime Minister’s Office (“PMO”). The PMO assists the Prime Minister in carrying out his responsibilities as head of government, as well as in his capacity as the leader of a political party in the House of Commons and as a Member of Parliament. It employs political staff, not career public servants.

PCO representatives meet regularly with PMO staff and may arrange briefings on specific topics as required. PMO staff often see intelligence ahead of the Prime Minister and flag things they believe he should see.

Both the NSIA and the Clerk share intelligence orally and in writing with the Prime Minister and the PMO. The NSIA can also arrange to have representatives from a department or agency brief the Prime Minister or PMO staff. The CSIS director can brief the Prime Minister on its own initiative.

The RCMP

The RCMP receives and requests information from Financial Transactions and Reports Analysis Canada (“FINTRAC”).⁴⁵ When the RCMP investigates financial matters, it can run search queries within FINTRAC information and can ask FINTRAC for a strategic analysis on a particular issue.

Global Affairs Canada

GAC’s Intelligence Bureau disseminates intelligence products to specific people within the Department. There is a direct relationship between the Bureau and the Minister’s office so the Minister or their staff can see any intelligence they require.

Every week, the Bureau prepares binders for the Minister and Deputy Minister with raw and assessed intelligence. The Minister can ask for more context or a meeting with experts. The Bureau also gives in-person briefings to senior officials, including weekly to ministers.

⁴⁵ FINTRAC is Canada’s financial intelligence unit. Its mandate is to facilitate the detection, prevention and deterrence of money laundering and financing of terrorist activities.

EC and the OCCE

EC has a Security Intelligence Program that uses open-source (i.e., publicly accessible) information to create actionable information to secure elections. EC does not share this intelligence with other federal entities.

The OCCE has a memorandum of understanding with the RCMP. The RCMP shares information with the OCCE about possible offences under the *Canada Elections Act* on a case-by-case basis.

In the lead-up to the 2019 election, the RCMP met with EC and the OCCE to understand their respective mandates and ensure good communication.

5.5 Inter-Departmental Committees

While PCO plays a critical role in the coordination of government-wide responses to foreign interference, it does not act alone. Many departments and agencies have a role to play in responding to foreign interference and must all work together to ensure that there is a coordinated response.

In order to accomplish this, there are several committees made up of officials from different agencies and departments that work on foreign interference issues. One document presented during the hearings lists over twenty such committees. I will not discuss all of them here, but rather will note three that appear to play a significant role.

Deputy Ministers Committee on Operational Coordination (DMOC)

Vincent Rigby, former NSIA, testified that the Deputy Ministers Committee on Operational Coordination (DMOC) is a particularly important committee with respect to foreign interference. DMOC brings together deputy ministers and other representatives from all core national security agencies and departments whose mandates have a national security element. It is chaired by the NSIA. Its focus is policy and operational updates. While it sometimes has a formal agenda, its main value is as a forum for participants to provide updates on what they believe others need to know, or to ask about particular pieces of intelligence.

The DMOC is supported by an Assistant Deputy Ministers committee (ADM NS Ops), which meets weekly.

Electoral Security Coordination Committees (ESCC)

The Electoral Security Coordination Committees bring together a range of agencies in order to discuss intelligence and coordinate activities related to elections integrity. They are three Committees, which exist at the Director-General, Assistant Deputy Minister, and Deputy Minister levels. At the Deputy Minister level, it is chaired by the NSIA and Chief Electoral Officer. Other members include the OCCE, CSE, CSIS, GAC, RCMP and Public Safety Canada.

The ESCCs are significant because of their focus on election integrity. They also engage Elections Canada and the OCCE, who are independent of government and may not regularly coordinate with other departments and agencies. The ESCC provides all participants with an opportunity to understand each other's role and responsibilities, establish lines of communication, conduct tabletop exercises, and share intelligence.

Deputy Ministers Intelligence Committee (DMIC)

The Deputy Ministers Intelligence Committee ("DMIC") is a monthly meeting that focuses on all-source intelligence assessments. It is designed to ensure both that participants are all seeing the same intelligence, but also to assess whether they had the same "take aways" from it. The Committee discusses whether intelligence is actionable and whether it should be briefed up to Ministers.

5.6 The Caretaker Convention

Much of what I have written in this chapter describes how information sharing occurs in the ordinary course. During elections, the flow of information to Ministers and their political staff changes significantly. This is due to something called the "Caretaker Convention".

The Caretaker Convention applies when a government loses a vote of confidence or when Parliament has been dissolved. It lasts until a new government is sworn in or when an election result returning an incumbent government is clear. This period is unique because, while the Government remains in place, it does not hold the confidence of a majority of the House of Commons.

During an election, the governing party cannot assume it will form the next government and therefore government must act with restraint. To the extent possible, government, particularly ministers, should only conduct business that is routine, non-controversial, or urgent and in the public interest. Decisions should be reversible by a new government or agreed to by opposition parties.

It is important to remember the focus of this Report is on events occurring during the caretaker periods in 2019 and 2021, because in these periods the usual flow of information to elected officials changes. It is very rare for ministers to receive intelligence briefings during the writ period. Ministers may have only limited contact with their Deputy Ministers.

In 2019, Canada has established a distinct set of institutions during the election period to respond to foreign interference threats. These specialized structures reflect the Caretaker Convention.

5.7 Plan to Protect Canada's Democracy

In 2019, the government announced a strategy called the Plan to Protect Canada's Democracy (the "Plan").

The Plan was developed against the backdrop of Russian interference in the US 2016 presidential election and the "Macron leaks" during the 2017 French presidential election. At the time of its development, Russia was perceived as the biggest foreign interference threat to Canada, but China was emerging as a key threat actor. By 2021, the online disinformation environment had grown exponentially.

The Plan has four pillars:

- enhancing citizen preparedness,
- improving organizational readiness,
- combatting foreign interference,
- building a healthy information ecosystem.

The Plan has two key processes to respond to foreign interference threats during the writ period: the Security and Intelligence Threats to Election Task Force ("SITE TF") and the Critical Election Incident Public Protocol ("CEIPP"). Both are discussed below.

The Security and Intelligence Threats to Elections Task Force (SITE TF)

The SITE TF is made up of representatives from CSE, CSIS, the RCMP and GAC. It is an information-sharing and coordinating forum. It is always active but is more active during elections.

Its members coordinate the review of election-related intelligence, provide situational awareness and, where members' mandates permit, coordinate action to mitigate threats. It is not, however, a decision-making body. Individual member agencies maintain their independent authorities to act.

During the 2019 and 2021 general elections, information generally came into the SITE TF through its members.

GAC's RRM took a broad view of what information to provide to the SITE TF, providing real-time reporting on its monitoring. Social media monitoring conducted by Elections Canada was also shared with the SITE TF through the ESCCs.

CSE also took a broad view of what information to bring to the SITE TF. CSE forwarded all reports, considered sufficiently important, about capabilities of states of interest that could be applied in Canada.

CSIS also took a broad view of what information was relevant enough to share with the SITE TF. It provided all products relevant or potentially relevant to foreign interference or democratic institutions. CSIS also provided information about the motivations and capabilities of threat actors.

The RCMP did not have much information to share, but passed on anything it thought might be significant within the SITE TF's mandate.

The SITE TF was initially created to ensure regular briefings of the Panel of Five established under the Critical Election Incident Public Protocol, which I discuss in more detail below. During both the 2019 and 2021 general elections it gave the Panel of Five daily situational reports ("SITREPs") and weekly briefings. It also briefed the Panel before the Caretaker period.

The SITREPs were collated from information provided by members, and did not include recommendations. The SITREPs included a "threat trend," intended to indicate shifts from the baseline. The core distribution list for the SITREPs were the SITE TF assistant deputy ministers, and deputy ministers, and the Panel of Five (discussed below).

Briefings occurred monthly immediately prior to the caretaker period. The Panel was free to ask the SITE TF for more information. In 2021, the monthly briefings focused less on foundational information and more on updating the threat landscape.

The SITE TF shared information that it assembled with a number of external partners. For example, it briefed the ESCCs on its findings and plans in order to keep ESCC members informed of the information landscape.

It also provided Secret level briefings to security cleared political party representatives in both 2019 and 2021. The SITE TF representatives would read a written document with carefully chosen words. Party representatives could not take notes. The briefings included open-source information as well as some classified information about the kinds of foreign interference tactics in use. They did not refer to specific intelligence or threat actors. The information provided was not specific so that it could be shared at the Secret level, rather than at a higher classification.

In 2019, the SITE TF provided six party briefings: three to all cleared party representatives, one specific to the Liberal Party, and two specific to the Conservative Party. In 2021, there were five political party briefings.

The CEIPP and the Panel of Five

The CEIPP is a mechanism for senior public servants, called the “Panel of Five,” to communicate with Canadians if there is an incident or an accumulation of incidents that threatens the integrity of a federal election. Its members 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.
- The Deputy Minister of Foreign Affairs.

As noted above, the Panel of Five received information primarily from the SITE TF, though it could receive information from other sources. If the Panel concluded that an incident, or an accumulation of incidents, threatened Canada’s ability to have a free and fair election – referred to as “the threshold” – it must issue a public statement to Canadians. All Panel decisions about the threshold are made by consensus.

The Panel was established to remove partisan interests from the process of making public statements about threats to the electoral process. By selecting non-partisan senior ministers, the CEIPP sought to avoid the conflict-of-interest issues that could arise if elected officials or any political staff, currently campaigning for political office, were responsible for raising public concerns about foreign interference.

After each general election, the CEIPP underwent an independent assessment of its operation.

The CEIPP threshold

The threshold is met when an incident threatens, or an accumulation of incidents threaten, Canada’s ability to have a free and fair election. The 2019 and 2021 Panels considered this threshold at both the riding and national levels.

In making this assessment, the Panel considers factors such as the incident’s reach, scale, source, relevance, lifespan, ability to self-correct, and whether other options exist to mitigate risks to a free and fair election. The focus of the analysis is not on the source of the incident, but on its impacts.

As much of the information considered by the Panel came in the form of intelligence, another important consideration for Panel members was credibility and reliability of information provided to it. This is an issue I will return to later in this Report.

The threshold represents a high bar. There must be more than a mere possibility of a threat to the election. François Daigle, a Panel member in 2021, said they looked for information that allowed them to determine an incident was probable and if it would have a probable impact on the election.

The stated reason for a high threshold is the concern that Panel intervention could do more harm than good. The moment a public announcement is made, confidence in the election could be undermined. This could have broader impact on public confidence in Canada's democracy as a whole. There is also the potential for the Panel to be seen as partisan and interfering in the election. Another concern with a low threshold was that foreign countries could exploit the situation and intentionally prompt overreactions that undermine confidence in elections or amplify disinformation.

The Panel of Five in 2019

2019 was the first year the CEIPP operated, and thus the first year of the Panel. The Panel began meeting immediately prior to the writ period. It received baseline briefings about foreign interference from the SITE TF and PCO. It reviewed the terms of its own mandate, and met with elections officials to understand their roles. The Panel attempted to get a better understanding of the threshold by working through various hypothetical scenarios, which were designed to explore when it would be appropriate to act.

Once the election period began, the Panel met weekly and was always on call. During its weekly meetings, it was briefed by the SITE TF and then held discussions in private, with only a small number of PCO staff present and who were not involved in decision-making. The Panel also received the SITE TF's daily SITREPs. Individual Panel members also received information through their respective departments and were on CSIS's distribution list for relevant intelligence products.

In 2019, the Panel concluded the threshold for an announcement was not met. The Panel found some foreign interference occurred, but nothing that threatened Canada's ability to have a free and fair election.

The Panel of Five in 2021

Following the 2019 election, the CEIPP was reviewed. As a result, a number of changes were made to the protocol ahead of the 2021 election:

- The CEIPP was made applicable to all elections. The 2019 version only applied to the 2019 election itself.
- The Panel's mandate was expanded from considering only foreign interference threats to any interference threat, whether foreign or domestic.
- The CEIPP was extended to cover the full caretaker period, which may be longer than the election period in some circumstances.
- It made explicit the Panel's ability to communicate information to other entities, such as the OCCE.
- It made explicit that political parties could provide information to the Panel.

The 2019 review also recommended two changes the government did not make: extend operation of the CEIPP to the pre-writ period (a set period of time before an election begins) and change the Panel's composition.

The Panel of Five met before, during and after the caretaker period. Starting in January 2021, it focused on understanding the relevant threats that existed, such as online disinformation and evolving foreign interference tactics. The Panel also discussed lessons learned from 2019 and worked through hypothetical scenarios.

Once the election was announced, the Panel received daily SITE TF SITREPs and met with it weekly.⁴⁶ As in 2019, after these briefings, the Panel met privately. PCO staff were present at the Panel's meetings but were still not involved in decision-making.

The Panel considered whether it could intervene if an incident were serious, but below the threshold under the CEIPP. It concluded that it could not.

Like in 2019, the 2021 Panel of Five concluded the threshold for an announcement was not met.

5.8 Conclusion

There are many federal entities that contribute to Canada's response to foreign interference, each with their own mandate, responsibilities and powers. To mount an effective response to foreign interference, these entities must coordinate and collaborate. This is why the government has a number of procedures and committees intended to allow for cooperation across the whole of government. Most of these processes exist whether or not an election is taking place.

During the Caretaker period ministers and the prime minister must act with restraint in engaging in non-routine business. This is why the government created the SITE TF and the CEIPP in 2019. With these processes in place, government can track and respond to foreign interference during an election. The SITE TF is also now an important part of the whole of government response to foreign interference outside of an election period.

In the next two chapters, I will review the mechanisms described in this chapter in light of specific allegations of foreign interference in the 2019 and 2021 elections.

⁴⁶ Although SITREPs were sent to the Panel daily, because of the hybrid working arrangements during the pandemic, Panel members only received them when they went into the office. Not all Panel members went into the office daily.

CHAPTER 6

The 2019 General Election

Incidents and Responses

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6.1 Introduction

The Commission’s investigation identified a number of alleged incidents of foreign interference in the 2019 general election. A matter that received much attention during the proceedings involves allegations of irregularities in the Liberal Party nomination contest in Don Valley North (“DVN”), Ontario. However, I also heard evidence about events in the Greater Vancouver Area, activities involving alleged foreign funding, CSIS interventions against actions by the Government of Pakistan, and potential online disinformation.

As I have noted throughout this report, much of what I discuss here is based on intelligence holdings. Much of the intelligence at issue cannot be publicly disclosed or may only be disclosed in summary form. Furthermore, much of the intelligence is uncorroborated or otherwise cannot be taken as proven fact.

While this Chapter attempts to set out the events of the 2019 election in as much detail as possible, readers should bear these limitations in mind in reading the sections below.

6.2 The Liberal Party of Canada Nomination Race for Don Valley North

Han Dong wins the Liberal Party of Canada nomination contest in Don Valley North

Don Valley North (“DVN”) is a riding in the Greater Toronto Area with a substantial Chinese-Canadian population. Leading into the 2019 General Election, the Member of Parliament for DVN was Geng Tan, a member of the Liberal Party of Canada (“LPC”).

In June 2019, Geng Tan announced he would not run in the upcoming federal general election. Han Dong, who had served as a Liberal Party of Ontario MPP from 2014 to 2018, was encouraged by several people to seek the nomination. He announced his candidacy later that month. Bang-Gu Jiang, who ran unsuccessfully for the LPC in another riding in the 2015 election, also sought the nomination. LPC insiders expected it to be a close contest, but Mr. Dong was considered to be slightly favoured.

The vote took place on 12 September 2019, the day after the 2019 campaign began. It was a hotly contested nomination meeting, described as chaotic.

I heard evidence that Bang-Gu Jiang ran a strong campaign and mustered a good turn-out such that Mr. Dong’s campaign believed that he might lose the vote. In the end, however, Mr. Dong prevailed by a very close margin.

What the Commission heard about alleged irregularities

In understanding the events surrounding the DVN nomination, it is important to distinguish between what was known at the time of the election, and what is known today. The Commission had the benefit of hearing from Mr. Dong, as well as his campaign manager Mr. Ted Lojko. During the public hearings, the Commission also had the benefit of a summary of intelligence held by Canada about the DVN nomination.

Canada has intelligence holdings indicating irregularities in the DVN nomination contest that may have included activities undertaken by individuals close to PRC officials. Information was learned from a variety of sources with various levels of corroboration.

Some information about the nomination contest, though not firmly substantiated, was provided before the election. Intelligence reporting indicated that buses were used to bring international students of Asian origin to the nomination process in support of Han Dong. Some intelligence reporting also indicated that the students were provided with falsified documents to allow them to vote, despite not being residents of DVN. The documents were provided by individuals associated with a known proxy agent.

Some intelligence reported after the election indicated that veiled threats were issued by the PRC Consulate to the Chinese international students, implying their student visas would be in jeopardy and that there could be consequences for their families back in the PRC if they did not support Han Dong.

The Security and Intelligence Threats to Elections Task Force (“SITE TF”) After-Action Report for the 2019 Federal Election stated that “PRC officials likely manipulated one of the nomination contests in the Toronto riding of Don Valley North,” but it also states that at least some of the allegations “remain unconfirmed.”⁴⁷

Rules for voting in nomination contests are determined by political parties. To vote in an LPC nomination contest, a person must be at least 14 years old, ordinarily reside in the riding, and be a registered member of the party before a “cutoff” date a week or two before the vote. Non-citizens, including international students, are eligible to vote if they can provide satisfactory proof of residence. At a nomination meeting, voters are required to show ID, like a driver’s licence or other form of government ID. That information needs to match the information on the membership list.

Apparently, it is common for a campaign to bus voters to a nomination contest. There was also evidence that busing is sometimes arranged by third parties, such as a “Young Liberals” club at a post-secondary institution.

⁴⁷ CAN008973: *Security and Intelligence Threats to Elections Task Force - After Action Report (2019 Federal Election)*, pp. 12, 26.

During the DVN contest, Mr. Dong’s campaign rented two buses to transport party members to the vote, including residents of apartment buildings for seniors.

Mr. Dong told the Commission that shortly after the nomination contest, he was told that a bus of international students who lived in a residence at Seneca College had come to the nomination meeting to vote. Mr. Dong drew a link between this bus and a campaign event he had attended at a Seneca College residence to solicit support from high school students attending a private school called New Oriental International College (NOIC). The students spoke Mandarin, and Mr. Dong believed they were Chinese nationals.

Mr. Dong did not know who had arranged or paid for the bus containing foreign students. Mr. Dong testified that, to the best of his knowledge, his campaign was not involved in organizing or paying for any such bus.

Assessment of the intelligence

CSIS collected intelligence on alleged foreign interference in the DVN nomination contest. It included allegations that buses were used to bring international students to vote for Mr. Dong at the direction of PRC officials in Canada. The allegations were assessed as consistent with “[redacted] PRC foreign interference activity in the Greater Toronto Area...”⁴⁸

During the election, information related to these allegations was provided to the panel established under the Critical Election Incident Public Protocol (“Panel of Five”) during the election period. The information the Panel received evolved over this period. Ultimately, the allegation that buses of students attended the nomination vote was “more corroborated” than the other elements of the reporting, which remained unconfirmed.

The Panel’s view was that there was no reliable information about whether the students actually voted, whether they were forced to vote, whether they were under threat of losing their visa, or whether they were indeed residents in the riding.

The Panel also considered whether its mandate covered nomination contests. At least some members queried whether the nomination process was more a matter for the affected political party. However, the Panel decided to consider this intelligence nonetheless.

The Panel asked intelligence agencies to continue to provide it with information regarding this matter. The Panel also confirmed that CSIS had notified elections authorities, and indicated that the LPC should be informed. In the event that the LPC nominee were elected, the party would then be aware that the person might be vulnerable to foreign interference.

⁴⁸ CAN005461: SITE Task Force, *FI efforts against Dong Han*, p. 1.

The Panel ultimately concluded that the threshold to make an announcement was not met. The Panel's view was that the fact that information was shared with the Commissioner of Canada Elections and the LPC reduced the potential impact of the irregularities on the integrity of the election. The Panel also considered that:

- The intelligence respecting the alleged irregularities was evolving and not firmly substantiated.
- The information related to a nomination race and did not directly impact the electoral process.
- If the candidate were elected, the party leader would be aware of the risk this person might represent.

CSIS notifies the Liberal Party

On September 28, 2019, the two security-cleared representatives of the LPC were briefed by CSIS on the allegations in DVN. This briefing referred to information about buses being used to bring international students in support of Mr. Dong at the direction of PRC officials in Canada. The LPC representative passed this information on to Jeremy Broadhurst, who was the National Campaign Director for the LPC in the 2019 election. Mr. Broadhurst held a Top Secret clearance as a result of his position as Chief of Staff to the Minister of Foreign Affairs, and could receive classified information from the cleared LPC representatives.

Although he was on leave from the government at the time in order to participate in the campaign, Mr. Broadhurst contacted senior public servants at the Privy Council Office ("PCO") to make sure he understood the information correctly and to see if there was additional information they could share. Mr. Broadhurst did not ask for any specific additional information to be gathered at that point, explaining that he believed it would have been inappropriate for him to give direction to public servants on how they should do their job.

Mr. Broadhurst also spoke to LPC officials to see if they were aware of irregularities in the vote and to determine whether the results were being contested by the unsuccessful candidate. He testified that he was limited in what he could ask of party officials because he was under an obligation not to reveal to anyone, including the people he was asking questions of, the subject-matter of the intelligence reports. He could therefore only ask questions about the conduct of the nomination meetings. Mr. Broadhurst was advised by the party that the nomination was hotly contested, but nothing stood out as abnormal. No irregularities were cited, and the losing candidate had not challenged the process.

The Prime Minister decides not to remove Mr. Dong as the Liberal candidate

Mr. Broadhurst decided the information about DVN needed to be brought to the attention of Prime Minister Justin Trudeau in his capacity as Liberal party leader. Although Mr. Trudeau was on the road campaigning, Mr. Broadhurst was able to brief him at the Ottawa airport on September 30th, two days after CSIS briefed the LPC.

Mr. Broadhurst said he told Mr. Trudeau there were allegations about buses provided by the PRC being used to bus students to the nomination contest, and intimidation of the students by PRC officials. He characterized the intelligence as being an allegation that there was a plan to do something, but they couldn't point to specifics, like names or a particular bus.

Mr. Broadhurst testified that he told Mr. Trudeau that the allegations were consistent with PRC activities in the GTA. He emphasized that there was an important distinction between being consistent with PRC foreign interference in the GTA and foreign interference activity with respect to election campaigns.

Mr. Broadhurst said that intelligence officials wanted the LPC to be aware that the allegation was out there, but they did not make a recommendation that the LPC should do anything in response. He also explained that it "...would have been very surprising to me if intelligence officials had felt it was their place to advise a party about whether or not to drop candidates... it's not the place of intelligence officials to make that kind of recommendation."⁴⁹

Mr. Broadhurst recommended to Mr. Trudeau that no immediate action be taken. He based this on what he thought should be an extremely high bar for overturning a democratic result in a nomination race, especially since the allegations could not be disclosed. He understood the intelligence was considered credible enough to share, but it was not being presented as the "truth".

Mr. Trudeau noted in his testimony that it was difficult for him to differentiate what he was told by Mr. Broadhurst at the time from information he learned later. He recalled that Mr. Broadhurst advised him that intelligence officials had concerns that Chinese officials in Canada had been developing a plan to possibly interfere in the DVN nomination contest by mobilizing buses of Chinese speakers or Chinese diaspora members to support Mr. Dong. He was told the security agencies were not "entirely certain" as to whether the plan was executed.

Mr. Trudeau observed that while buses carrying Chinese speakers was not itself cause for alarm, CSIS was concerned about PRC involvement. He asked to what extent CSIS was certain that China was behind mobilizing the bus or busses, and he also asked whether CSIS had information that Mr. Dong was

⁴⁹ Evidence of Jeremy Broadhurst, April 9, 2024, Transcript, vol. 13, pp. 121-122.

witting and aware of this. Mr. Trudeau explained that according to what Mr. Broadhurst told him, no clear answers were given by CSIS at that point.

Mr. Trudeau also asked Mr. Broadhurst whether there was a sense that the actual result of the nomination could have been affected by the bus or buses (CSIS had no conclusions to share at that point), whether CSIS recommended any action (they did not; the purpose was to inform the LPC so it could take any actions they deemed appropriate), whether LPC officials overseeing the vote knew of irregularities (there were no red flags), and whether the losing contestant was disputing the result (she was not). Mr. Trudeau agreed that there should be a fairly high threshold for overturning the results of a nomination contest.

In his *in camera* testimony before me, Mr. Trudeau noted that un-endorsing Mr. Dong would have direct electoral consequences as the LPC expected to win DVN. It would also have a devastating impact on Mr. Dong personally. Mr. Trudeau noted that he has had to eject candidates and MPs from the Liberal Party in the past, for a variety of reasons, but he did not feel there was sufficient or sufficiently credible information to justify removing Mr. Dong.

Mr. Trudeau emphasized in his public testimony that he was faced with a binary choice: remove Mr. Dong or leave him in place. But he testified that, having chosen to allow Mr. Dong to remain as the LPC candidate, this was a matter that “we would have to revisit”:

Certainly in the case that that candidate got elected, there would be questions we would have to follow up on after the election to properly understand what happened and what the issues or the risks were in this situation.⁵⁰

He explained that after the election, when he went back to being primarily Prime Minister, he could engage Canada’s intelligence agencies and seek more information, which could inform decisions about Mr. Dong’s roles and responsibilities.

I asked Mr. Trudeau whether the issue was revisited after the election. Mr. Trudeau testified that LPC investigated immediately after they received the information from the SITE TF; he was not sure what more could have been done, as they were limited in the information they had. For him, the follow-up was about obtaining more clarity from intelligence agencies on the possible involvement of Chinese authorities with a nomination race and a particular candidate. However, the specifics of any follow-up are at this point unclear, and I am not certain what steps were taken.

⁵⁰ Evidence of Prime Minister Justin Trudeau, April 10, 2024, Transcript, vol. 14, p. 173.

CSIS briefs electoral authorities

During the 2019 federal election, the Chief Electoral Officer was informed by CSIS of a situation that could have involved foreign interference related to voting in the nomination contest in DVN. He determined that no action could be taken at that time by his office. Nomination contests are not regulated by Elections Canada, other than in respect of financing rules. Where nomination contests are held, if certain spending thresholds are met participants must file a return with Elections Canada. Those returns are audited as a matter of course.

In the case of the DVN contest, Mr. Dong's returns were audited. Elections Canada referred the matter to the Office of the Commissioner of Canada Elections ("OCCE") to investigate a potential violation of the *Canada Elections Act*. The file was referred to OCCE for reasons unrelated to allegations of foreign interference.

CSIS recalls a National Security Brief

CSIS prepared a CSIS National Security Brief ("CNSB") dated 1 October 2019, titled "Foreign Interference in the 2019 Federal Campaign of Dong Han". A CNSB is a compilation and analysis of intelligence on a specific topic.

The CNSB was recalled by the CSIS Director shortly after a discussion with the NSIA. Recalling a document involves asking recipients to destroy it. While the underlying information and reports remain available to CSIS, the product is no longer accessible. I heard evidence that recalling a report is neither frequent nor unusual.

CSIS Director Vigneault did not recall why this report was recalled. Then-NSIA Greta Bossenmaier said she likely read the report and may have asked questions about it, but did not remember asking for it to be recalled. Mr. Vigneault said that a report might be recalled for several reasons: for instance, it includes incorrect information, or the report inadvertently identifies a source. Mr. Vigneault insisted he had never recalled a report because it was too sensitive or for political reasons.

In the absence of any explanation for the recall, I cannot draw any conclusion from this incident.

Findings respecting the Don Valley North nomination contest

It is not the mandate of this Commission to determine what actually took place at the Don Valley North nomination meeting in 2019, and I would not be able to do so on the record before me in any event. However, this incident makes clear the extent to which nomination contests can be gateways for foreign states who wish to interfere in our democratic processes.

Regulating nomination processes is the sole responsibility of political parties, with the exception of some financing rules. From the evidence I have heard so far (which has mainly concerned the LPC), the eligibility criteria for voting in nomination contests do not seem very stringent, and the control measures in place do not seem very robust.

The question of nomination processes and their potential vulnerability to foreign interference is undoubtedly a question that will have to be carefully looked at in the second phase of the Commission's work.

6.3 PRC Interference in Greater Vancouver

Canada has intelligence holdings indicating that during the 2019 election some PRC officials likely favoured particular political candidates and political parties, and clandestinely leveraged Canadian and Canada-based intermediaries to support the PRC's preferred candidates in the Greater Vancouver Area ("GVA"). The intelligence indicates the PRC political preferences were party agnostic and opportunistic. Intelligence reporting indicates these officials coordinated the exclusion of some political candidates perceived as "anti-China" from attending local community events related to the election. This was accomplished through PRC proxy agents, thereby hiding the direct involvement of these PRC officials.

Intelligence that the PRC favoured particular candidates in the GVA was shared with SITE TF, who testified they shared it with the Panel of Five.

Jenny Kwan is the Member of Parliament for Vancouver East, a seat she has held since 2015 as a member of the New Democratic Party. Since 2019, her concerns about PRC policies, particularly with respect to Taiwan, Hong Kong, and the Uyghur community, have grown, as has her strong public advocacy around them.

Starting in 2019, Ms. Kwan observed a "seismic shift" in her relationship with Chinese community organizations. The most obvious sign was that she would no longer receive invitations to some community events. Invitations to these events are usually interpreted to be a sign of respect and approval in the community. Ms. Kwan testified that what was described in the summary of Canada's intelligence holdings related to the PRC activities in the GVA, which I described above, matched her own experiences as a candidate and MP.

6.4 Other Alleged PRC Foreign Interference Activities

Canada's intelligence holdings indicate that before and during the 2019 general election, a group of known and suspected PRC-related threat actors in Canada, including PRC officials, worked in loose coordination with one another to covertly advance PRC interests through Canadian democratic institutions.

Reporting indicated that 11 political candidates and 13 political staff members were assessed to be either implicated in or impacted by this group of threat actors. "Implicated" is defined as indicating that an individual had at least one direct connection to a person of interest regarding PRC foreign interference. This does not mean they are knowingly involved in or complicit with threat activity. "Impacted" is defined as indicating that an individual was directly affected by foreign interference activities conducted by the threat actors.

Seven candidates were from the LPC and four were from the Conservative Party. Some of these individuals appeared willing to cooperate in foreign interference-related activity while others appeared to be unaware of such activity due to its clandestine nature.

Additionally, intelligence assessments suggest that some of these PRC-related threat actors received financial support from the PRC. There likely were at least two transfers of funds approximating \$250,000 from PRC officials in Canada, possibly for foreign interference-related purposes. However, there is no intelligence that the \$250K went to any of the 11 candidates. These were transferred via multiple individuals to obfuscate their origins: via an influential community leader, to the staff member of a 2019 Federal Election candidate, and then to an Ontario MPP. The transfer(s) reportedly took place in late 2018 to early 2019.

The SITE TF was aware of allegations relating to the transfer of roughly \$250,000 from PRC officials in Canada, possibly for FI related purposes, and shared this information with the Panel of Five.

The Panel of Five was aware of allegations that there was some financial support for candidates in Toronto in 2019 but did not attribute the activities to a "network." Nathalie Drouin, then Deputy Minister of Justice, was surprised by references in the media reporting in 2022 or 2023 to the specific amount of \$250,000 and to a "network" of 11 candidates. Those specifics did not come to the Panel's attention until after the election.

I note that intelligence products from early 2020 describe the 11 candidates as being implicated in a "network." Ms. Drouin testified that for her, the use of the word "network" was unfortunate because this gave the impression that the individuals were working in concert.

The Panel did not make a public announcement about this issue. The Panel explained that there was a lot of ambiguity and lack of clarity in relation to intent and purpose. The Panel asked the national security agencies to monitor the situation and to continue to report to them.

6.5 Threat Reduction Measure Targeting Pakistan

I discussed CSIS’s ability to engage in threat reduction measures (“TRM”) in Chapter 5.

Canada’s intelligence holdings indicate that Government of Pakistan (“GoP”) officials in Canada attempted to clandestinely influence Canadian federal politics. A TRM was conducted in advance of the 2019 campaign to reduce the foreign interference threat posed by the GoP. The TRM included meeting with several individuals and potentially political figures who were candidates or elected officials and who had been targeted for foreign interference by the GoP, to discuss the activity of concern.

CSIS monitored the situation and the TRM was assessed to have effectively reduced the threat of interference.

Information about the TRM came to the attention of the SITE TF and the Panel of Five. The political parties were briefed on the TRM as it was being implemented. In the Panel’s view, the situation involving Pakistan did not meet the threshold for an announcement.

6.6 The Buffalo Chronicle

About two weeks before the 2019 election, the Rapid Response Mechanism Canada (“RRM”) learned that false, inflammatory, and salacious articles about the Prime Minister were being circulated by the Buffalo Chronicle, a U.S.-based website. The false information appeared to be spreading. RRM determined that the website used poor journalistic practices and that some of the website advertising did not appear to be monetized, suggesting that the motivation for posting the disinformation was not ad revenue. However, RRM could not conclude that the stories were foreign state-sponsored disinformation or that the amplification of the stories on social media was state-sponsored.

The issue was reported to the Panel of Five through daily reports provided by the SITE TF.

Buzzfeed and the Toronto Star investigated the allegations that were being published, determined them to be false, and made that information public. The story died down about a week before the actual election. The RRM continued to investigate the source, but the information was debunked, and the story ran out of steam. The Panel's view was that because of this, and because it could not be determined whether the story was created by foreign interference, the threshold for making an announcement was not met. The ecosystem had cleansed itself.

In advance of the 2019 general election the four major US-based social media companies—Microsoft, Twitter, Facebook, and Google—had agreed to the Canadian Declaration of Electoral Integrity Online. This was a voluntary agreement intended to put “on the radar” of these companies that a Canada election was occurring and that there were expectations that social media platforms would do their part to ensure elections integrity by enforcing their community standards.

Allen Sutherland, an Assistant Secretary to the Cabinet within PCO, had developed relationships with these companies. He testified that Facebook brought the Buffalo Chronicle article to his attention. Mr. Sutherland believed the highly inflammatory content had the potential to go viral and become a national event. Mr. Sutherland said that, at the direction of the Clerk of the Privy Council, he asked Facebook to remove the article. Facebook complied.

Ms. Drouin, a member of the 2019 Panel, had a slightly different recollection. She testified that Facebook had proactively reached out to Mr. Sutherland to ask whether the article should be removed. Mr. Sutherland spoke to the then Clerk of the Privy Council, who believed that it should. In Ms. Drouin's view, Facebook acted voluntarily, based on the declaration they had signed, and not because they were ordered or directed to do so.

6.7 An Intelligence Report Relating to Potential PRC Foreign Interference

An intelligence report relating to potential PRC foreign interference was circulated to various recipients on 18 October 2019 (a Friday evening), three days before the election. The NSIA at the time, Ms. Bossenmaier, testified that she would have been briefed on the issue that evening. She added that she would have been notified that other authorities (like Elections Canada and OCCE) had been informed of the issue and that action had been taken.

Elections Canada was indeed notified, and they reached out to PCO to determine the reliability of the information. They wanted the OCCE to be briefed, which occurred the next day. CSIS likely provided the OCCE with a

classified “use letter,” meaning the information was provided for intelligence purposes, but could not be used for any kind of investigation or review.

It appears that at least two of the Panel members, Ms. Drouin (Justice) and Ms. Beauregard (Public Safety) did not receive the email before Monday. Ms. Beauregard indicated that she would not have been unable to receive the information until then because it had to be printed out and delivered to her. But, she said, if something urgent had come up, she would have been notified by the NSIA and could have obtained the information sooner.

During an in-camera examination, Ms. Drouin explained that the Panel was aware that Elections Canada was going to be briefed about the potential for irregularities on election day in a riding, but was unclear on the timeline of the briefing. Ms. Drouin added in her evidence that the information was about the electoral process/conduct of the election, and was submitted to the OCCE.

6.8 The Revision of a CSIS National Security Brief After the Election

CSIS issued a CNSB dated 29 October 2019 (eight days after the election) that identified potential foreign interference by a politically-connected Canadian. That person had not previously been identified as acting on behalf of a foreign state but appeared to have been doing so in the period leading up to the 2019 election. The report assessed that it was likely that the actor “has already had an impact on the 2019 federal election, and will remain a foreign interference threat after the election.” It appears that everyone on SITE TF except the CSIS representative was taken by surprise by the CNSB.

The Chair of the SITE TF, Lyall King, drafted an email in which he expressed his frustration about the way the information was disseminated. The email described the report as “massively problematic,” and detailed several problems. These include:

- SITE TF had “no visibility” of this reporting. SITE TF may have received some components of the reporting in less detail, but nothing that linked them together into a coherent narrative.
- The distribution of the CNSB was too limited, which “effectively renders the intelligence meaningless. How can we identify and understand the complete picture and explore ways to mitigate a problem if only 5 people receive the information- and no-one in an operational capacity.”
- The assessment in the CNSB would raise questions about why this information was not brought forward to SITE sooner.⁵¹

⁵¹ CAN003128: Email from Lyall King, October 19, 2019, p. 2.

Mr. King explained that he would have expected CSIS to discuss the report with SITE TF before it was issued. He was concerned because SITE TF did not have a full understanding of the issue and because the assessment seemed to contradict SITE TF's general assessment about the integrity of the election.

Cherie Henderson was the Director-General of CSIS's Intelligence Assessment Branch in 2019. She testified that CSIS's investigation into this actor began long before the election period. The intelligence would have been shared with various partners but not with SITE, which was focused on the election. The report was finalized right after the election. Ms. Henderson said this incident illustrated a limitation with SITE TF's focus on assessing foreign interference-related intelligence during the election period, as they might not have considered the pre-election intelligence on this actor.

Ms. Henderson testified CSIS revisited its conclusions after Mr. King's email and concluded that the report had overstated the impact of the actor's actions. CSIS's revised assessment was that the actor could potentially have had an impact on "that particular timeframe and that particular issue," but would not have impacted the integrity of the 2019 election. An updated CNSB, dated 3 December 2019, removed the assessment and said instead that the person's relationships and activities were consistent with known PRC tradecraft, "which could be expected to be applied to future elections at all levels."

CHAPTER 7

The 2021 General Election

Incidents and Responses

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7.1 Introduction

There were a number of allegations of foreign interference during the 2021 general election. This chapter provides an overview of the evidence respecting these allegations, including:

- Disinformation targeting the Conservative Party of Canada (“CPC”), its leader Erin O’Toole, and one of its British Columbia candidates, Kenny Chiu.
- Matters relating to foreign interference briefed to cleared representatives of the Liberal Party of Canada (“LPC”).
- Events in the Vancouver area riding of New Democratic Party (“NDP”) MP Jenny Kwan.
- Potential foreign interference activity by the Governments of India and Russia.

Before turning to these specific allegations, I will first review the evidence I heard about the briefings provided to the cleared political party representatives by the Security and Intelligence Threats to Elections Taskforce (“SITE TF”). I do so because it provides important context for what political parties say they may have understood about the foreign interference threat going into the 2021 election.

7.2 SITE TF Briefings to Security-Cleared Political Party Representatives

As I noted in Chapter 5, the SITE TF provided Secret level briefings to security cleared political party representatives in both 2019 and 2021.

During the Commission’s public hearings, I heard evidence from the security-cleared representatives of the CPC, the NDP, and the LPC. They indicated that the information they received during briefings was general, background information about threats, not specific or actionable intelligence.

Party representatives reported that in the initial July 2021 pre-election briefing they received from SITE, they were told that there was little evidence to support any substantial impact of foreign interference on our elections. Mr. Soliman, the CPC representative, said this confirmed his pre-existing view that foreign interference should be “low on the radar” for the 2021 election because there had been nothing to worry about in the 2019 election. The LPC and NDP representatives agreed with that they were reassured by SITE’s assessment.

Mr. Soliman stated that he strongly supports having a body like the SITE TF, and that there was great potential in it giving briefings to security cleared party representatives. However, like representatives of other parties, he was disappointed not to receive information that was specific enough to permit the party to take action in response. Anne McGrath, the NDP representative, said that she received no information or tools to identify when foreign interference was happening, and only received phone numbers to call in the event foreign interference was suspected by party officials.

Mr. Soliman was left wondering why he had gone through such an extensive clearance process when, in his view, he did not learn anything he had not read in the newspapers.

SITE TF members testified that the briefings had two purposes. The first was to provide a “little bit” more information than could be found in open sources about the tactics and techniques used by foreign countries that engage in foreign interference. The purpose of this was so that the parties could raise their own awareness and potentially identify whether foreign interference was happening in their own spaces. The SITE TF members agreed that this type of information was not immediately actionable.

Second, the briefings were intended to open up a two-way path of communication so that if the parties had concerns, they could relay that information back.

The Commission received the SITE TF briefing notes that were used to brief party representatives in July 2021. In a section of the document entitled “Lessons Learned from 2019”, a bullet point states that “SITE did observe foreign interference (FI) activities targeting certain ridings and candidates in relation to the election, directed largely from China, and to a lesser extent from India and Pakistan, through the use of human agents. None of the activities met the threshold to pursue criminal investigations.”⁵²

A section entitled “The foreign interference threat environment 2021” includes information the PRC would be the primary threat actor in the upcoming election and may seek to interfere in specific ridings to either support those viewed to be “pro-PRC”, or oppose those viewed to be “anti-PRC”.

Further, the notes state that the use of social media platforms by state actors to conduct disinformation has increased and that the trend is likely to be a factor in the electoral context, though attribution of such activity to foreign actors remains difficult.

The LPC representative testified that he had no recollection of this information, but that it was consistent with the information that was provided to them. The NDP representative testified that the information in the document was more specific than anything she recalled receiving. The CPC

⁵² CAN018041: *SITE TF Briefing to Secret Cleared Federal Political Parties*, p. 2.

representative testified that he did not recall receiving this information and would have been alarmed by these kinds of statements.

Copies of the SITE TF briefing notes were not shared with the political party representatives. All briefings were given orally and the representatives were not permitted to take notes. I note that Secret-level documents are subject to specific rules regarding where they can be viewed and how they must be stored. The SITE TF members testified, however, that the “briefings were read verbatim, and the language was chosen very carefully and vetted thoroughly through all the intelligence agencies.”⁵³

Regardless of what specific details were shared with the political party representatives on specific dates, in my view it is apparent that there was a wide gulf between the expectations of the representatives as to what information would be shared with them and what the SITE TF was actually able to provide.

It appears that the role of SITE in this respect was either not properly explained, or not properly understood, or perhaps both. It is clear that the party representatives feel they were not properly informed by SITE and even that they were unduly reassured by what they heard causing them to put down their guard.

7.3 **Misinformation and Disinformation Relating to the Conservative Party of Canada’s Policy Platform, Erin O’Toole and Kenny Chiu**

A false narrative about the CPC policy platform and Erin O’Toole

During the election period, the CPC and its then leader, Erin O’Toole, were the subject of inaccurate reports that circulated widely on Chinese-language media outlets that are known to have, or may have, ties to the People’s Republic of China (“PRC”) or Chinese Communist Party (“CCP”).

I heard testimony from Mr. O’Toole about why he believed the CPC was made the target of a disinformation campaign. Prior to the 2021 election, the CPC tabled a motion in the House of Commons recognizing the Uyghur genocide. The CPC caucus also supported a private member’s bill proposed by CPC MP

⁵³ Evidence of “CSIS Representative”, April 5, 2024, Transcript, vol. 11, p. 168.

Kenny Chiu to establish a foreign influence registry. Both were likely viewed by the PRC as anti-China.

The CPC had also raised questions in the House of Commons about suspected PRC espionage in a government laboratory in Winnipeg, which prompted suggestions by the governing LPC that the CPC was echoing anti-Asian sentiment that was prevalent during the pandemic. According to Mr. O'Toole, that suggestion fed into a narrative that the CPC was anti-China. This narrative was amplified in Chinese-language media criticizing the party for its positions on PRC-related issues.

At the end of August 2021, Global Affairs Canada's Rapid Response Mechanism ("RRM") saw some discussion on WeChat that Erin O'Toole would ban WeChat if elected. WeChat is a popular social media application used by a large number of Mandarin speakers.

On August 28, a popular WeChat news account called York BBS, which may have links to the PRC, shared an anonymous post repeating this claim and saying that Mr. O'Toole was the "Canadian version of Trump." The post was shared the next day by WeChat news accounts in the Vancouver area.

Narratives about Mr. O'Toole's intentions and the CPC platform began to circulate more widely around September 8, when an article in the *Hill Times*, an Ottawa-based newspaper, quoted a Canadian political analyst saying that the CPC almost wanted to break diplomatic relations with China. York BBS then posted an article about Erin O'Toole focusing on the CPC's electoral platform, which contained erroneous information.

On September 9, the *Global Times*, a Chinese state-media source, published an article entitled, "Canadian Tories' 'hostile China blueprint' caters to toxic atmosphere against Beijing amid sour ties". This piece drew from the *Hill Times* article that discussed the various political parties' respective China-Canada relations policies.

Between September 10 and September 16, at least eight popular WeChat news accounts in Canada shared the *Global Times* story that the CPC would "break ties" with the PRC. More than a dozen Chinese provincial and state-level media outlets also published the story. On September 12, a video report similar to the *Global Times* story surfaced on *Xinhua News*, a Chinese reporting agency.

It appears that the false narrative regarding Mr. O'Toole ceased circulating after September 12.

A false narrative regarding MP Kenny Chiu and the foreign influence registry

Over a two-week period starting in early September, erroneous information circulated about CPC MP Kenny Chiu, who was running for re-election in Steveston–Richmond East, a riding in the Vancouver area that is home to a large Chinese diaspora community.

On 13 April 2021, Mr. Chiu tabled a Private Member’s Bill seeking to create a foreign influence registry. Mr. Chiu indicated his goal was to ensure transparency about attempts at political lobbying in Canada by foreign states. Though the bill did not mention any country by name, Mr. Chiu received feedback from some constituents soon after the bill was introduced, saying that he was a racist and anti-China.

On 6 September 2021, a Markham, Ontario-based news outlet called *105.9 Yes My Radio*, published an anonymous Chinese language blog calling on readers to “pay attention to Kenny Chiu’s ‘Foreign Interference Registry.’” The author stated that any individual or group with ties to China may be considered a spokesperson and would need to register.

On September 8, *Global Chinese Convergence Media* (“CGCTV”), a Markham-based news site shared a slightly revised blog post from 105.9 Yes My Radio claiming that Mr. Chiu’s “anti-China” stance came from his Hong Kong background.

Canadian intelligence holdings identify both *105.9 Yes My Radio* and *CGCTV* as having close links to the PRC government or PRC state-media.

Later, during the election period, Mr. Chiu became aware of social media messaging, as well as an anonymous article published on September 9 in the *Today Commercial News*, a Toronto-area Chinese-language newspaper, stating that he introduced his foreign influence registry bill to suppress the Chinese Canadian community by forcing Chinese Canadians to register as foreign agents. The newspaper had not spoken with Mr. Chiu before publishing the article. The newspaper encouraged people to share the article with others within Canada’s Chinese-language media ecosystem.

Mr. Chiu told the Commission that he started collecting screenshots of the WeChat messages. He believed that somebody, likely the PRC, was weaponizing the emotions of the electorate against him. Mr. Chiu reported that Chinese volunteers stopped coming forward to help with his campaign, which he viewed as a sign that somebody had warned them not to volunteer.

Mr. Chiu attempted to respond to this narrative in the media, but his messaging was not picked up or circulated by Chinese-language outlets. Mr. Chiu said that he was shunned by Chinese-language media, which generally did not cover him during his campaign. He contrasted this with their treatment of his Liberal Party opponent, who ended up winning the election.

Mr. Chiu reports the matter to the CPC central campaign and CSIS

In early September 2021, Mr. Chiu’s campaign leadership contacted the CPC central campaign with these concerns. At this time, Fred DeLorey, the CPC campaign director, and Tausha Michaud, Mr. O’Toole’s chief of staff, were receiving reports of complaints from campaign organizers that voters in certain communities were being steered away from CPC candidates.

Mr. Chiu also reported his concerns to the Canadian Security Intelligence Service (“CSIS”), which had provided him with a defensive briefing before the election. Mr. Chiu said that when he brought these concerns to CSIS, they did not tell him anything or offer any assistance. CSIS requested printed copies of the screenshots he had of messages containing mis- and disinformation. He did not hear from them again until he received a briefing in the fall of 2023, after media reporting about alleged leaks of CSIS intelligence reports.

During his testimony, Mr. Chiu poignantly described his feeling of needing help, yet finding none. I can understand why he felt that way. It is not obvious what help the government could or should have provided at the time. But it raises an important question about when and how government should intervene to respond to online misinformation and disinformation (including during an election). It is likely something that I will explore further in the next phase of the proceedings.

Information flow to decision makers during the writ period

Government agencies were aware during the writ period that media outlets associated with the PRC were spreading and amplifying misleading information about the CPC platform, Erin O’Toole and Kenny Chiu.

The Global Affairs Canada (“GAC”)/RRM SITE TF representative, Gallit Dobner, explained that by September 9, 2021, RRM had detected two complementary sets of activity that could be disinformation campaigns. One was broad-based and targeted the CPC and Erin O’Toole, and the other targeted Kenny Chiu and the foreign agent registry legislation that he was advancing. RRM was aware that these articles questioned whether Canadians of Chinese heritage should vote for the CPC and that they were disseminated on Chinese-language social media.

Ms. Dobner emphasized that RRM had no evidence that the disinformation campaign was foreign state directed. There were indicators of coordinated behaviour, but while this could have been the product of PRC intervention, it could also have been organic. SITE reached a similar conclusion.

During the writ period, the information collected by the RRM concerning the two false narratives was included in various RRM daily briefs, which were used to prepare the daily situational reports (“SITREPs”) that were provided to

the panel established under the Critical Election Incident Public Protocol (“Panel of Five”).

The RRM also produced weekly briefs that were shared with SITE and the Elections Security Coordination Committee. On 13 September 2021, the RRM prepared a specific report on these negative narratives about the CPC which was shared with SITE.

The Panel was briefed that the RRM was tracking the issue, and they were briefed on the topic at their weekly meetings.

The Panel discussed the circulation of these narratives. Like the RRM, the Panel noted the difficulty of attributing this activity to foreign actors or agents.

From the evidence that I have heard, it is clear that attributing online activity to foreign countries is inherently difficult, and that absolute certainty can rarely be achieved. However, I must ask: what should be done in light of this fact? If we cannot expect Canada’s security and intelligence community to attribute online activity to foreign countries with certainty, are we setting the bar too high by requiring certain attribution before the government intervenes? Or are there good reasons to practice restraint, even if there will rarely be a direct response to disinformation like what Mr. Chiu faced?

In Mr. Chiu’s case, the Panel was also not inclined to intervene because it could not distinguish this activity from the political debate that occurs (and should be encouraged) during an election. The Panel explained that debate can include falsehoods and still be protected as a legitimate exercise of freedom of expression so long as it is not state-sponsored or amplified.

We must recognize that certain distortions within political debate may be acceptable forms of expression as long as they are not orchestrated from outside Canada’s borders. This makes the question of attribution all the more relevant. These are issues that I expect to explore further during the next phase of my work.

The Panel concluded that the threshold for an announcement had not been met and no further actions were warranted. The Panel’s conclusion was informed by a number of considerations including Mr. Chiu’s public statements on these narratives on his personal social media platform, which they felt had cleansed the information ecosystem. They also considered the fact that the narrative concerning Mr. O’Toole lost traction well before election day.

I am concerned by this reliance on the idea of a self-cleansing media ecosystem. By the time that disinformation fades away, it may be too late. The damage to the democratic process may already be done. The fact that the narratives targeting Mr. Chiu and Mr. O’Toole had died down by election day does not mean that they had no effect. It may be that more timely intervention is needed in cases like this. However, one can also question whether the public would accept Government officials making a determination of what information needs to be corrected.

None of the security-cleared political party representatives recalled having been specifically briefed regarding these false narratives. The GAC and Communications Security Establishment members of SITE TF recalled having done so. The materials produced to the Commission included several mentions of meeting with political party representatives on 15 September 2021, but no indication about what, if anything, was said about the false narratives. In the circumstances, given the passage of time and the absence of any written materials, I am unable to conclude whether the information was or was not properly passed on to the party representatives.

CPC's complaint to government officials

Shortly after the election, Mr. Soliman and Ms. Michaud had a call with the Privy Council Office ("PCO") to advise that they were hearing from CPC candidates who suspected that foreign interference had occurred during the campaign. The CPC campaign put together a package of materials that they sent to PCO a few days after the call.

PCO tasked the SITE TF with looking into the complaints. The SITE TF's CSIS representative testified that the allegations were taken seriously and that significant resources were invested, primarily by CSIS and the RRM, to evaluate this particular issue. In an assessment report dated October 19, the SITE TF found that it could not "decisively conclude that the PRC sought to clandestinely and deceptively influence outcomes in all of the thirteen (13) ridings identified by the CPC". Further, it could not "conclusively assess to what extent a foreign government sought to clandestinely orchestrate online and/or media efforts to discredit the CPC, its candidates, or policies with the specific intent to influence the outcome of the election."⁵⁴

I find that the SITE TF language used here is unnecessarily confusing. It would be helpful if government agencies making such assessments would use words that clearly convey their position.

SITE did note that the close timing and similar content of these publications across different platforms were noteworthy and unusual. It highlighted the fact that some of the narratives echoed points that were openly stated by the PRC government and in CCP propaganda.

Walied Soliman and Tausha Michaud were briefed by a PCO representative about SITE's assessment on 22 October 2021. Mr. Soliman testified that the meeting felt more like a communications exercise than a truth gathering and public policy exercise.

Mr. Soliman's view was that the government responded to the CPC materials with "shrugged shoulders", saying they did not think any foreign interference had occurred during the election campaign. Mr. Soliman did not have any basis to doubt their judgment, however, and was conscious of looking like a sore loser.

⁵⁴ CAN014862: *SITE TF Assessment*, 19 October 2021, p. 2.

Conclusions of SITE TF remain unchanged

In its After Action Report dated 17 December 2021, the SITE TF confirmed it had no clear evidence that the online activity was a PRC-directed campaign. However, the SITE TF also stated it observed “indicators of potential coordination between various Canada-based Chinese-language news outlets as well as PRC and CCP news outlets.”⁵⁵ These conclusions highlight the inherent challenges in attribution, and the importance of the threshold for intervention. Some participants have suggested that, in light of the indicators of potential coordination identified by SITE, action should have been taken. Although I am not prepared at this stage to adopt this view, I do think that it raises a question.

In a note prepared for a briefing to the Prime Minister’s Office in February 2023, CSIS opined that PRC foreign interference activities in 2021 were “almost certainly” motivated by a perception that the CPC was promoting an anti-PRC platform. In relation to the observed online activities, the note indicates:

[redacted] the timing of these efforts to align with Conservative polling improvements; the similarities in language with articles published by PRC state media; and the partnership agreements between these Canada based outlets and PRC entities; all **suggest that these efforts were orchestrated or directed by the PRC.**⁵⁶

Director Vigneault confirmed that this statement did not reflect any change in the SITE TF’s analysis or conclusions, in particular that SITE was not able to conclude that the online activities were orchestrated by the PRC.

I am satisfied that the Panel’s determination that the online activities observed by the RRM did not meet the threshold for a public announcement was reasonable at the time it was made. However, this situation highlights a serious gap in the mechanisms available to address misinformation or suspected disinformation during the writ period, mechanisms that are further limited by the involvement of WeChat as the platform. As well, the absence of clear guidelines for when government will act short of a public announcement by the Panel – such as PCO’s handling of the Buffalo Chronicle in 2019 – is unhelpful. These are issues I will return to in the next phase of the Commission’s work.

⁵⁵ CAN002359: *Security and Intelligence Threats to Elections Taskforce - After Action Report (2021 Federal Election)*, p. 2.

⁵⁶ CAN004495: Canadian Security Intelligence Service, *Briefing to the Prime Minister’s Office on Foreign Interference Threats to Canada’s Democratic Institutions*, p. 3 (bold in original).

7.4 Briefing to Security-Cleared Liberal Party of Canada Representatives

Around 12 September 2021, representatives of CSIS, with the support of PCO, briefed the cleared LPC representatives about an issue relating to foreign interference. The representatives passed the information to Jeremy Broadhurst, who was then a senior official with the LPC campaign while on leave as the Chief of Staff to the Minister of Foreign Affairs. Mr. Broadhurst testified that the information he received required no immediate action or follow-up. For logistical reasons among others, Mr. Broadhurst was unable to share the information from the briefing with the Prime Minister before election day, but did so shortly thereafter.

The topic of the briefing was related to matters on which the Panel had been briefed in late August and early September. Following the briefing to the LPC representatives, the Panel was able to continue to monitor the matters throughout the election period. At no point did the Panel find that these matters met the threshold for a public announcement as set out in the Protocol.

7.5 Suspected Foreign Interference in the Vancouver East Electoral Contest

Jenny Kwan is the MP for Vancouver East, which contains Vancouver’s historic Chinatown, the largest in Canada. She is a member of the NDP caucus and was first elected to the House of Commons in 2015 after a career in municipal and provincial politics. Ms. Kwan is Chinese Canadian, and immigrated to Canada from Hong Kong.

Ms. Kwan has made many public statements and taken public positions that are unfavourable to the PRC government. She has frequently commemorated the Tiananmen Square massacre and participated in many community rallies as an activist and as an elected official. Her concerns and public statements regarding the PRC’s policies, specifically with respect to Taiwan, Hong Kong and the Uyghur community escalated around 2019.

Ms. Kwan testified to several incidents that she alleges may have been the result of foreign interference by the PRC in response to these positions. This includes events that occurred in and around the 2021 election.

Exclusion from community events

Since taking more public positions critical of the PRC government, Ms. Kwan has observed a seismic shift in her relationship with the major Chinese community organizations in her riding. She previously had good relationships with these organizations. Since 2019, however, she ceased being invited to certain key events organized by Chinese community organizations.

She has observed her constituents being more fearful of voting for her and worried that the Chinese government would find out if they had voted for her or supported her, and that this would compromise the safety of their families in China.

Ms. Kwan testified about an example of being excluded from a significant event in her community. In 2022, Lunar New Year in her riding was marked by a public celebration. This was a particular celebratory moment because previous events could not take place due to the COVID pandemic. The event was organized by two groups, one of which – the Chinese Benevolent Association – has alleged ties to the United Front Work Department (“UFWD”). The UFWD is a department of the Chinese Communist Party that is tasked with collecting intelligence and engaging in foreign interference, including through influencing Chinese diaspora living in other countries.

Ms. Kwan did not receive an invitation to this event, while MPs from other Vancouver-area ridings were invited. Ms. Kwan testified that she believes she was excluded from this event due to her support for Hong Kong democracy protestors and the Uyghur genocide motion in the House of Commons.

I note that Canadian intelligence holdings indicated that, during the 2019 federal election, PRC officials coordinated the exclusion of particular party candidates, perceived to be anti-China, from attending local community events in the Greater Vancouver Area. This exclusion was reported to be done through PRC proxy agents. Intelligence holdings also indicate that the practice of deliberately excluding certain politicians from Chinese-Canadian community events appears to have continued in 2020 and 2021.

Lunch event for a Liberal Party candidate

Ms. Kwan also raised concerns about a prominent member of the Chinese community in Vancouver, Fred Kwok, hosting a free lunch in support of Ms. Kwan’s Liberal opponent in the 2021 election. Ms. Kwan said that the invitations to the lunch posted on WeChat encouraged the Chinese community to vote for MPs “who would care about issues of the Chinese nationals,” the latter term meaning persons who prioritize issues of concern to the Chinese government.

On 7 September 2021, NDP lawyers filed a complaint with the Office of the Commissioner of Canada Elections (“OCCE”) alleging that the organizer of the lunch had violated third party election rules. In response, Mr. Kwok

reported the cost of the lunch to be \$1,500.00, though Ms. Kwan believes the actual cost significantly exceeded that amount.

Following an investigation by the OCCE, the Official Agent of the LPC campaign in Vancouver East was issued an administrative monetary penalty for failure to report the lunch as a non-monetary contribution. The OCCE determined that the organizer of the lunch did not break any rules under the *Canada Elections Act*. The OCCE did not identify evidence of foreign funding and noted that it was the Liberal campaign that approached Mr. Kwok to organize a lunch.

Ms. Kwan also reported the lunch to the Royal Canadian Mounted Police and CSIS. Ms. Kwan testified that, in her opinion, none of the government agencies to which the incident was reported seemed that interested in the issue.

The 7 September 2021, SITE TF SITREP shows that the RRM was aware of the lunch invitations on WeChat. The report indicates that the posters on the WeChat group where the invitations were published are claimed by “many open source reports” to be linked to the UFWD. Ms. Kwan testified that she was not told by the government agencies she had contacted that the SITE TF was aware of the lunch event.

Anne McGrath, the NDP representative to the SITE TF testified that she was not made aware either of any specific foreign interference threats during the 2021 election.

7.6 Suspected Foreign Interference by the Government of India

Intelligence agencies reported that Indian officials had:

“continue[d] to conduct FI activities in Canada, both directly and through their Canadian proxies. During GE44 Indian officials were observed expressing interest in individual electoral contests and likely hoped pro-India candidates would prevail or, at least, that perceived anti-India candidates would not be (re-)elected.”⁵⁷

Intelligence holdings also reveal that a Government of India proxy agent may have attempted to clandestinely provide financial support to candidates in 2021. The source of any such financial contribution could have been unknown to the candidates.

In the classified supplement to this report, I review the intelligence relating to potential foreign interference by India in the 2021 general election, its

⁵⁷ CAN002359: *Security and Intelligence Threats to Elections Taskforce - After Action Report (2021 Federal Election)*, p. 6.

dissemination within the government and actions taken in response. I have not identified any shortcomings with respect to information flow or the government's response.

7.7 Suspected Russian Disinformation Activity

Intelligence holdings reveal that Russia has significant capabilities and seeks to undermine public confidence in political systems and democratic processes in the West. However, intelligence agencies reported that Russia is likely not currently a significant foreign interference actor in relation to Canadian federal elections. There are no indications that Russia prefers a particular Canadian political party or leader through which foreign interference could be directed because the Kremlin likely assesses that major Canadian federal parties do not differ significantly in their stance toward Russia.

The Panel did not observe and was not notified of any evidence of a concerted Russian disinformation campaign during the 2021 election.

Some Participants that represent diaspora communities dispute this view, and insist that the Commission conduct its own forensic investigation into Russian interference. Although I understand their wish to see this happen, it is not something the Commission can do. It has neither the expertise nor the mandate to act as an intelligence agency in its own right.

I agree with them that the lack of intelligence collected by CSIS or the CSE does not definitively prove that there has been no foreign interference by Russia in the 2021 election. But it does mean that no such interference has been observed.

Of course, the Commission intends to hear from diaspora communities from a wide range of countries in the next phase of its proceedings, as well as other witnesses. If there is information that suggests foreign interference by Russia, or any other country in the 2019 or 2021 elections, the Commission will welcome it and give it appropriate consideration.

CHAPTER 8

Assessing the Impacts

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8.1 Overview

During this phase of the hearings, the Terms of Reference directed me to focus on the 2019 and 2021 general elections. In investigating these issues, I learned foreign interference is an ever-present reality not just in Canada, but around the world. I also learned that the government takes measures to try and respond to it, whether or not an election is underway.

In this way, foreign interference is like crime. It is always present. Its methods evolve. While government has ways to address it, it is likely impossible to eradicate. That said, it must be discouraged, and its effects must be mitigated.

Given this reality, the question is whether foreign interference rose to a degree that it impacted the integrity of the 2019 or 2021 general election.

In answering this, I find it useful to consider a series of questions about the 2019 and 2021 general elections, and the impact that foreign interference had on them.

- **Was there foreign interference targeting the 2019 and 2021 general elections?**

Yes. I have no difficulty concluding that there was.

- **Did foreign interference undermine the integrity of the electoral system itself?**

No. The administration of the elections was sound.

- **Did foreign interference impact which party came into power in 2019 or 2021?**

No, it did not.

- **Did foreign interference impact any election results at a riding level?**

This is a more difficult question to answer. It is possible that results in a small number of ridings were affected, but this cannot be said with certainty.

- **Did foreign interference nevertheless impact the broader electoral ecosystem?**

It did. Regardless of impact on specific election results, all foreign interference impacts the right of Canadians to have their electoral processes and democratic institutions free from covert influence, and their right to vote freely and in an informed manner.

- **Did foreign interference undermine public confidence in Canadian Democracy?**

Regrettably, the answer is yes. This is perhaps the greatest harm Canada has suffered as a result of foreign interference.

- **Did foreign interference impact everyone equally?**

It did not. The means and methods of foreign interference harm diaspora communities in Canada in distinct ways. Their experiences must not be ignored, and specific attention shall be given to them.

8.2 **There was Foreign Interference in the 2019 and 2021 Elections**

The events that I describe in Chapters 6 and 7 underlie my conclusion that some foreign countries engaged in foreign interference in the past two general elections. I must point out that other events that I cannot describe in the public report, but which are described in the Classified Supplement, also contribute to this conclusion.

I am not the only one to have reached this conclusion. Indeed, it appears that few would seriously suggest otherwise. Canadian Security Intelligence Service (“CSIS”) Director Vigneault said CSIS knew the People’s Republic of China (“PRC”) sought to clandestinely and deceptively interfere in both the 2019 and 2021 elections. The 2019 Panel of Five, established under the Critical Election Incident Public Protocol (“CEIPP”) came to the same conclusion. The 2019 Security and Intelligence Threats to Elections Taskforce (“SITE TF”) observed foreign interference activities from the PRC, and to a lesser extent India and Pakistan, targeting certain ridings and candidates. The 2021 SITE TF concluded China engaged in foreign interference in the 2021 elections. These observations are consistent with the publicly disclosable summaries of Canada’s overall intelligence holdings.

As I said above, foreign interference is an unfortunate geopolitical reality. It is therefore unsurprising that Canadian intelligence agencies observed foreign interference activities in the context of these elections. The important question that this Commission has been asked to answer is whether these attempts at interference succeeded in impacting the elections.

8.3 **Foreign Interference Did Not Impact the Electoral System Itself**

In my opinion, the evidence showed foreign interference did not impact the integrity of Canada’s electoral system in 2019 and 2021. Our electoral system is robust.

I define the “electoral system” as the rules and controls administered by Elections Canada (“EC”) to secure an election. The electoral system in this sense is defined by the rules set out in the *Canada Elections Act* and the means that Elections Canada uses to implement them.

Stéphane Perrault, Chief Electoral Officer during both elections, said he had a high level of confidence in the integrity of the results with respect to issues within EC’s mandate at both the national and individual riding levels. I agree, and no evidence suggests otherwise.

The SITE TF also saw no evidence to indicate foreign states actors were specifically targeting Elections Canada or Canadian electoral system networks in 2019 or 2021 and noted electoral systems continued to be resilient.

The Election Expert Team of the Organization for Security and Co-Operation in Europe observed our 2021 election and concluded that EC organized the election impartially and transparently and there was a high degree of trust in the integrity of Elections Canada.

Elections Canada worked with the Canadian Centre for Cybersecurity to protect the elections IT infrastructure. The Communications Security Establishment (“CSE”), while authorized to engage in defensive cyber operations to protect electoral and democratic institutions, including Elections Canada, had seen no reason to do so during either election.

I therefore believe voters were able to cast their ballots, and to have their votes faithfully recorded.

8.4 Foreign Interference Did Not Impact Which Party Formed Government

Attempting to measure the impact of foreign interference on electoral outcomes is inherently difficult. It is generally impossible to draw a straight line between a particular incident and the outcome of an election, just as it is to draw a straight line between the varied, often subtle foreign interference activities that took place during the elections and the final seat count in the House of Commons.

However, looking at the 2019 and 2021 general elections as a whole, I am confident that whatever impact foreign interference had, it did not affect which political party formed government. The Liberal Party would have been in government with or without foreign interference. In my opinion, foreign interference only manifested itself in, and could only have impacted, a handful of constituencies.

It is true, as I discussed in Chapter 7, that some disinformation about the Conservative Party of Canada (“CPC”), its then leader Erin O’Toole, and CPC candidate Kenny Chiu circulated more widely, but the nature and reach of this disinformation was such that it was only likely to have an impact within certain communities. I say this not to minimize the gravity of the incident, but as a realistic assessment of its impact on actual election results at the national level.

It should be remembered that in 2019, the LPC won 157 seats, while the CPC, which finished second, won 121. In 2021, the LPC won 160 seats and the CPC won 119.

Once again, I am not the only one to reach the conclusion that foreign interference did not change which party formed Government. Mr. O’Toole, leader of the CPC in 2021, Walied Soliman, his campaign co-chair, Michael Chong, another CPC MP with standing at the Inquiry, and the CPC itself have all told the Commission that foreign interference did not keep the CPC out of power.

Mr. O’Toole testified that the CPC had modelled the expected election results, and the votes the CPC expected to receive in its favor in certain ridings began to diminish as misinformation spread. However, he acknowledged the number of ridings affected would have been insufficient to conclude that the Liberal Party would not have formed the government. The CPC representatives accept this.

Accepting that the LPC would have still formed government is not necessarily an easy thing to do. For persons who have genuine, good faith beliefs that foreign interference had a serious impact, it might be attractive to attribute the lost election to foreign interference. The fact that there is agreement from members of the CPC that this did not occur reflects the seriousness with which Participants in these proceedings have approached the Commission’s work.

8.5 Foreign Interference Could Have Impacted Certain Riding Results

I cannot exclude the possibility that the outcome in some individual ridings could have been affected by foreign interference. However, in my view, the number of ridings at issue is relatively small, and the ultimate effects of foreign interference remain uncertain. I discuss two examples of potentially affected ridings here.

In 2019, a primary example of observed potential foreign interference was the Liberal Party nomination race in Don Valley North, a riding in the Greater Toronto Area. As explained before, there are strong indications that there was

a bus transporting international students, most likely Chinese, who attended the Don Valley North nomination contest and likely voted in support of Han Dong. Some information contained in the Classified Supplement reinforces this conclusion.

I cannot exclude the possibility that, if the PRC did interfere in the Don Valley North nomination, this may have impacted the result of the nomination contest. The nomination race was “very close,” and it is not possible to determine the number of students who were on the buses, or how they ultimately voted. Given that Don Valley North was considered a “safe” Liberal seat, if foreign interference did impact the nomination race, this would likely not have affected which party held the riding. It would, however, have affected who was elected to Parliament. This is significant.

In 2021, a significant instance of potential foreign interference was the electoral race in Steveston–Richmond East.

As I discuss in Chapter 7, in late August and early September 2021, misleading information about the Conservative Party, Mr. O’Toole and CPC candidate Kenny Chiu circulated on media outlets known or suspected to have ties to the PRC. These articles painted the Conservative Party and the candidates as anti-China and attempted to dissuade Chinese Canadians from voting for them.

Although no definitive link between these false narratives and the PRC has been proven, there are strong indicators of PRC involvement. While there may not have been a direct “tasking” by the PRC, this may not have been necessary – those who wish to assist the PRC often know what to do without being told. This is part of what makes PRC interference so insidious, and so difficult to detect.

The impact of this misleading information on the election result in Mr. Chiu’s Steveston–Richmond East riding is difficult to determine. There are a multitude of factors that may affect how someone votes. Moreover, in Canada how someone votes is secret. It is therefore not possible to directly link the misleading media narratives with how any given voter cast their ballot. And even if I were to assume that some votes were changed, there is no way to know whether enough votes were changed to affect the result.

All that I am able to conclude is that there is a reasonable possibility that the media narrative discussed above could have impacted the result in Steveston–Richmond East. I go no further than that.

I note that there have been suggestions that multiple seats were affected by foreign interference in 2021. I am of the view that the evidence before me does not permit me to make such a finding. I note that the alleged disinformation campaign targeting Mr. O’Toole and the CPC targeted a discrete community. While such a campaign could have had an impact in a riding like Mr. Chiu’s, it is more challenging to say whether it could have had a similar impact on a wider scale. It is possible that the online narratives could have led to wider allegations of anti-Asian racism on the part of the CPC and

thus, potentially a wider impact. However, I simply do not have a basis on which to make a finding that such an effect occurred.

In saying this, I do not mean to minimize the legitimate concerns of those who raised these issues. My findings are limited to the evidence before me. And as I discuss below, regardless of whether actual electoral results are affected, the problem of foreign interference is pervasive, insidious, and harmful to Canada's democratic institutions.

8.6 Foreign Interference Impacted the Electoral Ecosystem in 2019 and 2021

Although the election result at a national level was not impacted, and only a few races were potentially impacted at a riding level, I nevertheless conclude that foreign interference impacted the overall election ecosystem in 2019 and 2021.

This “electoral ecosystem” includes not only the electoral process itself and the participants within it, such as political parties, candidates and voters, but also the norms that contribute to free and fair elections, such as freedom of expression and a free press, the principle that voters should not be misled, induced or coerced, and the right to be free from transnational repression.

In my view, foreign interference has an impact when there is a single instance where a ballot is cast in a certain way, or not cast at all, because of a foreign state's direct or indirect enticement, misinformation, disinformation or coercion. Foreign interference that discourages political engagement and discourse is harmful to Canadian democratic processes.

Further, in considering the effects of foreign interference, we must look past the narrow question of how ballots are cast. Foreign interference can also impact how candidates engage with their communities or how policy proposals are put forward and defended. These sorts of impacts are less tangible and more difficult to identify, but they are very real, and in my opinion, equally harmful.

As I have already stated, assessing the impacts of foreign interference on elections is hard. However, the evidence allows me to conclude foreign interference likely impacted some votes in the 2019 and 2021 general elections. More broadly, foreign interference in 2019 and 2021 undermined the right of voters to have an electoral ecosystem free from coercion or covert influence. This impact has likely been slight to date, but may become more severe in the future.

I would also like to emphasize that there is a real risk of politicians modifying their positions or their messages as a result of foreign interference, and this

risk will increase if we do not take sufficient protective measures to guard against it. This outcome would be very detrimental to the functioning of our democracy, as it would undermine the fundamental principle that politicians must be free to express their opinions, and those of their constituents, without fear and without covert influence from a foreign state.

8.7 Foreign Interference Impacts Confidence in Canadian Democracy

The main impact of foreign interference in the 2019 and 2021 elections has been, for some Canadians, rightly or wrongly, reduced trust in Canada's democratic process.

Public trust in democratic government institutions is important in a democratic country like Canada. Trust leads to greater acceptance of public policies, nurtures political participation, strengthens social cohesion and builds institutional legitimacy.

A loss of trust occurs when Canadians perceive the integrity of our electoral process to have been undermined.

While awareness and foreign interference may at one time have been largely within the domain of security and intelligence agencies and hidden from public view, the cat is now out of the proverbial bag. The result has been to shake the confidence of Canadians in their electoral processes. Left unchecked, the spectre of foreign interference threatens to further reduce Canadians' trust in the resilience of our democratic institutions.

Ironically, I note that undermining faith in democracy and government is a primary aim of many of the states that engage in foreign interference. And trust, once diminished, can take a long time to rebuild. It is therefore important that the government work hard to re-establish Canadians' trust in their democratic institutions by informing them of the threat of foreign interference, and by taking real and concrete steps to detect, deter, and counter it. I hope that the second phase of this Commission's work will assist in this regard.

8.8 Foreign Interference Impacts Diaspora Communities Differently

At the outset of the factual phase of the hearings, I heard from a panel of members of diaspora communities in order to gain a greater understanding of how foreign interference impacts their communities, and to give context for the remaining evidence that I would hear.

Diaspora communities are a common target of foreign interference, a reality that I discussed in Chapter 4. Here, I discuss some of the extensive contextual information the diaspora panel participants provided.

Panel members told me governments in their countries of origin target people in Canada to promote the political agenda of those foreign states. This is attempted by causing divisions among Canadian communities, disrupting Canada's political system in different ways to promote foreign policies, and spying on Canadians to identify activists who seek to promote democracy within a foreign country.

Foreign interference tactics are varied. There is disinformation and information manipulation, as well as threats against communities. Governments from people's countries of origin have targeted them on social media and through cyber-attacks, surveilled them and threatened them verbally and physically. People spoke about family members in their countries of origin having their passports taken away or denied so they cannot come to Canada to visit. Some are denied access to consulates from their countries of origin, which can impact their immigration status in Canada and their ability to travel to certain countries, including their country of origin.

Panel members said that the PRC and Russia threaten people's families living in their country of origin. The PRC blocks communication between diaspora members and family and friends in China. At the same time, it also leverages inducements such as expensive meals and trips to China. For its part, Russia uses laws that allow it to criminally prosecute people abroad who engage in political activism.

Transnational repression is a real concern to diaspora communities. One panel member said it occurs when a person's country of origin leverages its influence on another country to imprison them, often extraditing them to their country of origin. Others used it to refer more generally to repressive treatment of diaspora communities, which can include foreign interference.

In terms of foreign interference impacts related to the electoral process specifically, one impact is that Canadian diaspora members are discouraged from getting involved in their communities, including through the Canadian political process. They are also discouraged from engaging freely in public discourse. Disinformation may undermine the credibility of politicians who are diaspora members, discredit diaspora constituents and disenfranchise

diaspora members from the political process. It can even discourage diaspora members from entering politics.

Another impact of foreign interference is that it increases distrust in Canadian democracy and media.

These are not just facts that help me to understand foreign interference. They are the lived experiences of thousands of Canadians who should have the right to enjoy the same rights and freedoms as other members of Canadian society. Foreign interference and transnational repression deny them that right. While all Canadians are victims of foreign interference when it occurs, it would be naïve to say that it affects us all equally.

When assessing the harm that foreign interference has caused to Canada's democratic processes – to Canada's democratic life – this reality must never be forgotten.

Conclusion

As I explained in Chapter 2, my work respecting the 2019 and 2021 elections does not end with this Initial Report. Therefore, there may be evidence in the next stage of the Commission's investigation that requires me to revisit or expand upon my conclusions. There was also evidence gathered during this phase of the Commission's work that will inform the next part of its mandate.

For example, one difficulty in addressing foreign interference in the electoral context is that as soon as the impact of foreign interference is known, there is a loss of trust in our democracy. Government made the Critical Election Incident Public Protocol ("CEIPP") threshold high in part because a public announcement about a threat to Canada's ability to have a free and fair election is likely to make people lose trust in our electoral process. While a public announcement can sound an alarm, it can also serve a foreign state's goal to sow discord and discredit democracy.

The evidence thus far shows people are right to be worried and to want to "shine a light" on what is going on, but that we must do so with care not to unnecessarily erode public confidence in a system that remains fundamentally sound. This paradox is one of the issues I will look at in the next stage of my work.

Similar challenges arise in terms of responding to online misinformation and disinformation, short of an announcement by the Panel of Five. In 2021, the government appeared to require a very high certainty that foreign states were responsible for online activity, in part out of concern about intervening in domestic democratic discourse. The Commission must examine this issue.

A related issue is whether Canada has the tools to effectively respond to online misinformation or disinformation in the first place. If, for example, it would be appropriate for someone to intervene in a situation like the narratives targeting Kenny Chiu, who would do this and how should it be done?

The question of how intelligence and information about foreign interference should be communicated within government, and how that information should be communicated to the public, and to those likely to be vulnerable to foreign interference, also require further study before I can make definitive recommendations. In my opinion, the evidence I have heard to date does not demonstrate bad faith on anyone's part, or that information was deliberately and improperly withheld, but it does suggest that on some occasions, information related to foreign interference did not reach its intended recipient, while on others the information was not properly understood by those who received it. These are serious issues that need to be investigated and considered.

I also note that the Canadian Security Intelligence Service, which communicates a great deal of information and works hard to raise awareness of the importance of tackling foreign interference, is nevertheless circumspect with details when informing others of the intelligence it has gathered and the conclusions it has drawn.

In my view, revealing only general information with few specific risks obscuring the importance of what is being communicated, thereby reducing the likelihood that those receiving the information will internalize and act on it. In saying this, I recognize that operational and security considerations may necessarily limit the level of detail that can be shared. Nevertheless, we must consider whether it is possible, and whether it is advisable, for our intelligence agencies to say more.

Another question that requires further study is the question of state attribution. The evidence I have heard is that attributing electoral interference to foreign state actors can be extremely challenging, especially with the sophisticated online tools and tactics now available, and the use of proxies and co-optees.

Finally, I wish to reiterate that even the factual findings that I have made in this report are only preliminary. Depending on the evidence I hear during the next phase of the hearings, I may need to revisit them. In particular, as the Commission gathers more information from impacted diaspora communities in Canada, I may find evidence that causes me to revisit some of my initial findings.

I will be considering these and many other questions as I continue my work. Suffice to say that the Commission, with help from Participants, witnesses, and the public, has made substantial progress. Much more, however, remains to be done.

ANNEX A

Glossary

Term	Acronym or Abbreviation	Definition
Act (Loi)		Law adopted by Parliament or a provincial or territorial legislature
Aggregate up (Consolidation / Consolider)		See “Write to release.”
Assistant Deputy Ministers’ National Security Operations Committee (Comité des sous- ministres adjoints sur les opérations de sécurité nationale)	ADM NS Ops (CSMAOSN)	Committee of assistant deputy ministers from across government departments that coordinates operational responses to national security matters.
Assistant Deputy Ministers’ National Security Policy Committee (Comité des sous- ministres adjoints sur la politique de la sécurité nationale)	ADM NS Pol (CSMAPSN)	Committee of assistant deputy ministers from across government departments that coordinates policy responses to national security matters.
Attorney General of Canada (Procureur général du Canada)	AGC (PGC)	<p>Chief law officer of government, also the Minister of Justice.</p> <ul style="list-style-type: none"> • Conducts litigation on behalf of the Government of Canada. • Does not represent individual government departments or agencies but gives them legal advice and legislative services. • Acts in the public interest to uphold the Constitution, rule of law and respect for independence of the courts.

Term	Acronym or Abbreviation	Definition
Bill (Projet de loi)		Proposed law submitted to Parliament for approval.
Cabinet		<p>Political decision-making body chaired by the Prime Minister.</p> <p>Made up of ministers appointed by the Governor General on the recommendation of the Prime Minister (i.e. Cabinet ministers).</p> <p>By convention, Cabinet ministers are usually Members of Parliament. They head up government departments.</p>
Canadian Centre for Cyber Security (Centre canadien pour la cybersécurité)	CCCS (CCC)	Part of the Communications Security Establishment (CSE). It is the unified source of expert advice, guidance, services and support on cyber security for Canadians.
Canadian Security Intelligence Service (Service canadien du renseignement de sécurité)	CSIS (SCRS)	<p>Federal government agency governed by the <i>Canadian Security Intelligence Service Act</i>.</p> <ul style="list-style-type: none"> Investigates activities suspected of being threats to the security of Canada and reports on these to the Government of Canada. Can also take measures to reduce threats to the security of Canada. Can also render assistance to certain Ministers in gathering foreign intelligence within Canada.
Chief Electoral Officer (Directeur général des élections)	CEO (DGE)	<p>Head of Elections Canada. Responsible for running elections and regulatory compliance with election rules.</p> <p>Directly responsible to Parliament, not to the Government of Canada.</p>
Classified information (Information classifiée)		<p>Information government declares potentially injurious to the national interest if disclosed, as per the following three categories:</p> <ul style="list-style-type: none"> Confidential – Limited or moderate injury Secret – Serious injury Top Secret – Extremely grave injury

Term	Acronym or Abbreviation	Definition
Clerk of the Privy Council and Secretary to the Cabinet (Greffier du Conseil privé et secrétaire du Cabinet)	Clerk (Greffier)	Head of the Privy Council Office, who also serves as Secretary to the Cabinet and Deputy Minister of the Prime Minister
Commission counsel (Avocats de la Commission)		Lawyers who work for the Commissioner on the Foreign Interference Commission.
Commissioner of Canada Elections (Commissaire aux élections fédérales)	CCE (CEF)	Ensures compliance with the <i>Canada Elections Act</i> and the <i>Referendum Act</i> . Appointed by the Chief Electoral Officer after consultation with the Director of Public Prosecutions of Canada.
Communications Security Establishment (Centre de la sécurité des télécommunications)	CSE (CST)	Federal government agency providing government with foreign signals intelligence, cyber security and information assurance. The Canadian Centre for Cyber Security is part of CSE.
Compartmented information (Information cloisonnée)		Classified information subject to an additional control system (an administrative framework) that sets standards for access, marking, handling and control of information.
Critical Election Incident Public Protocol (Protocole public en cas d'incident électoral majeur)	CEIPP (PPIEM)	Protocol applied during federal elections by a panel of five senior civil servants (the “Panel” or the “Panel of Five”): <ul style="list-style-type: none"> • Clerk of the Privy Council • National Security and Intelligence Advisor to the Prime Minister • Deputy Minister of Justice and Deputy Attorney General • Deputy Minister of Public Safety Canada • Deputy Minister of Foreign Affairs Aimed at protecting federal elections from interference, including foreign interference.
Declassification (Déclassification)		Process of removing a document’s classified designation.

Term	Acronym or Abbreviation	Definition
Democratic Institutions Secretariat of the Privy Council Office (Secrétariat des institutions démocratiques du Bureau du Conseil privé)	DI	PCO Secretariat that provides policy support and advice to the Prime Minister and the Minister of Democratic Institutions on institutional issues that impact Canadian democratic institutions.
Department of National Defence (Ministère de la Défense nationale)	DND (MDN)	Federal government department that supports the Canadian Armed Forces.
Deputy Ministers Committee on Operational Coordination (Comité des sous-ministres sur la coordination opérationnelle)	DMOC (CSMCO)	Committee of deputy ministers from various government departments that coordinates operational responses to national security matters.
Deputy Ministers National Security Committee (Comité des sous-ministres sur la sécurité nationale)	DMNS (CSMSN)	Committee of deputy ministers from across government departments that coordinates policy responses to foreign interference.
Elections Canada (Élections Canada)	EC	Entity responsible for administering federal elections. Headed by the Chief Electoral Officer (CEO).
Elections Security Coordinating Committees (Comités de coordination de la sécurité des élections)	ESCC (CCSE)	Committees of senior government and Elections Canada officials created during federal elections (deputy minister, assistant deputy minister or director general level). Co-chaired by the Privy Council Office and Elections Canada. Ensure a coordinated approach and common understanding among the security and intelligence community, Elections Canada and the Commissioner of Canada Elections.
<i>Ex parte</i> hearing (Audience ex parte)		Hearing before a decision maker with only one party present, and without notice to other parties and the public.

Term	Acronym or Abbreviation	Definition
Executive branch (Pouvoir exécutif)		<p>One of three branches of Canada’s system of government. The other two are the legislative and judicial branches. Each branch has different powers and responsibilities defined in the Constitution.</p> <p>Executive branch implements laws and policy.</p> <p>Prime Minister and Cabinet are the executive branch of government.</p>
Five Eyes (Groupe des cinq)		<p>Intelligence alliance made up of Australia, Canada, New Zealand, the United Kingdom and the United States.</p> <p>These countries are parties to the multilateral UK-USA Agreement, a treaty for cooperation in signals intelligence.</p> <p>Informally, “Five Eyes” can also refer to the group of intelligence agencies of these countries.</p>
Foreign Interference Commission (Commission sur l’ingérence étrangère)	Commission	Public Inquiry into Foreign Interference in Federal Electoral Processes and Democratic Institutions.
G7 Rapid Response Mechanism (Mécanisme de réponse rapide du G7)	G7 RRM (MRR du G7)	<p>G7 (Canada, France, Germany, Italy, Japan, the United Kingdom and the United States) mechanism for identifying and responding to foreign threats to democracy.</p> <p>The G7 RRM is coordinated by the G7 RRM Secretariat, which is a part of Global Affairs Canada.</p>
Global Affairs Canada (Affaires mondiales Canada)	GAC (AMC)	<p>Federal government department that manages diplomatic relations, promotes international trade and provides consular assistance.</p> <p>Also leads international development, humanitarian, peace and security assistance efforts as well as contributes to national security and the development of international law.</p>
Governor General (Gouverneure Générale)	GG	The Crown’s representative in Canada and Canada’s head of state.

Term	Acronym or Abbreviation	Definition
Governor in Council (Gouverneur en conseil)	GIC (GEC)	<p>Governor General acting with the advice of the King’s Privy Council for Canada.</p> <p>By convention, the Governor General exercises their powers only on the advice of members of the King’s Privy Council which includes members of Cabinet (see definition of “King’s Privy Council for Canada”).</p> <p>In practice, the “Governor in Council” is the federal Cabinet.</p> <p>Governor in Council decisions are often formally issued as orders in council.</p>
<i>In camera</i> (Huis clos)		<p>Legal term meaning “in private”.</p> <p>For example, <i>in camera</i> hearings are hearings without the presence of the public or press.</p>
Intelligence Assessment Secretariat (Secrétariat de l’évaluation du renseignement)	IAS (SER)	<p>Strategic intelligence analysis and assessment unit within the Privy Council Office for intelligence collected by security and intelligence agencies.</p> <p>Provides analysis and assessments to the Prime Minister, Cabinet, the Clerk of the Privy Council and Secretary to the Prime Minister and senior government officials.</p>
Intervener (Intervenant)		<p>Entity with “standing” (see definition) at the Foreign Interference Commission with limited participatory rights.</p> <p>Entitled to notice of the Commission’s public hearings and to attend them as a Participant, to make submissions, receive exhibits from the public hearings and other rights if specifically granted by the Commissioner.</p>
Judicial branch (Pouvoir judiciaire)		<p>One of three branches of Canada’s system of government. The other two are the legislative and executive branches. Each branch has different powers and responsibilities defined in the Constitution.</p> <p>The judicial branch interprets laws.</p> <p>The courts are the judicial branch of government.</p>
King’s Privy Council for Canada (Conseil privé du Roi pour le Canada)		<p>Group appointed by the Governor General to advise the King: Cabinet ministers, former Cabinet ministers, the Chief Justice of Canada, former chief justices, former speakers of the House of Commons, former speakers of the Senate, former governors general and distinguished individuals.</p> <p>The entire Privy Council almost never meets.</p>

Term	Acronym or Abbreviation	Definition
Legislative branch (Pouvoir législatif)		<p>One of three branches of Canada’s system of government. The other two are the executive and judicial branches. Each branch has different powers and responsibilities defined in the Constitution.</p> <p>The legislative branch makes laws.</p> <p>Parliament (the Senate and House of Commons) is the legislative branch of the federal government.</p>
Minister of Justice (Ministre de la Justice)		<p>Head of the Department of Justice and the legal member of Cabinet responsible for justice policy development.</p> <p>They are also the Attorney General of Canada (see above).</p>
National Security and Intelligence Advisor to the Prime Minister (Conseiller à la sécurité nationale et au renseignement auprès du premier ministre)	<p>NSIA</p> <p>(CSNR)</p>	<p>Gives policy and operational advice to the Prime Minister and Cabinet on national security matters to ensure coordination of government responses to threats.</p> <p>Receives information from its Secretariats and from the security and intelligence community.</p> <p>Has the status of a deputy minister within the Privy Council Office and reports to the Clerk of the Privy Council and Secretary to the Cabinet.</p>
National Security and Intelligence Committee of Parliamentarians (Comité des parlementaires sur la sécurité nationale et le renseignement)	<p>NSICOP</p> <p>(CPSNR)</p>	<p>Statutory committee composed of Members of Parliament and Senators governed by the <i>National Security and Intelligence Committee of Parliamentarians Act</i>.</p> <p>Reviews government intelligence operations, including the legislative, regulatory, policy, administrative and financial framework for national security and intelligence.</p> <p>Also reviews the activity of any government department relating to national security or intelligence (unless it is an ongoing operation, and the minister determines a review would be injurious to national security) and investigates any matter a minister refers to it about national security or intelligence.</p>

Term	Acronym or Abbreviation	Definition
National Security and Intelligence Review Agency (Office de surveillance des activités en matière de sécurité nationale et de renseignement)	NSIRA (OSSNR)	Statutory review body, external to government, created by the <i>National Security and Intelligence Review Agency Act</i> and which reports to Parliament. Reviews and investigates government national security and intelligence activity to ensure it is lawful, reasonable and necessary. Also investigates complaints about key national security agencies and activities.
National security confidentiality (Confidentialité à des fins de sécurité nationale)	NSC	Restriction of access to, and disclosure of, certain government information to protect national security interests.
Office of the Commissioner of Canada Elections (Bureau du commissaire aux élections fédérales)	OCCE (BCEF)	Organization led by the Commissioner of Canada Elections (CCE) within the Office of the Chief Electoral Officer (OCEO). In its compliance and enforcement responsibilities under the Canada Elections Act, the OCCE acts independently from the OCEO.
Office of the Chief Electoral Officer (Bureau du directeur général des élections)	OCEO (DGE)	Independent agency made up of Elections Canada and the Office of the Commissioner of Canada Elections (OCCE).
Order in council (Décret)	OIC	Legal instrument made by the Governor in Council under statutory authority (or less frequently the royal prerogative). Always made on the recommendation of the responsible minister of government and only has legal effect when signed by the Governor General.
Panel or Panel of 5 (Panel des cinq)		See “Critical Election Incident Public Protocol”.
Participant		Individual or entity with standing at the Foreign Interference Commission, either a Party or Intervener.
Party (Partie)		Individual or entity with “standing” (see definition) at the Foreign Interference Commission with full rights to participate, including a right to access documents in advance of the hearings and to question witnesses. A Party is also a Participant.

Term	Acronym or Abbreviation	Definition
Preliminary hearings / National Security Confidentiality hearings (Audiences préliminaires / Audiences sur la confidentialité à des fins de sécurité nationale)	NSC hearings (Audiences relatives à la CSN)	Foreign Interference Commission’s public hearings held from January 29 to February 2, 2024. These hearings were required by Clause (a)(i)(D) of the Terms of Reference and were focused on identifying challenges, limitations and potential adverse impacts associated with disclosing classified national security information and intelligence to the public. The purpose of the hearings was to foster transparency and enhance public awareness and understanding.
Prerogative (Prérogative)		Exclusive privilege or right exercised by a person or group of people holding a particular office or hereditary rank (e.g. Royal prerogative).
Prime Minister’s Office (Cabinet du premier ministre)	PMO (CPM)	Office responsible for assisting the Prime Minister in carrying out his responsibilities as head of government, leader of a political party in the House of Commons and as a Member of Parliament. It is made up of political staff and not career public servants.
Privileges		
— Cabinet confidences privilege (Privège relatif aux renseignements confidentiels du Cabinet)		Protects Cabinet confidentiality. Protection of Cabinet confidences is a common law rule as well as a statutory rule under the <i>Canada Evidence Act</i> , s. 39 and the <i>Access to Information Act</i> . Applies to anyone involved in Cabinet meetings, even if not ministers.
— Litigation privilege (Privège relative au litige)		Protects communications (including documents) between a lawyer, their client or a third party created for the dominant purpose of preparing for existing or anticipated litigation.
— Parliamentary privilege (Privège parlementaire)		Rights and immunities deemed necessary for the House of Commons and the Senate and their members to fulfill their functions. For examples: freedom of speech in the House and in committees of the House, and exemption from subpoenas to attend court as a witness. Also, power of the House of Commons and Senate to protect themselves, their members and their procedures from undue interference so they can carry out their principal functions effectively.

Term	Acronym or Abbreviation	Definition
— Section 38 of the <i>Canada Evidence Act</i> privilege (Privège en vertu de l'article 38 de la <i>Loi sur la preuve au Canada</i>)		<p>Protects information that if disclosed could cause injury to Canada's international relations, national defence or national security. Protection of the latter is also called "national security privilege."</p> <p>Information protected by section 38 privilege can only be disclosed if a court so orders or the Attorney General of Canada allows it.</p>
— Solicitor-client privilege (Privège du secret professionnel de l'avocat)		<p>Protects communications (including documents) between a lawyer and their client created for the purpose of seeking or giving legal advice and intended to be kept confidential.</p> <p>This privilege belongs to the client who is the only person who can waive it.</p>
— Public interest privilege (section 37 of the <i>Canada Evidence Act</i>) (Protection des renseignements d'intérêt public, (article 37 de la <i>Loi sur la preuve au Canada</i>)		<p>Protects information based on specified public interests. Any sufficiently compelling public interest can justify non-disclosure.</p> <p>Has been held to protect the identity of confidential informants, information about ongoing criminal investigations, information about sensitive investigative techniques and information that if disclosed would endanger the safety of public officers or the public.</p> <p>Also called "specified public interest immunity."</p>
Privy Council Office (Bureau du Conseil privé)	PCO (BCP)	<p>Government department with the principal role to coordinate government administration. Often described as the Prime Minister's Department.</p> <p>Provides non-partisan advice to the Prime Minister, Cabinet and Cabinet Committees on matters of national and international importance.</p> <p>Supports Cabinet decision-making and ensures implementation of the government's policy and legislative agenda across all federal departments and agencies.</p>
Protected information (Information protégée)		<p>Information government has decided public disclosure could reasonably be expected to injure an interest outside the national interest. There are three categories:</p> <ul style="list-style-type: none"> • Protected A (limited or moderate injury). • Protected B (serious injury). • Protected C (extremely grave injury).

Term	Acronym or Abbreviation	Definition
Public Safety Canada (Sécurité publique Canada)	PS (SP)	Federal government department responsible for public safety, national security and emergency management.
Regulation (Réglementation)		A law made by a person or body granted (delegated) law-making authority.
Royal assent (Sanction royale)		When the Governor General approves a bill passed by Parliament making it an Act of Parliament.
Royal Canadian Mounted Police (Gendarmerie royale du Canada)	RCMP (GRC)	Canada's national police service. Prevents and investigates crime, maintains peace and order, enforces laws, contributes to national security, ensures the safety of designated government officials and foreign dignitaries and the diplomatic community and provides operational support to other police and law enforcement agencies within Canada and abroad.
Sanitization (Déclassement)		The process of reducing the classification level of a document.
Security and Intelligence Community (Communauté de la sécurité et du renseignement)	SI Community	Government of Canada departments and agencies working on national security and intelligence gathering: PCO, PS, CSIS, CSE, GAC and the RCMP.
Security and Intelligence Secretariat of the Privy Council Office (Secrétariat de la sécurité et du renseignement)	SIS	PCO Secretariat that gives policy advice and supports the National Security and Intelligence Advisor to the Prime Minister in briefing the Prime Minister and Cabinet on key national security issues. Has a coordination role when national security or intelligence issues are before Cabinet. Works with Public Safety Canada and other government departments to convene and support regular senior governance meetings on foreign interference threats and responses.

Term	Acronym or Abbreviation	Definition
Security and Intelligence Threats to Elections Task Force (Groupe de travail sur les menaces en matière de sécurité et de renseignement visant les élections)	SITE TF (Groupe de travail)	An intergovernmental task force with representatives from: <ul style="list-style-type: none"> • Canadian Security and Intelligence Service (CSIS) • Communications Security Establishment (CSE) • Global Affairs Canada (GAC) • Royal Canadian Mounted Police (RCMP) Created to safeguard federal elections from foreign interference.
Standing (Qualité pour agir)		Opportunity to participate directly in proceedings (i.e. in court or before administrative tribunals) with certain rights. The Foreign Interference Commission’s <i>Rules of Practice and Procedure</i> govern who can have standing as a Party or Intervener (collectively, “Participants”) in the Commission’s proceedings.
Standing Committee on Access to Information, Privacy and Ethics (Comité permanent de l’accès à l’information, de la protection des renseignements personnels et de l’éthique)	ETHI	Made up of members of Parliament. Studies matters related to: <ul style="list-style-type: none"> • The Office of the Information Commissioner of Canada • The Office of the Privacy Commissioner of Canada • The Office of the Commissioner of Lobbying of Canada Also studies certain issues related to the Office of Conflict of Interest and Ethics Commissioner.
Standing Committee on Procedure and House Affairs (Comité permanent de la procédure et des affaires de la Chambre)	PROC	Made up of members of Parliament. Studies and reports on: <ul style="list-style-type: none"> • the rules and practices of the House and its committees • electoral matters • questions of privilege • Member of Parliament conflicts of interest Internal administration of the House Services and facilities for members of Parliament.

Term	Acronym or Abbreviation	Definition
Terms of Reference (Mandat)	ToR	The Foreign Interference Commission’s mandate as set out in Order in Council P.C. 2023-0882 (which creates the Foreign Interference Commission and appoints the Commissioner).
Write to release (Rédiger pour publier)		When a security and intelligence agency produces an unclassified document for public release based on classified materials.

ANNEX B

Q & A: Elections, Foreign Interference and Commissions of Inquiry

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B.1

Elections in Canada

Why does Canada have elections?

Free and fair elections are indispensable to a healthy representative democracy. Elections are held so Canadians can choose who will represent them in the House of Commons and who will make decisions on their behalf and in the public interest.

Healthy democracies such as Canada's respect the will of the public and have the following characteristics:

- Robust competition between political parties and candidates who are free to express themselves without fear of censorship or retaliation.
- Universal suffrage. In Canada, all Canadian citizens aged 18 years or older are allowed to vote in federal elections.
- Fair and transparent administration that is independent of any political influence.
- Elections at regular intervals so the public can have their voices heard and hold governments and elected representatives to account.
- Secret ballots to cast votes so individuals can vote as they wish without fear of consequences.

Democracies like Canada also constitutionally protect the right to vote, freedom of association and freedom of expression. Freedom of association protects an individual's right to join groups, including political parties, labour unions and religious organizations. Freedom of expression includes the right to free thought, belief, opinion, and expression. This includes the right of the media to communicate and publish. Censorship must be justified in the context of a free and democratic society.

What is our electoral system?

Canada uses a voting system called “first past the post” or “single-member plurality.” This means voters in each riding choose one person to represent them in the House of Commons. Each voter casts one ballot in favour of their preferred candidate and the candidate with the most votes wins. Winning more than 50% of the votes is not necessary to be elected.

It is important to note, in a parliamentary system like Canada's, citizens do not vote directly for a prime minister, nor do they choose a government. Citizens vote to select who will be the Member of Parliament for their riding.

While citizens vote for individual candidates rather than political parties or party leaders, candidates are normally members of a political party. This is

clearly identified on the ballot. The political party that wins the most ridings usually forms the government with the leader of that political party appointed Prime Minister.

If a political party wins more than 50% of the ridings, it is usually referred to as a “majority government.” If the party with the largest number of ridings wins less than 50% of them, it is usually called a “minority government.” A majority government can carry out its policy agenda without the support of any other political party. A minority government needs support from at least one other party in the House of Commons to pass laws.

When do elections happen?

Elections are called by the Governor General. The Governor General is the Crown’s representative in Canada and head of state. One of the main roles of the Governor General is to dissolve Parliament on the advice of the Prime Minister. Once dissolved, all work of Parliament stops. There are no more meetings of the House of Commons or the Senate or their committees. Any bills not yet signed into law must be reintroduced as new bills after the election.

After Parliament is dissolved, the Governor General advises the person responsible for the administration of the election, Canada’s Chief Electoral Officer, to issue the writs of election. These writs are formal written orders to the election officers in each riding to hold an election. At this point, the election campaign begins in earnest. Campaigns usually last 36 days, during which candidates compete for the support of voters.

During the Caretaker period (from when an election is called to the formation of the next government), the Prime Minister and cabinet ministers continue their roles in the executive branch of government but as “caretakers.” This means they make decisions and take actions to continue the normal operations of government. However, they are not supposed to make decisions or take actions that would constrain a future government, make spending announcements, or introduce new policies.

What are electoral districts or ridings?

Canada is currently divided into 343 federal electoral districts, also called ridings. Each riding is represented by one Member of Parliament. Every ten years, the country undertakes a census to gather data about the population. After each census, independent electoral boundaries commissions are appointed in each province to determine whether changes in the population of the province justify changing any electoral boundaries.

A district’s boundaries consider mainly its geographic and population size. The intent is to respect the principle of voter equity, where each vote cast

should have equal weight. However, other rules and principles involved in determining how ridings are drawn can also impact district boundaries. These include ensuring adequate geographic representation across Canada and better representation of communities of interest such as linguistic minorities. As a result, there remains significant variation in the populations of ridings across the country. For example, each of the four electoral districts on Prince Edward Island had between 35,000 and 40,000 electors in 2021. In contrast, most ridings in Ontario had over 100,000 electors.

Each level of government (federal, provincial and territorial and municipal) determines how their electoral boundaries are drawn.

What is a registered political party?

It is a political party registered with Elections Canada, an independent organization that administers elections in Canada. They must have at least 250 members who are electors, and present at least one candidate in an upcoming federal election. The larger registered political parties typically nominate a candidate to represent them in every electoral district.

How are candidates nominated?

Candidates are nominated by winning a nomination contest, which is a competition to determine who will represent a political party in a riding. Local nomination contests are held in advance of the election or sometimes in the early days of the campaign. These contests are run by the local riding associations of political parties, who then communicate the results to Elections Canada so the selected candidate's name can be put on the ballot.

The role of local riding associations is to organize nomination contests, support local candidates and mobilize party support in the community. Nomination contests can be hotly contested and attract significant media attention. Individuals typically compete for the nomination by signing up new party members who pledge to support them. However, the leader of the party may sometimes intervene and select who will run for the party in the riding.

Is it legal to make donations to political parties and candidates?

Yes, it is legal and even encouraged to participate in the electoral process by making political donations. However, Canada places limits on the amount of money individuals can donate to political parties, candidates, and riding associations. Limiting the size of donations is to prevent any undue influence

on any candidate. By contributing a large sum of money, a donor could create a real or perceived sense of obligation on the part of an elected official.

Canada also limits the amount of money political parties, candidates and riding associations can spend during the campaign on travel, campaign materials, office rent, advertising, etc. The amount of money political actors can spend is limited so no candidate or party can dominate the political debate because they raised more money.

Candidates and parties may raise different amounts of money, depending on how strong their campaign is and how popular their ideas are. However, keeping a relatively level playing field has democratic value. It promotes a robust exchange of ideas that does not inappropriately advantage the wealthiest parties and candidates.

Only Canadian citizens and permanent residents of Canada can make individual political contributions. In 2024, the maximum amount a person could contribute during the year is limited to \$1,725 to each of the following:

- Each registered political party.
- All riding associations, nomination contestants and candidates of political parties combined.
- All contestants in a party leadership race combined.
- Each candidate not affiliated with a registered political party.

Can people who are not candidates or members of political parties engage in activities to influence elections?

Yes, individuals and groups that are not candidates, registered political parties or riding associations can seek to influence the political debate within certain limits. They are called “third parties”. Third parties must be registered with Elections Canada. They can register if they are a Canadian citizen or permanent resident, if they live in Canada, are a Canadian corporation, or group where the person responsible is a Canadian citizen, is a permanent resident or lives in Canada. Foreign corporation doing business in Canada can also register so long as their primary purpose is not to influence elections.

Third parties are not registered political parties and do not run candidates in any ridings. Instead, they seek to influence support for or against certain ideas, issues, candidates or parties.

Because of their potential to affect the outcome of elections, there is a limit to how much third parties can spend on election activities. In 2024, the maximum amount a third party could legally spend on election activities, including advertising, is \$4,971 per riding and \$579,950 overall.

Who can vote?

To vote in a Canadian federal election, one must be at least 18 years old and a Canadian citizen. Their name should also appear on the National Register of Electors, a preliminary list of eligible voters compiled and renewed largely through other lists gathered by government entities, including the Canada Revenue Agency.

If a voter's name is not on the National Register of Electors, the voter can add it to the Register before the election by contacting the Elections Canada office in their riding. A voter can also add their name to the Register at the polling station on the day of the election by showing proof of identity and address. If the voter cannot prove their identity and address, another person can “vouch” for the fact the voter lives in the riding. That person must have their own proof of identity and be assigned to vote at the same polling station.

How can people vote?

On election day, eligible voters must vote at their designated polling station in their electoral district. People on the National Register of Electors will receive a Voter Information Card in the mail that tells them where they can vote.

When a voter shows their Voter Information Card at the polling station, the agent crosses their name off the list and gives them a ballot with the names of the official candidates in the riding. If a voter does not present their Voter Information Card, they can use other means of identification to prove they live in the riding.

Candidates running as representatives of political parties will have the name of their party next to theirs on the ballot. Standing behind a screen for privacy, voters mark an X next to the name of the person they are voting for. They then fold the ballot and put it in the ballot box themselves so no one can see for whom they voted.

There are also advanced polls held for voters who wish to cast their ballot before election day. The Voter Information Card tells people where and when advanced polls are held in their riding. The process for voting is the same as on election day.

In addition, eligible voters can make a request to Elections Canada to vote by mail once an election is called. This option is available to Canadian citizens living either inside or outside of Canada. People who want to mail in their ballot must provide proof of their identity. People living outside of Canada must also show where they last lived in Canada to determine in which riding they will vote.

B.2 Foreign Interference

What is foreign interference and how is it different from foreign influence?

Foreign influence is both legal and ethical. Foreign interference is neither.

It is normal for all national governments – including Canada’s – to work to influence the decisions of other governments. This is because the decisions governments make – for example, on trade, climate, foreign relations, development and defense – have consequences beyond their borders. Accordingly, every country uses appropriate forms of influence when it pursues its citizens’ interests on the world stage.

Appropriate forms of influence include maintaining diplomatic relations, negotiating at international governing bodies, issuing statements that publicly praise or condemn the actions of other states and advocating for joint action. These activities form part of the normal conduct of international relations.

Appropriate influence crosses the line to become inappropriate interference when states pursue their global interests using covert, corrupt, illegal, or coercive techniques. Canadian law makes many kinds of foreign or domestic interference criminal. For example, section 346 of the *Criminal Code* outlaws extortion and section 119 outlaws bribery and corruption of public officials. The *Elections Act* also expressly forbids a range of actions that might corrupt the conduct of an election, including foreign funding.

Inappropriate interference can extend to attempts to influence citizens’ choice of government. When a state or its affiliated entities interferes with elections, this is a violation of sovereignty and a people’s right to self-determination under Article 1 of the *International Covenant on Civil and Political Rights*.

What are some historical examples of foreign interference in elections?

European monarchs meddling in the election of popes throughout the Middle Ages are one example. And, as democracies emerged in the 18th and 19th centuries, Atlantic powers such as France, Germany, the United States and Britain interfered regularly in each other’s elections. Scholars have documented many examples. The following are just a few:

- Britain lavishly funded royalist candidates in the French election of 1797.

- In 1800, France dispatched an agent to the United States to spread rumors that France would contemplate war if Thomas Jefferson did not win America's first contested election.
- In the 19th century, German Chancellor Otto von Bismarck sought to punish British Prime Minister William Gladstone's foreign policy by trying to destroy his reputation with election propaganda. An 1884 letter from Bismarck's son notes the aim was: to "squash Gladstone against the wall, so that he can yap no more."

Election interference kept pace with democracy's spread through the 20th century.

Why do some countries choose to interfere in other countries' elections?

Countries interfere in others' elections for a range of reasons. The most obvious is to make it more likely a candidate who supports policies favourable to the interfering state will be elected.

Sometimes election interference has more complex goals. For example, some states may not aim to obtain immediate policy shifts, but rather relationships. By helping to elect someone, the interfering state may want an ally, or someone indebted to it in order to secure future favours. Or they may use this ally to acquire information or transmit propaganda. The interfering state may target government leaders or constituents with this propaganda, seeking their favourable opinion. This strategy is more widespread when the interfering state has a large diaspora population in the target state.

Finally, and importantly, foreign interference in elections sometimes aims at causing discord and conflict to destabilize the target state. States that are unified, share core values, and enjoy civic trust tend to be stronger. Therefore, this kind of foreign interference may aim to create polarization and distrust among citizens, and between citizens and their governments. Today, such interventions may also aim to undermine faith in our democratic institutions.

What are some interference techniques used by foreign states?

States use a variety of techniques to interfere in the elections of others. Perhaps the most straightforward way to interfere in an election is to provide resources to a candidate's campaign. This may come in the form of money, printed campaign materials, equipment or staff, either directly from a foreign government or through a domestic third party. An interfering state may also provide strategic campaign advice or training, including on how to increase the turnout of the "right kinds" of voters or suppress the turnout of the "wrong kinds."

Interfering states also use information techniques. They may secretly spread favourable stories about a desired candidate, or damaging or embarrassing rumors about a candidate they oppose. The rumors may be total inventions or based on genuine, but distorted, information. Interfering states may work to obtain such information in a variety of ways. For example, they may use a “hack and leak” technique, where state-affiliated hackers use “phishing” to gain access to computer systems and private emails. The results are then strategically published to damage a candidate’s reputation. Sometimes, interfering states place spies within a campaign to gather damaging information about a candidate they oppose.

An interfering state may try to impact the results at the polls on election day. They may attempt to hack electronic election infrastructure where this exists. Foreign states may also use a variety of techniques to suppress voter turnout, including directing voters to the wrong poll, circulating misinformation about voting rules, etc. While social media may be used for this purpose, automated telephone calls (robocalls) have recently become a popular technique as well.

B.3 Commissions of Inquiry

What is a commission of inquiry?

Commissions of Inquiry are public investigations of issues important to Canadians. They aim to inform and educate the public, politicians and government, including making recommendations to resolve issues and develop policy.

Are there different kinds of commissions of inquiry?

Yes. Commissions of inquiry are loosely categorized into three types:

- Investigative
- Policy (or advisory)
- Blended investigative and policy

Investigative inquiries are focused on examining past events, fact-finding and giving recommendations about what should be done to correct a past problem. Policy commissions seek to inquire into a particular situation of public importance and offer a forward-looking perspective on the topic about how it could be handled in the future.

This commission into foreign interference is a blended type of commission, with both investigative and policy phases.

How is a federal commission of inquiry established?

The Governor in Council (the Governor General acting on the advice of Cabinet) can establish public inquiries to investigate any matter connected with the good government or public business of Canada. This power comes from the federal *Inquiries Act*.

What can a commission of inquiry do?

Commissions of inquiry are run by one or more commissioners. These commissioners can summon witnesses and require them to give evidence by providing testimony or producing any document or thing commissioners deem necessary to investigate issues within their mandate. Commissioners have the same power to force witnesses to attend and evidence to be presented as the courts in civil cases.

Commissions do not determine who, or which institution, is civilly or criminally responsible for anything under investigation. However, they may reach factual conclusions about a person or institution's conduct.

How does a commission of inquiry work?

Commissions of inquiry are led by a non-partisan individual, such as a judge. They work in the public interest, not political interests.

Commissioners can hire lawyers (i.e., Commission counsel) as well as research and policy personnel to help them with their work.

Commissions should perform their work transparently by holding public hearings and issuing public decisions, rulings and reports. However, in certain circumstances, a COI may have to take special measures to protect national security confidentiality. This may impact the commission's ability to be public in all aspects of its work.

Commission counsel are responsible for ensuring evidence, such as documents or testimony, is reviewed at the hearings so commissioners can make findings and recommendations. All participants may propose witnesses. Specific categories of participants may also provide evidence, cross-examine witnesses and comment on proposed evidence before it is accepted. In this way, participants also help ensure the record is as complete as possible.

Commissions do not have as strict rules of evidence as the courts. However, they must respect the principles of fundamental justice and procedural fairness. Commissioners draft their own rules of practice and procedure to govern their specific commission. Participants usually have input into the drafting of these rules.

Once commissioners have submitted their final reports to the Governor in Council, their role ends, and they play no part in implementing their recommendations.

Are commissions of inquiry independent from the Government of Canada?

Although established by the government, commissions of inquiry are independent from the executive branch. Once the terms of reference are in place, governments have no control over the direction or process of the commission, unless they amend the commission's terms of reference by an Order in Council.

How is the Foreign Interference Commission different from other foreign interference reviews and investigations?

Over the past few years, a number of reviews and investigations have been undertaken by various Canadian federal public institutions. The Foreign Interference Commission, however, stands out for the following reasons:

- It is an independent, transparent and non-partisan review of events and issues, including the role of government.
- It can order people to provide evidence.
- It has the assistance of legal, policy and administrative experts.
- It can take a long-term view of complex issues.
- Its decisions can be challenged in court.

Also, the Commission will thoroughly review foreign interference in Canadian elections and democratic institutions. The investigation is both retrospective (i.e. fact-finding) and prospective (i.e. policy-focused).

Other foreign interference reviews and investigations do not have the following elements included in the Commission's Terms of Reference:

- Examining and assessing the extent and impact of foreign interference at both the national and riding level.
- Educating the public about the challenges of disclosing national security information and intelligence as well as the limitations on what can be disclosed.
- Striving to be as transparent in the Commission's work as possible without injuring national security or the critical interests of Canada and its allies.

ANNEX C

Commission’s Operations and Organization

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C.1 Complex But Necessary Operations

In this Initial Report, I present the issues involved in setting up and conducting a commission to investigate matters of national security. In this annex, I will address another dimension: the complexity of the Commission’s operations.

Such complexity is inherent to the very nature of commissions, and many factors contribute to it, including their public nature, the sensitive issues they address, their scrutiny of the management of state affairs, their impact on the political landscape, and the interests of the public and the media.

A commission cannot ignore this complexity. It must adopt operating rules to increase its efficiency and to successfully fulfill its mandate, while maintaining the confidence of all parties.

In this annex, I provide a brief overview of how the Commission works. I begin by discussing our initial challenges, the establishment of our teams, and how we structure our work. I then explain how the operating rules we have adopted guide and ensure the quality of our work. Finally, I address our review of the large volume of documents we have received from the government and from non-governmental participants.

C.2 Establishing Our Team and Our Structure

I was appointed Commissioner on 7 September 2023⁵⁸ and took up my post on 18 September.

Setting up the Commission required a lot of work in a very short period. The Order in Council originally called for a preliminary report to be submitted by 29 February 2024.⁵⁹ I had only a few weeks to hire staff, assemble a legal team, set up a research group, and make the necessary arrangements for the Commission to begin its work.

The Commission has benefited, and continues to benefit, from the technical and logistical support of the Privy Council Office (“PCO”),⁶⁰ which mainly provides technological tools and workspace. However, it is critical that Commission be completely independent from the federal government in matters of human resources. For this reason, my main concern during the first few weeks of my mandate was to assemble a team that would enable me to begin my investigative work as soon as possible.

⁵⁸ Order in Council P.C. 2023-0882.

⁵⁹ This deadline was extended to 3 May 2024 (Order in Council 2023-1316 and Second Notice to the Public, published on the Commission’s website on 4 January 2024).

⁶⁰ The Privy Council Office supports the Prime Minister and Cabinet, helping the government implement its objectives and decisions.

An indispensable administrative team

A small team ensures the Commission's administrative operations run smoothly.

I hired two people in leadership positions. These two co-executive directors manage a high volume of tasks amid national security constraints, making their work even more complex. They support each other, while maintaining distinct responsibilities corresponding to their respective expertise.

One co-director is responsible for the Commission's finances and procurement. Her duties include negotiating and concluding most contracts, managing human resources and office space, and organizing the hearings.

The other co-director ensures compliance with the Commission's security requirements and communications, information, and document management. He works closely with our communications advisor on all media and public relations matters, including our website.

To support the two co-directors and myself as Commissioner, I have hired a small number of administrative staff.

The Commission's administrative team is modest in size, given the workload they must manage. Day in and day out, they have demonstrated exceptional flexibility, as well as exceptional commitment and dedication in helping the Commission to successfully fulfill its mandate.

At the core of our mandate: the legal team

Although the Commission's work is closely linked to national security issues, I believe that its legal team (counsel) should be made up of lawyers with diverse backgrounds and skills. As such, I have hired lawyers with experience in both civil and criminal litigation, some who have practised in private firms and others with public sector experience.

Of course, I needed legal staff specialized in national security. This expertise is not widely available, but I was able to access all the expertise I needed.

Since the Commission serves all of Canada, I wanted there to be good representation from different regions as well as different perspectives amongst commission counsel. . And in order to serve the entire population of the country, the legal team as a whole had to be able to work and communicate in both official languages of Canada.

Beyond each individual's specialization, I felt it was essential that all the members of our team, young and old alike, be able to work well as a team. The Commission's work was going to be intensive, given the tight deadlines and the challenges we would have to overcome. The spirit of collaboration and the common goal – to serve the public interest – had to come first.

A crucial research team

Research plays a crucial role in both aspects of the Commission’s work, namely, to uncover certain facts and to formulate recommendations.

The Commission must shed light on issues involving complex or little-known facts or concepts – the very notion of foreign interference is a case in point. Research is essential for shedding light.

I felt that the best way to conduct and structure comprehensive research in such a short time frame would be to establish a research council. This council is made up of a research chair and three academics with complementary expertise covering the main issues arising from the Commission’s work.

Research council members collaborate with the legal team. They provide our counsel with the insights necessary to fully understand the concepts at stake, enabling them to identify and locate evidence relevant to our mandate. The research council’s contributions include drafting briefing notes, as well as planning and organizing presentations on topics that need to be explored in greater depth.

In order to propose realistic and effective solutions, I need to be able to access relevant knowledge and experience quickly and as objectively as possible. The research team will also help me in this respect, allowing the Commission to draw on sound knowledge and studies to recommend appropriate ways of strengthening the protection of federal democratic processes against foreign interference.

The research council meets regularly to discuss all aspects of their work:

- Formulating research questions and determining how best to answer them
- Drafting research mandates when in-depth studies are needed
- Identifying the best experts in Canada and abroad
- Determining the form their contribution can take

This system of organizing research fosters open, wide-ranging discussions, and has proven to be the best way to generate the information I need.

Security issues impacting recruitment

Although I was able to identify the right people fairly quickly, consolidating the team took longer than expected. This difficulty stems from the Commission’s mandate, which involves examining and evaluating highly classified information. The vast majority of our staff therefore needed to be granted the ability to access to this information and receive the necessary training to comply with the protocols for handling it.

To reach this stage, each person hired had to undergo a lengthy security check known as the security clearance and indoctrination process. This is a highly complex process, involving the Privy Council Office, the Canadian Security Intelligence Service (“CSIS”), the Communications Security Establishment (“CSE”), or the Department of National Defence, depending on the case. See [Chapter 3](#) for more information on security issues.

The PCO, which handles these security checks, was well aware of the Commission’s time constraints. They made every effort to expedite the security clearance process, but this step inevitably delayed the start of the work.

Setting up our offices

While this point may seem insignificant, in fact, it is far from it. My mandate stipulates that the Commission have its primary office in the National Capital Region. I therefore anticipated that the Commission’s work would be carried out mainly in Ottawa, where I would be spending most of my time.

That said, a large proportion of our legal staff come from the Montreal and Toronto areas. I felt that it would be more practical and less costly to establish additional offices in Montreal and Toronto.

However, making the Commission’s offices operational posed several challenges due to the confidential nature of the information to which the Commission has access. Any office handling top-secret documents and information must be set up and equipped in accordance with strict security rules. As a result, it took several months for the Commission to gain access to all the offices it needed, not only in Montréal and Toronto, but in Ottawa itself.

c.3 How We Structure Our Work

The Commission’s work is governed by specific rules designed to ensure that it is fair to all those who participate in or contribute to it. They are also designed to ensure efficiency, as well as public confidence in the Commission. These rules include:

- The *Rules of Practice and Procedure* governing our hearings and the taking of evidence (see below, “How we conduct our hearings” and “How we receive evidence”).
- The *Rules of Standing and Funding* governing the choice of participants in the Commission’s work (see below, “Who can participate in the Commission’s work”).
- There will also be specific rules, which have not yet been adopted, for the policy phase of the Commission’s work.

How we conduct our hearings

The *Rules of Practice and Procedure* govern how we conduct our hearings. They explain how each party involved in the proceedings must interact with the Commission and with the other parties involved. These parties may be Parties, Interveners, members of the public or the media, or Commission counsel.

The Commission has adopted customized rules to ensure that its proceedings are as public as possible, while also allowing it to hear highly confidential information.

These rules take the Commission’s very tight deadlines into account. They emphasize the importance of collaboration between all parties involved to ensure the Commission’s work is efficient.

How we receive evidence

The Commission has developed its *Rules of Practice and Procedure* in part by reference to the rules adopted by other commissions of inquiry before it. However, it has modified or adapted them to provide a framework for the expected evidence and to ensure the effectiveness of the process. If necessary, I can amend, supplement, or dispense with these rules to ensure that the investigation is complete, fair, and timely.

Who can participate in the Commission’s work (standing)

People who meet specific criteria may participate directly in the Commission’s work. This right is known as “standing.” I can grant this right to anyone who:

- would make a necessary contribution to the Inquiry, and
- has a substantial and direct interest in the subject of the Inquiry

There are two reasons for these conditions. First, many people and entities were likely to want to participate in the Commission’s work. Second, the hearings had to proceed smoothly, given the Commission’s tight deadlines.

How the Commission selects Participants

The principles and values on which I based my decisions around granting “standing” are described in detail in my first decision on this subject.⁶¹ I will limit myself to summarizing the main points here.

In granting standing, I have divided the applications into three categories:

- Full “Party” standing, for the factual phase of our mandate.
- “Intervener” standing, for the factual phase of our mandate.
- Standing for the policy phase of our mandate.

There are two kinds of participants with “standing”: Parties and Intervenors.

“Parties” are persons and entities who have the most direct interest in the subject matter of the Inquiry. This may be a personal or reputational interest in the outcome of the Commission’s work, or this interest may stem from an entity’s formal role in the electoral process or in countering foreign interference.

Intervenors are individuals or entities with a general interest in issues of foreign interference or the integrity of electoral processes and democratic institutions.

The following table summarizes the Commission’s decisions in granting standing. In total, applications for standing were the subject of six decisions rendered at different times. The table includes references to the relevant decisions.

⁶¹ Foreign Interference Commission, *Decision on Applications for Standing*, 4 December 2023.

Phase	Status	Participant	Decision on Standing
 Factual phase	Party	Russian Canadian Democratic Alliance	4 December 2023
		Office of the Commissioner of Canada Elections	
		Ukrainian Canadian Congress	
		Government of Canada	
		Han Dong	4 December 2023
		Michael Chan	22 December 2023
		Michael Chong	14 December 2023
		Jenny Kwan	8 January 2024
	Party (national security hearings only)	Centre for Free Expression	4 December 2023
		Media Coalition	
	Intervener	Chinese Canadian Concern Group on the Chinese Communist Party’s Human Rights Violations	4 December 2023
		Democracy Watch	
		Erin O’Toole	
		New Democratic Party of Canada	
		Pillar Society	
		Churchill Society for the Advancement of Parliamentary Democracy	
		Conservative Party of Canada	4 December 2023
		Yuen Pau Woo	22 December 2023
		Bloc Québécois	12 February 2024
		Sikh Coalition	
		Iranian Canadian Congress	4 March 2024

Phase	Participant	Decision on Standing
 Policy phase	Russian Canadian Democratic Alliance	4 December 2023
	Office of the Commissioner of Canada Elections	
	Centre for International Governance Innovation	
	Raoul Wallenberg Centre for Human Rights	
	Chinese Canadian Concern Group on the Chinese Communist Party’s Human Rights Violations	
	International Civil Liberties Monitoring Group	
	Human Rights Coalition	
	Iranian Justice Collective	
	Ukrainian Canadian Congress	
	Democracy Watch	
	Erin O’Toole	
	Government of Canada	
	Justice for All Canada	
	New Democratic Party of Canada	
	Pillar Society	
	Churchill Society for the Advancement of Parliamentary Democracy	
	Conservative Party of Canada	4 December 2023
	Yuen Pau Woo	22 December 2023
	Michael Chong	14 December 2023
	Jenny Kwan	8 January 2024
	Bloc Québécois	12 February 2024
	Sikh Coalition	
	Iranian Canadian Congress	4 March 2024

In the course of the investigation, I concluded that it would be appropriate to allow four intervenors, the Conservative Party of Canada, the New Democratic Party of Canada, the Bloc Québécois and Erin O’Toole, to exercise two procedural rights in addition to those available to intervenors. The right to cross-examine witnesses who appear and the right to access, on the same basis as the parties, to the documents in the parties’ database. I rendered a decision to this effect on 15 March 2024.

There are many ways for individuals and organizations who have not been granted standing to learn about and participate in the work of the Commission. They can obtain information directly from the Commission’s regularly updated website, where they can access a wide range of documents on evidence, procedures, the Parties’ submissions, and the Commission’s decisions. In the coming months, they can also take part in the Commission’s public consultation process.

Financial support for Participants

Persons who have standing, but who would not be able to participate in the Commission’s work without financial assistance, may apply for funding. The Commission’s mandate authorizes me to make recommendations to the Clerk of the Privy Council in this matter. Funding is granted by the Privy Council, not by the Commission.

The Privy Council Office has granted funding to the following individuals based on my recommendations in three decisions.

Participant	Relevant Decision
Erin O’Toole	5 January 2024
Centre for Free Expression	
Democracy Watch	
Human Rights Coalition	
Russian Canadian Democratic Alliance	
Chinese Canadian Concern Group on the Chinese Communist Party’s Human Rights Violations	
Michael Chong	
Ukrainian Canadian Congress	18 January 2024
Jenny Kwan	
Churchill Society for the Advancement of Parliamentary Democracy	28 February 2024

C.4 Reviewing Thousands of Documents

Since December 2023, our teams have been hard at work reviewing a substantial volume of documents received from the government in response to our disclosure requests. We receive these documents in waves, as they are collected and processed by the government. All documents received are reviewed by Commission counsel. This review guided the Commission’s investigative work. It also enabled the Commission to identify documents whose contents should be disclosed to Participants or used as evidence in hearings.

The Commission also received documents from non-governmental Participants, which were also reviewed by Commission counsel and used in the Commission’s investigative work.

Rules 82 to 85 of the Commission’s *Rules of Practice and Procedure* provide that any person may submit information to the Commission in confidence, by means of a secure e-mail address to which only certain members of the Commission counsel have access.

In the coming months, the Commission intends to do its utmost to broaden the discussion on many of the issues raised by its mandate, including formulating recommendations. To this end, the Commission will reach out to as many stakeholders as possible in its consultation process. This will allow us to delve further into the experiences of the public and communities from various diasporas.

ANNEX D

Participants’ Perspectives on How the Commission Should Approach Government Secrecy Claims

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D.1 Perspectives on Testimony Heard at Hearings

Clause (a)(i)(D) of the Commission’s Terms of Reference directs me to:

conduct public hearings at the outset of the Commissioner’s mandate to identify the challenges, limitations and potential adverse impacts associated with the disclosure of classified national security information and intelligence to the public, for the purposes of fostering transparency and enhancing public awareness and understanding[.]

From 29 January to 2 February 2024, I held preliminary hearings on this topic. During the hearings, I heard evidence from academics, former and current government officials, and the current Minister of Public Safety, Democratic Institutions and Intergovernmental Affairs. I also received two sets of submissions from Commission Participants – one before the hearings and one at their conclusion. Below, I provide a high-level overview of these submissions, which informed my approach to balancing national security confidentiality and the need for openness and transparency. I discuss this balance in detail in [Chapter 3](#) of this Report.

A common concern raised by Participants was that the government tends to overuse special protections that exempt certain information from having to be disclosed or classify information too strictly. Many Participants urge the Commission to view such claims or classifications with scepticism and require the government to rigorously justify them.

During the Commission’s preliminary hearings, John Forster, the former Chief of CSE, spoke of “a natural inclination to default to less is more.” Former CSIS Director Richard Fadden spoke of a “protective culture” in government, where there is often no advocate within institutions to push for releasing more information to the public. Professor Michael Nesbitt of the University of Calgary discussed some of the dynamics that can lead to government favouring secrecy over transparency by default:

Release too much information as an employee, you will receive a reprimand on the job at best, or a criminal charge at worst. Release too little information, and the requesting party will fight the government over it for what might be, frankly, years to the point that the original reviewer and classifier of the information may have long since moved on.⁶²

Current CSIS Director David Vigneault indicated he had “a different experience” when asked whether he agreed the government tended to

⁶² Evidence of Michael Nesbitt, January 30, 2024, Transcript, vol. 2, p. 26.

overclaim national security privilege. He explained that, over the previous decade, there has been “an evolution” in the attitude of security agencies toward more openness and public discourse. However, confirming whether or not such an evolution has occurred is not part of my mandate.

A key point Participants raised is that the Commission must be an active safeguard against government confidentiality claims. In other words, an independent commission of inquiry should not take the government’s claims of national security confidentiality at face value.

Some Participants suggest specific ways for the Commission to achieve this objective. For example, some suggest dedicating several Commission counsels to review and challenge national security claims. Others propose it would be better to retain a security-cleared *amicus curiae* to challenge government claims. An *amicus curiae*, or “friend of the court”, is an independent lawyer appointed to assist a judge – or in this case, a Commissioner – by playing a variety of possible roles. This could include examining witnesses or presenting arguments. Some Participants believe an *amicus curiae* could take a stronger position against the government than Commission counsel could, given that Commission counsel must work collaboratively with all Participants, including government.

I do not agree with this last suggestion. Several Commission counsels have extensive experience acting as *amicus curiae* challenging government national security claims and are fully equipped to do so on behalf of the Commission. While I agree Commission counsels are often required to collaborate with Participants, I also believe they can be adversarial when required. Just as Commission counsel can be expected to vigorously cross-examine Participant witnesses when appropriate, so too can they vigorously challenge government assertions of confidentiality.

D.2 Government of Canada’s Proposed Approach

Several Participants comment on how classified or sensitive documents should be made public. The government proposed the most comprehensive approach. Deputy National Security and Intelligence Advisor Daniel Rogers described the government’s proposed approach as “bespoke to the Commission.” This approach corresponds, for the most part, to the one I have chosen.

First, the government would agree to provide documents to the Commission redacted only for Cabinet confidences, litigation privilege or solicitor-client privilege. In his testimony, Minister LeBlanc stated that the government would consider any request by the Commission to remove redactions for Cabinet confidences with the utmost seriousness.

When the Commission wishes to disclose a document publicly, government counsel would identify the document’s owner and ask that department or agency to indicate all redactions needed to disclose the document. Other departments or agencies with an interest in the document would also be asked to identify necessary redactions. Once a fully redacted document is prepared, each department or agency involved in the process would review the final redacted version to ensure no information that could cause injury remains unprotected. The final product would then be sent to the Commission, which would examine the redacted document alongside the unredacted version.

If the Commission disagrees with a redaction, it would notify government counsel, who would convey the objection to the appropriate department or agency. Subject matter experts would then review the redaction and provide advice to a senior official at the Assistant Deputy Minister (“ADM”) level. Further consultations could take place. The ADM could then decide, or if the ADM considers it appropriate, refer the matter to the relevant deputy minister or equivalent. Throughout this process, counsel from the Department of Justice’s National Security Group would perform a “challenge function”. I understand this to mean they would question and push back against confidentiality claims as the government determines its position. Under this approach, final decisions would be taken by senior public servants and not involve Ministers or their political staff.

If a disagreement persists between the government and the Commission, the process under section 38 of the *Canada Evidence Act* could be triggered. The issue could then be resolved by the Federal Court.

D.3 **Potential Alternatives to the Government’s Redaction Process**

The government emphasizes that the redaction process outlined above requires a lot of time and resources and could not be done for every document. For this reason, the government is open to working with the Commission to produce alternatives to redacted documents that may perhaps ensure greater transparency. One alternative the government identified is for it to write summaries of documents that could convey the relevant information without disclosing classified, sensitive or privileged information.

Some Participants present alternatives to the government’s approach. Most are either high-level suggestions that do not specify a particular process or are similar to the process government proposes.

Some Participants suggest the government should identify, from the beginning, every necessary redaction for every document given to the

Commission. However, at the end of the Commission’s preliminary hearings, none of the Participants continued to strongly support this approach. I believe this reflects their better understanding of the deadlines imposed on this Commission and the nature of the documents in question. It also reflects a genuine desire on everyone’s part to develop practical solutions to ensure maximum transparency. Put simply, by the close of the preliminary hearings, it was clear such a comprehensive redaction approach could not be accomplished within the Commission’s timeframe and could even be counter-productive to maximizing transparency.

Many of the Participants’ suggestions are directed to the government, and not the Commission. For example, Participants urge the government to do the following:

- Rigorously justify to the Commission the reason it disagrees with any position taken by the Commission about national security confidentiality.
- Agree to an expedited process for a third-party to resolve disputes under section 38 of the *Canada Evidence Act*.
- Grant Participants’ counsel security clearances and indoctrinations (security training) to permit them to view unredacted materials.
- Consider certain issues when considering whether the public interest in maintaining national security confidentiality outweighs the public interest in disclosing information. Examples include:
 - The need to protect vulnerable communities and individuals’ reputations
 - The public’s interest in the integrity of electoral processes
 - The values included in the Canadian Charter of Rights and Freedoms
 - The inherent weakness of some intelligence
 - The perspectives of individuals most closely connected to the information contained in documents.

One practical suggestion from the Centre for Free Expression is for the Commission to prioritize its document requests by identifying key documents and requesting the government produce redacted, disclosable versions early in the process. The Centre suggests this approach could help disclose the most relevant documents faster, while also evaluating the effectiveness of the government’s proposed process.

Participants provided relatively few comments regarding the production of summaries of documents or other alternatives to redaction. In principle, Participants seem to agree this is a valid method for increasing transparency. However, summaries should only be used as an alternative to what they view as the appropriate default rule: fully disclosing documents if no compelling national security need is clearly demonstrated.

D.4 Perspectives on *In Camera* Proceedings

The production of documents is only one method of achieving transparency. The Commission’s hearings are equally important. To inquire into matters specified in the Commission’s Terms of Reference, I need to obtain testimony from a wide range of witnesses, including those from the highest levels of Canada’s security and intelligence community. Some of the witnesses already testified and will inevitably testify again about classified, compartmented, and special operational information that will be subject to section 38 claims.

There is no way to redact the testimony of a witness testifying live, in public, and before the media. Therefore, I had to find another way to hear the testimony of officials whose evidence raises confidentiality concerns. A similar need exists for witnesses whose testimony exposes them to threats of repression or retaliation in Canada from hostile foreign states.

Because of these concerns, all Participants appear to accept at least some evidence must be taken *in camera*; that is, in the absence of the public and, possibly, the Participants. Participants focused on how *in camera* hearings could be done in a manner that maximizes their participation and ensures maximum transparency.

One common suggestion is to have Participants’ counsel who already have security clearances and indoctrinations participate in *in camera* proceedings. Some Participants urge the government to grant such clearances to all Participants’ counsel.

When *in camera* hearings occur without the direct involvement of Participants, there is consensus that the Commission should provide other ways to participate. Suggestions include appointing a special advocate or *amicus curiae* to act in the interests of Participants. Other more modest proposals concern notifying Participants that *in camera* hearings will be held and allowing them to comment on the questions Commission counsel should ask. Most Participants, including the government, urge the Commission to solicit Participants’ views about the areas Commission counsel plan to explore during *in camera* hearings. Several Participants say their ability to provide useful input depends on their access to government documents.

All Participants support the Commission producing unclassified summaries of the evidence obtained during *in camera* hearings that can be disclosed to Participants and the public.

D.5 Perspectives on the Commission’s Transparency

Government secrecy is not the only threat to public confidence in this inquiry. The Commission’s own conduct must foster public confidence as well. An unduly secretive Commission would fail to live up to the public’s expectation that its work shed light on the integrity of Canada’s democratic institutions.

At the same time, much of the Commission’s work must take place in secret. From reviewing classified documents in secure facilities, to obtaining confidential evidence from a range of sources, to *in camera* hearings when warranted, a significant portion of the Commission’s work is done out of the public view. There is nothing particularly unusual about this. Public hearings are normally the culmination of months or years of effort, much of which occurs in private. However, given the intense public interest in the work of this Commission, and the persistent presence of confidentiality concerns, I must be particularly sensitive about the transparency of the Commission’s process.

One message I heard consistently from Participants is that the Commission should state its view clearly and publicly when it disagrees with the government’s assertion of national security confidentiality.

Participants urge the Commission to tell the public if it believes the government has unjustifiably withheld relevant information. Such disclosure could be included in a press release, decision, or one of the Commission’s reports. Participants say this is the only way the public can fairly assess whether they can have confidence in the Commission’s process and outcome.

This perspective arises because the Commission cannot order the government to make documents public. Section 38 of the *Canada Evidence Act* is the ultimate means by which the Commission could challenge government national security claims. However, section 38 is a slow process and unlikely it can be used to resolve many disputes with the government in the short amount of time available to the Commission. Instead, the Commission must rely on its ability to negotiate in good faith with the government. While I believe such negotiations can and do work, the possibility of disagreement is real and unavoidable.



Public Inquiry Into
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