



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

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

Public Hearing

Audience publique

**Commissioner / Commissaire
The Honourable / L'honorable
Marie-Josée Hogue**

**VOLUME 17
ENGLISH INTERPRETATION**

Held at :

Library and Archives Canada
Bambrick Room
395 Wellington Street
Ottawa, Ontario
K1A 0N4

Tuesday, September 17, 2024

Tenue à :

Bibliothèque et Archives Canada
Salle Bambrick
395, rue Wellington
Ottawa, Ontario
K1A 0N4

Le mardi 17 septembre 2024

INTERNATIONAL REPORTING INC.

<https://www.transcription.tc/>

(800)899-0006

II Appearances / Comparutions

Commission Lead Counsel / Procureure en chef de la commission	Shantona Chaudhury
Commission Counsel / Avocat(e)s de la commission	Gordon Cameron Erin Dann Matthew Ferguson Hubert Forget Leila Ghahhary Benjamin Herrera Howard Krongold Hannah Lazare Jean-Philippe Mackay Kate McGrann Emily McBain-Ashfield Hamza Mohamadhossen Lynda Morgan Siobhan Morris Annie-Claude Poirier Gabriel Poliquin Natalia Rodriguez Guillaume Rondeau Nicolas Saint-Amour Daniel Sheppard Maia Tsurumi
Commission Research Council / Conseil de la recherche de la commission	Geneviève Cartier Nomi Claire Lazar Lori Turnbull Leah West
Commission Senior Policy Advisors / Conseillers principaux en politiques de la commission	Paul Cavalluzzo Danielle Côté

III

Appearances / Comparutions

Commission Staff / Personnel de la commission	Annie Desgagné Casper Donovan Hélène Laurendeau Michael Tansey
Ukrainian Canadian Congress	Donald Bayne Jon Doody
Government of Canada	Gregory Tzemenakis Barney Brucker
Office of the Commissioner of Canada Elections	Christina Maheux Luc Boucher Sébastien Lafrance Nancy Miles Sujit Nirman
Human Rights Coalition	David Matas Sarah Teich
Russian Canadian Democratic Alliance	Mark Power Guillaume Sirois
Michael Chan	John Chapman Andy Chan
Han Dong	Mark Polley Emily Young Jeffrey Wang
Michael Chong	Gib van Ert Fraser Harland

IV Appearances / Comparutions

Jenny Kwan

Sujit Choudhry

Mani Kakkar

Churchill Society

Malliha Wilson

The Pillar Society

Daniel Stanton

Democracy Watch

Wade Poziomka

Nick Papageorge

Canada's NDP

Lucy Watson

Conservative Party of Canada

Nando De Luca

Chinese Canadian Concern Group on
The Chinese Communist Party's
Human Rights Violations

Neil Chantler

David Wheaton

Erin O'Toole

Thomas W. Jarmyn

Preston Lim

Senator Yuen Pau Woo

Yuen Pau Woo

Sikh Coalition

Balpreet Singh

Prabjot Singh

Bloc Québécois

Mathieu Desquilbet

Iranian Canadian Congress

Dimitri Lascaris

V

Table of Contents / Table des matières

	PAGE
MR. GARNETT GENUIS, Affirmed/Sous affirmation solennelle	1
MR. JOHN McKAY, Sworn/Assermenté	1
Examination in-Chief by/Interrogatoire en-chef par Mr. Daniel Sheppard	1
Cross-Examination by/Contre-interrogatoire par Mr. Sujit Choudhry	39
Cross-Examination by/Contre-interrogatoire par Mr. Guillaume Sirois	47
Cross-Examination by/Contre-interrogatoire par Ms. Sarah Teich	52
Cross-Examination by/Contre-interrogatoire par Mr. Neil Chantler	59
Cross-Examination by/Contre-interrogatoire par Mr. Nando De Luca	64
Cross-Examination by/Contre-interrogatoire par Mr. Fraser Harland	67
Cross-Examination by/Contre-interrogatoire par Mr. Barney Brucker	68
Re-Examination by/Ré-interrogatoire par Mr. Daniel Sheppard	71
MS. CAROLINE SIMARD, Affirmed/Sous affirmation solennelle	75
MS. CARMEN BOUCHER, Affirmed/Sous-affirmation solennelle	75
Examination in-Chief by/Interrogatoire en-chef par Me Matthew Ferguson	75
Cross-Examination by/Contre-interrogatoire par Mr. Sujit Choudhry	131
Cross-Examination by/Contre-interrogatoire par Mr. Nando De Luca	143
Cross-Examination by/Contre-interrogatoire par Mr. Guillaume Sirois	146
Cross-Examination by/Contre-interrogatoire par Mr. Neil Chantler	154
Cross-Examination by/Contre-interrogatoire par Ms. Sarah Teich	159
Cross-Examination by/Contre-interrogatoire par Mr. Matthew Johnson	163

VI
Exhibit List / Liste des pièces

No.	DESCRIPTION	PAGE
WIT0000075.EN	Interview Summary – Garnett Genuis (Stage 2)	4
WIT0000079.EN	Interview Summary - John McKay (Stage 2)	4
WIT0000079.FR	Résumé de l'entrevue - John McKay (étape 2)	4
COM0000380	United States of America v. Ni Gaobin et al., Indictment, 24-CR-43	8
COM0000485_R	URGENT AND CONFIDENTIAL: PRC SPONSORED CYBER ATTACK BRIEFING FROM IPAC	15
COM0000357	House of Commons - Debates - No 304 - April 29, 2024	39
RCD0000031	Canadian Lawmakers Say Pro-Russia Group Tried to Derail Sanctions Law	50
WIT0000091	Interview Summary: Office of the Commissioner of Canda Elections (Caroline Simard and Carmen Boucher)	78
WIT0000091.EN	Interview Summary: Office of the Commissioner of Canda Elections (Caroline Simard and Carmen Boucher) 1	78
WIT0000091.001	Appendix to Interview Summary: Office of the Commissioner of Canada's Elections (Caroline Simard & Carmen Boucher)	78
CEF0000003	Présentation_FRE_CEF	98
CEF0000275_R	Email exchange delays RE GCSI user costs - follow up questions	112
CEF0000302_R	Memo for CCE_Summary 2022-0925	121

Ottawa, Ontario

--- The hearing begins Tuesday, September 17, 2024 at 9:31
a.m.

THE REGISTRAR: Order, please.

This sitting of the Foreign Interference
Commission is now in session. Commissioner Hogue is
presiding. The time is 9:31.

COMMISSIONER HOGUE: Good morning, everyone.
Welcome. And before we start, I said yesterday that a
questionnaire would be online, and it is online. It's been
done this morning. I would like to insist on that because
some people who are listening to our proceedings might be
quite happy to learn that it is now available.

So we'll start with our first witnesses this
morning. It's you, Me Sheppard, who is going to conduct the
examinations?

MR. DANIEL SHEPPARD: Yes. Good morning,
Madam Commissioner. For the record, it's Daniel Sheppard for
the Commission.

Today, the Commission is calling two
witnesses in a panel, Garnett Genuis and John McKay. If
Mr. Genuis could be affirmed and Mr. McKay sworn, please.

--- MR. GARNETT GENUIS, Affirmed:

--- MR. JOHN MCKAY, Sworn:

THE REGISTRAR: Counsel, you may proceed.

MR. DANIEL SHEPPARD: Thank you very much.

--- EXAMINATION IN-CHIEF BY MR. DANIEL SHEPPARD:

MR. DANIEL SHEPPARD: Let's begin with some

1 basic introductions if we can. Mr. Genuis, could you just
2 introduce yourself to the Commissioner and give her a little
3 bit of your background?

4 **MR. GARNETT GENUIS:** Sure. I'm a Member of
5 Parliament. I represent the constituency of Sherwood Park,
6 Fort Saskatchewan and Alberta. I have served in that role
7 since 2015. And of some relevance to the Commission, I've
8 been involved in international human rights issues. I've
9 served on the Foreign Affairs Committee, as well as Special
10 Committee on Canada-China Relations, and I am and remain a
11 Co-Chair of IPAC.

12 **MR. DANIEL SHEPPARD:** And Mr. McKay, if you
13 could introduce yourself, please?

14 **MR. JOHN MCKAY:** My name is John McKay. I've
15 been a Member of Parliament representing a riding in Toronto,
16 Scarborough-Guildwood, for 27 years. Prior to that, I was --
17 I practiced law. I currently am Defence Chair of the House
18 of Commons Committee, and I am the Co-Chair of the Permanent
19 Joint Board of Defence. And like Garnett, involve myself in
20 other activities regarding human rights.

21 **MR. DANIEL SHEPPARD:** Thank you. And before
22 I proceed, I -- I'll just say on behalf of the interpreters
23 if we could all try to speak slowly to make sure that
24 everything is interpreted into French.

25 You're here today to testify about your
26 experiences as Co-Chairs of the Interparliamentary Alliance
27 on China, and some events that occurred with respect to
28 cyberattacks against you.

1 WIT79.EN.

2 And while that's coming up, Mr. McKay, you
3 recall being interviewed by Commission counsel on August 19th
4 of 2024?

5 **--- EXHIBIT No. WIT0000075.EN:**

6 Interview Summary - Garnett Genuis
7 (Stage 2)

8 **--- EXHIBIT No. WIT0000079.EN:**

9 Interview Summary - John McKay (Stage
10 2)

11 **MR. JOHN MCKAY:** I do.

12 **MR. DANIEL SHEPPARD:** And I'll ask you the
13 same questions, but perhaps in a more summary fashion.

14 You've reviewed this document and it is
15 accurate to the best of your knowledge, information and
16 belief?

17 **MR. JOHN MCKAY:** Yeah, I'm satisfied it
18 represents our conversation.

19 **MR. DANIEL SHEPPARD:** Thank you.

20 And again for the record, it doesn't have to
21 be pulled up, but we will also enter as an exhibit the French
22 translation, WIT 79.FR.

23 And that can come down now.

24 **--- EXHIBIT No. WIT0000079.FR:**

25 Résumé de l'entrevue - John McKay
26 (étape 2)

27 **MR. DANIEL SHEPPARD:** So now that we have
28 those preliminaries out of the way, I'd like to first ask you

1 to describe the Inter-Parliamentary Alliance on China.

2 Could one of you first just explain what is
3 IPAC?

4 **MR. GARNETT GENUIS:** Sure.

5 The Inter-Parliamentary Alliance on China is
6 an international network of legislators. It intentionally is
7 representative of legislators from a diversity of political
8 traditions. Every country has co-chairs which represent
9 different political parties, usually government and
10 opposition. And it is a legislative network that works on
11 issues involving China with the general view that the
12 approach that has been taken previously that emphasizes,
13 bluntly, appeasement has not been effective, and that a more
14 realistic approach that emphasizes human rights, universal
15 human dignity is required.

16 There are shades and variations within this
17 very diverse network, but it is united by that common
18 orientation and it has been very successful at mobilizing
19 legislators from across the world. And I can say for myself
20 and I think many Canadian Parliamentarians would agree that
21 it has impacted our work. It has helped us learn more about
22 some of the challenges associated with the current state of
23 the PRC, and it has also helped us to share information,
24 collaborate with like-minded legislators around the world.

25 Because of that success, I think we have good
26 reason to believe that IPAC has become a particular target of
27 CCP interference operations here in Canada and around the
28 world.

1 **MR. DANIEL SHEPPARD:** And you said CCP. So
2 we're clear, you're referring to the Chinese Communist Party.

3 **MR. GARNETT GENUIS:** That's correct, yeah.

4 **MR. DANIEL SHEPPARD:** In terms of the
5 structure of IPAC, am I right in understanding that there's
6 an international secretariat that sort of coordinates things
7 and then, within each country, there are Parliamentarians who
8 are members and there are co-chairs within each country that
9 sort of help to coordinate the activities of that country's
10 Parliamentarians. Is that a fair description?

11 **MR. GARNETT GENUIS:** Yeah, I'll respond to
12 that as well, and John, obviously, jump in.

13 The structure is there's a secretariat and
14 they support our work, but it is a network that is led by the
15 legislators, and it is required that when a country joins,
16 you have co-chairs who represent a diversity of political
17 traditions and they coordinate in-country activities as well
18 as participate in international activities.

19 **MR. JOHN MCKAY:** Yeah, I would largely adopt
20 Garnett's answer here. Just I had -- in my case, I'm
21 representing the Liberal Party, but also involved as a co-
22 chair is Irwin Cotler, a former Justice Minister, and
23 certainly active human rights lawyer. And IPAC has been
24 instrumental and helpful to his activities, particularly his
25 activities with respect to Jimmy Lai in Hong Kong.

26 And so there have been some notable instances
27 where IPAC has had some significant influence, and my guess
28 would be that that has been unwelcome in Beijing.

1 **MR. GARNETT GENUIS:** And if I can just add to
2 that quickly as well in terms of the impact of IPAC, I recall
3 very specifically the first IPAC meeting we had. We had a
4 briefing on what is happening in East Turkistan, the
5 demographic impacts of the Government of China's policies,
6 and it was at that meeting that I first sort of concluded
7 this has all the attributes of genocide. And that informed
8 subsequent efforts that we undertook to bring back the
9 Subcommittee on International Human Rights in the middle of
10 the summer to do intensive hearings which led to the all-
11 party conclusion among those who had been around the table
12 that Uyghurs and other Turkic Muslims were and are being
13 subject to an ongoing genocide. That subcommittee was the
14 first such body in the world to come to those conclusions
15 and, subsequently, we had the determination by the U.S.
16 administration, by the Canadian Parliament and other
17 Parliaments voting around the world, but at the root of that
18 was information shared within IPAC.

19 And as that process of genocide recognition
20 has unfolded, there's been a great deal of collaboration from
21 information sharing among Parliamentarians, so that, I think,
22 particular recognition of the scale of human rights abuse has
23 been very important in shifting the conversation in many
24 countries around our engagement with the PRC, and IPAC has
25 been at the heart of that.

26 **MR. JOHN MCKAY:** And I'd just add to that
27 current initiative has to do with Taiwan. Again, I expect
28 that our role in presenting information about Taiwan and

1 adopting, hopefully getting our Parliaments to adopt
2 resolutions with respect to Taiwan will again draw the
3 unwelcome attention of the Beijing government.

4 **MR. DANIEL SHEPPARD:** So let's shift, then,
5 and talk a little bit about the attention of the People's
6 Republic of China with respect to IPAC.

7 And if the ---

8 **COMMISSIONER HOGUE:** Sorry. Before you do
9 that, I have just one question.

10 Can you just tell me when the first Canadian
11 MPs got involved in the IPAC? Do you know when it ---

12 **MR. GARNETT GENUIS:** Yeah, so we were
13 founding members and this was 2020.

14 **COMMISSIONER HOGUE:** Twenty twenty (2020),
15 okay.

16 **MR. GARNETT GENUIS:** Yeah, so it was ---

17 **COMMISSIONER HOGUE:** So it's fairly recent.

18 **MR. JOHN MCKAY:** Yes.

19 **MR. GARNETT GENUIS:** Exactly, yeah. Yeah, it
20 was -- I can't remember the precise month, but it was -- it
21 was roughly maybe May-June that we had our first meeting.
22 The preparatory activities happened before then, but ---

23 **COMMISSIONER HOGUE:** Thank you.

24 **MR. DANIEL SHEPPARD:** Could the court
25 operator please pull up COM380?

26 **--- EXHIBIT No. COM0000380:**

27 United States of America v. Ni Gaobin
28 et al., Indictment, 24-CR-43

1 **MR. DANIEL SHEPPARD:** This is an indictment
2 filed in the United States that was unsealed on March 25th of
3 2024. I don't imagine you're intimately familiar with the
4 details of this document, but I take it you're both aware of
5 the existence of this indictment. Is that fair, Mr. Genuis?

6 **MR. GARNETT GENUIS:** Yes.

7 **MR. DANIEL SHEPPARD:** Mr. McKay?

8 **MR. JOHN MCKAY:** That's correct.

9 **MR. DANIEL SHEPPARD:** And just to kind of
10 summarize at a high level what this indictment alleges, it
11 describes an alleged conspiracy perpetrated by the Hubei
12 State Security Department, which is described as the
13 provincial foreign intelligence arm of the Chinese Ministry
14 of State Security.

15 And if you go to page 6, paragraph 14, it
16 attributes a series of cyber attacks undertaken by
17 individuals acting at the direction or behest of the Ministry
18 of State Security referred to as "Advanced Persistent Threat
19 31", or APT 31, and it describes attacks targeting a number
20 of entities.

21 I think importantly for our conversation
22 today will be paragraph 20. If we can go to page 8, please.

23 And the indictment says this:

24 "In addition to targeting U.S.
25 government and political officials,
26 the conspirators also targeted other
27 government officials around the world
28 who expressed criticism of the PRC

1 government. For example, in or about
2 2021, the conspirators targeted the
3 email accounts of various government
4 individuals from across the world who
5 are part of the Inter-Parliamentary
6 Alliance on China (IPAC)...” (As
7 read)

8 And then it goes on to describe some of the
9 background to IPAC and some of the ways in which IPAC members
10 were targeted.

11 Standing here today, I take it you’re both
12 aware of these allegations that IPAC was targeted by APT 31.
13 Is that fair?

14 **MR. GARNETT GENUIS:** Yes.

15 **MR. JOHN McKAY:** We’re not aware, yes.

16 **MR. DANIEL SHEPPARD:** My question is, when
17 this indictment was unsealed on March 25th of this year, were
18 you aware of these allegations?

19 **MR. GARNETT GENUIS:** No.

20 **MR. JOHN McKAY:** No.

21 **MR. DANIEL SHEPPARD:** Okay. So I’d like to
22 talk a little bit about how you became aware of the
23 information that you were targeted by a Chinese backed cyber
24 attack. And Mr. Genuis, I think the story starts with you on
25 the weekend of April 19th to the 21st of this year. Could you
26 describe how it is that you became aware of these events?

27 **MR. GARNETT GENUIS:** Absolutely. Mr. Luke de
28 Pulford is the Executive Director of IPAC, and he called me.

1 We've known each other for a while, our relationship slightly
2 predates IPAC. And we talked about the situation and kind of
3 what the next steps would be. And he had some follow up
4 conversations that he needed to have with American
5 authorities, and the -- and basically, we both agreed that
6 informing the Canadian members affected as soon as possible
7 was vital.

8 And so, we arranged for -- on the same day,
9 to first have a briefing with the co-chairs, John and I, a
10 kind of formal briefing from IPAC Secretariate staff and then
11 later that day we did a briefing with all of the IPAC members
12 who were affected. I should say, we invited all of the IPAC
13 members who were affected. But in the interests of sharing
14 information in the appropriate manner, we didn't say in the
15 invitation precisely what the briefing was going to be about
16 and so some came, some didn't, and then we sent a follow up
17 email after that.

18 My understanding of what happened, sort of
19 prior to me being informed, is that IPAC saw this indictment,
20 communicated with American officials about it, and sort of
21 said, well, it would have been nice if you had told us
22 earlier. And the feedback they got was that when it comes to
23 this kind of information, the American approach is always to
24 not inform individual legislators, but to inform governments,
25 and to have the expectation that whatever information
26 dissemination is going to happen or not happen is the
27 responsibility of the sovereign governments with whom they
28 work.

1 So I don't want to get too far ahead, but one
2 of the -- this is a question we've asked directly to American
3 officials, and they've emphasized that because of sovereignty
4 considerations their processes go to the governments and then
5 it's up to the governments what to do with that information.

6 **MR. DANIEL SHEPPARD:** Okay. During this
7 initial phone call you had with Mr. de Pulford, were you
8 informed of which email account belonging to you was targeted
9 by the cyber attacks?

10 **MR. GARNETT GENUIS:** As I recall, yes, I was.

11 **MR. DANIEL SHEPPARD:** And was that your
12 parliamentary email account or was it a personal email
13 account?

14 **MR. GARNETT GENUIS:** It was a personal, non
15 parliamentary email account.

16 **MR. DANIEL SHEPPARD:** So let's move the story
17 forward a little bit, and Mr. McKay, I think it now comes to
18 you. Mr. Genuis has indicated that there was a second phone
19 call with the two of you as co-chairs, and Mr. de Pulford.
20 Can you tell the Commissioner what you recall being told
21 during that conversation?

22 **MR. JOHN MCKAY:** Well, we got into some
23 detail about this pixel attack, which I have had to have
24 explained to me about two or three times to try and
25 comprehend what this means. And the means by which they were
26 penetrated.

27 And then the questions start to tumble out of
28 your mind as to what's the significance of this? Because you

1 don't really understand it. And I only have one device, and
2 that's the parliamentary device. But I do have personal
3 stuff on my parliamentary device. So that again, starts to
4 open up other lines of question. And then of course, then
5 the question was why would they be interested in us?

6 And so, these questions start to gel in your
7 mind, in effect, after you get off the phone call, because
8 it's not quite clear what it is that's been happening. And
9 then -- and then we did have a subsequent phone call that day
10 with the other -- the other victims, for want of a better
11 term, and then we had a briefing from the FBI subsequent to
12 that. And it was made more clear to us what the FBI had
13 surveilled, the volume of these attacks, and you start to
14 appreciate over time that this is a massive operation that is
15 being conducted by the state security people for China.

16 So it does start to settle into your mind
17 that this is something that does need to be addressed and in
18 particular appreciated to your inner interest in this.

19 **MR. DANIEL SHEPPARD:** And one of the
20 questions you described gelling in your mind after you got
21 off that initial phone call is, why? Why was it that you
22 were targeted. Have you gained an understanding of why it is
23 that you and fellow IPAC members were the target of these
24 cyber attacks?

25 **MR. JOHN MCKAY:** I'm not sure I have any more
26 insight than I did on the day. I suppose in retrospect, you
27 look at the roles that you play in parliament as a Chair of
28 Defence Committee, possibly that's of interest. Chair of the

1 Permanent Joint Board of Defence, maybe that's of interest.
2 Those are the direct security things. Your activities with
3 organizations such as IPAC, former Chair of -- I was formerly
4 Chair of the Tiawan Friendship Committee and various other
5 things, you know, articles and interviews. Possibly all of
6 that leads to something and maybe that's why we are of
7 interest.

8 But I think I'm more inclined to think this
9 is just a scatter gun approach and we were caught up in the
10 net of interest. But then you ask yourself, what all this
11 information they apparently gather, what is it that happens
12 to all of that information and where are my vulnerabilities,
13 and not only where are my vulnerabilities, but where are
14 those with whom I communicate? What am I opening up here
15 inadvertently?

16 **MR. GARNETT GENUIS:** My sense is that in
17 this case it was a generalized targeting of IPAC members. Of
18 course, there's inevitably overlap between being an IPAC
19 member and the kinds of activities that Mr. McKay describes.
20 Generally, someone wouldn't take on a leadership role within
21 IPAC if they've shown no interest in these kinds of issues
22 otherwise. But it seemed in this case this was a generalized
23 targeting of IPAC members in Canada and various countries
24 throughout the world. And it's, I think, I kind of
25 recognition of the significance of IPAC, and the work the
26 network is doing on Taiwan, on Uyghur's, and on a range of
27 other issues.

28 **MR. DANIEL SHEPPARD:** And Mr. McKay, just to

1 follow up on a minor point, Mr. Genuis has indicated that it
2 was a personal email account of his that was targeted. Do
3 you know which email account of yours was targeted?

4 **MR. JOHN MCKAY:** Short answer is, no. I only
5 carry one device, and you know, frankly it's a mix of my
6 personal, and my partisan, and my parliamentary. They are
7 fairly discrete. But you know since talking to you and
8 having thought about it, the lines that what I would
9 heretofore have perceived as discrete lines between those
10 three of partisan, personal, and parliamentary no longer
11 apply. And I'm hoping that Madam Commissioner and you will
12 wrestle with the vulnerabilities that carrying a
13 parliamentary device has in our personal lives.

14 **MR. DANIEL SHEPPARD:** And I'm going to be
15 coming back to that theme of personal, partisan, and
16 parliamentary in a moment. But perhaps just to close off the
17 story of how IPAC was informed, if the Court operator could
18 please pull up COM485_R? And if we can just scroll down a
19 little bit so that we can see some of the text?

20 **--- EXHIBIT No. COM0000485 R:**

21 URGENT AND CONFIDENTIAL: PRC
22 SPONSORED CYBER ATTACK BRIEFING FROM
23 IPAC

24 **MR. DANIEL SHEPPARD:** This is an email dated
25 April 25th of 2024. I take it you have both seen this email
26 previously?

27 **MR. JOHN MCKAY:** Yeah.

28 **MR. DANIEL SHEPPARD:** Mr. Genuis, yes?

1 **MR. GARNETT GENUIS:** Yes.

2 **MR. DANIEL SHEPPARD:** Mr. McKay, yes. And
3 can you just briefly describe what this email was?

4 **MR. GARNETT GENUIS:** So this was the next
5 step in making sure ---

6 **MR. JOHN MCKAY:** This was from us, yeah.

7 **MR. GARNETT GENUIS:** --- everyone in the -- I
8 should say everyone who is affected by -- or who was targeted
9 in Canada received. So it was on the 24th in the morning,
10 the briefing of co-chairs, in the afternoon, the briefing of
11 all those who had been targeted, but not everybody who had
12 been targeted was on the call, and this follow up email was
13 sent providing that information.

14 **MR. DANIEL SHEPPARD:** And if you go through
15 the email, it provides certain information from IPAC, the
16 Secretariat of IPAC, to the Canadian members, some of the
17 details of the attacks, some of the background as to how IPAC
18 became aware.

19 Is the information in this email the same as
20 the information that you received directly from Mr. de
21 Pulford in your phone calls?

22 **MR. JOHN MCKAY:** Yes.

23 **MR. GARNETT GENUIS:** There may have been
24 additional things discussed on the calls, but I think this
25 email is pretty comprehensive, so yes.

26 **MR. DANIEL SHEPPARD:** What was your
27 understanding of whether or not these cyber attacks were
28 successful in penetrating your accounts?

1 **MR. JOHN McKAY:** Well our understanding at
2 the time was that they were not successful. Our
3 understanding was that the information from the FBI was
4 forwarded to the quote unquote appropriate authorities,
5 Canadian authorities, which we assume is either CSC or CSIS,
6 and that in turn was conveyed to the those -- the entity that
7 provides protective service for parliamentarians, and they
8 ran -- I guess they ran a check and they were satisfied that
9 no firewalls had been breached. That's our -- that was our
10 understanding. It's still our understanding of the sequence
11 of events.

12 **MR. GARNETT GENUIS:** I have a slightly
13 different response. When we initially received this
14 information, we didn't know to what extent the attack had
15 been successful or not. Clearly we could know that we hadn't
16 experienced some major noticeable event in terms of our
17 email, things being deleted, unable to access it, et cetera,
18 but this was a pixel reconnaissance attack designed to get
19 certain basic information enabling further reconnaissance
20 activity and potentially further attacks down the line. So
21 whether information had been gathered through this attack
22 that was being used in surveillance that had informed
23 awareness of foreign actors about our activities, simply I
24 don't know.

25 I raised a question of privilege about this
26 in the House on April 29th, which was the first Monday --
27 which was the first day back in the House of Commons
28 following us receiving the information. Subsequently a

1 statement was made to the media by a Mr. Mathieu Gravel,
2 director of outreach and media relations, who said there were
3 no cyber security impacts to any Members or their
4 communications. So I -- we have it from him that this claim
5 was made that the defeat of the -- that the attack was
6 blocked.

7 However, and I -- on May the 1st, I made a
8 statement to this effect to the speaker highlighting that
9 House of Commons Cybersecurity does not do anything with
10 respect to my personal email account. So although we now
11 have their statement with respect to the fact that the cyber
12 attack on parliamentary accounts did not penetrate, I still
13 don't know whether there was any impact on my personal
14 account.

15 I will say I don't recall opening an email
16 that fits the description and I haven't seen any visible
17 impacts on my account. But can I say with certainty that the
18 attack failed? I wish I could, but I can't. I can't say
19 there wasn't an impact. I can only say that I don't -- I
20 haven't seen any impact.

21 **MR. DANIEL SHEPPARD:** And just with respect
22 to your comment that this was a preliminary activity, if we
23 could just scroll down on this email to where it says, yes,
24 "part of a progressive attack". That's a paragraph
25 describing the nature of the attack and indicating that it is
26 preparatory to other potential attacks that might, you know,
27 be undertaken. That's what you're referring to there?

28 **MR. GARNETT GENUIS:** Exactly.

1 **MR. JOHN McKAY:** And to just, I mean, add to
2 that, when you face that initial progressive attack, it's
3 critical that you know about it so that you can take counter
4 measures to further protect yourself and your accounts.

5 And I think one of the key issues here is
6 understanding the progressive nature of the attack. It just
7 speaks to the critical importance of us being informed. And
8 I'm sure we're going to get to the fact that this didn't
9 happen and some of the issues around that, but the
10 progressive nature of the attack is a critical piece of
11 information.

12 **MR. JOHN McKAY:** I would just -- there was a
13 slight divergence between Garnett and myself on this, and
14 maybe that's because he's more literate in this area than I
15 am. I do think though that we are into territory where
16 frankly, you know, when they say, "Well, there was no breach
17 of the firewall," that you're prepared to take -- at least I
18 was prepared to take that as face value.

19 Now whether they're saying they, whoever they
20 is here, is saying one thing and I'm believing something
21 else, I don't really know, but if we are to go down the
22 various rabbit holes, for want of a better term, of what
23 breaching the firewall means, then this is a good line of
24 inquiry for this inquiry. But I, like Garnett, in the sense
25 that I have not observed anything in any of my other devices,
26 whether it's a home computer or anything else, any
27 vulnerabilities, though it's become a bit of a joke in our
28 family whenever anything goes wrong, we know who to blame.

1 So -- but thus far, you know, it's become a
2 fine line between what's information and what's paranoia, and
3 I don't know at this point.

4 **MR. DANIEL SHEPPARD:** And Mr. Genuis, it
5 sounded as though when you were describing a statement about
6 the lack of success of the cyber attacks, it sounded like you
7 were reading from, like, a press release of some type.

8 My question is, have either of you received a
9 formal briefing from the House of Commons administration
10 about the cyber attack?

11 **MR. JOHN McKAY:** No, I haven't. I have
12 spoken to the speaker directly about this and it was a
13 generalized conversation relating to essentially how much
14 information do you want and when do you want to know it,
15 because this is apparently a massive problem for the
16 Parliament.

17 **MR. GARNETT GENUIS:** I have not been briefed.
18 I have participated in some of the PROC hearings on this
19 subject, but no, I have not received a briefing.

20 **MR. DANIEL SHEPPARD:** And when you refer to
21 the PROC hearings on this subject, these are proceedings
22 before the House of Commons Standing Committee on Procedure
23 and House Affairs that have flown from the question of
24 privilege that you raised in the House?

25 **MR. GARNETT GENUIS:** That's correct. Yeah.
26 I assume every Canadian knows what PROC stands for. Can't
27 imagine.

28 **MR. DANIEL SHEPPARD:** Everyone in this room,

1 maybe.

2 **MR. GARNETT GENUIS:** Yeah.

3 **MR. DANIEL SHEPPARD:** And you both indicated
4 -- I asked the question with respect to the House of Commons
5 Administration, have either of you been briefed on these
6 events directly by the Government of Canada?

7 **MR. GARNETT GENUIS:** No, no.

8 **MR. DANIEL SHEPPARD:** So, Mr. Genuis, you
9 commented on the importance of being notified of these
10 events. I'd like to ask both of you, I take it from your
11 comments that notification seems to be something that's
12 important. What would you had done had you been notified of
13 these attacks around the time that they had been occurring?

14 **MR. GARNETT GENUIS:** One very simple thing I
15 would have done is disabled the automatic image loading
16 function in my personal email. There are certain basic
17 things that I've been learning more recently about how you
18 minimize your exposure to this and one of them is when it
19 comes to pixel reconnaissance attacks, there's a pixel
20 embedded in a picture.

21 So most people, I think, would have, when
22 they open an email that has images in it, those images would
23 load automatically, but an extra precautionary measure that a
24 person in my position, or elsewhere, can take is to not have
25 those images load automatically. That's one example of a
26 kind of protective action that someone who knows that they
27 might be subject or have been subject to a pixel
28 reconnaissance attack could take.

1 Certainly, I would have sought additional
2 information about the best ways to protect my personal, as
3 well as my parliamentary online activities from infiltration.
4 I wasn't able to take those steps because I wasn't informed.

5 **MR. JOHN MCKAY:** I did what any person of my
6 age and stage does, you phone your kid, which is exactly what
7 I did. I have a son who makes his living coding, and he took
8 his father through the explanation of what this all means.
9 And maybe -- you know, I -- and so you gain some
10 understanding. You still don't understand, at least I still
11 didn't understand my vulnerabilities and probably would have
12 benefitted from somebody intervening at that stage and saying
13 -- explaining the vulnerabilities so that, you know, whether
14 you're disabling some function or doing -- taking other cyber
15 hygiene measures, I don't know. But if you're not told, you
16 don't know.

17 **MR. DANIEL SHEPPARD:** With the time we have
18 left, I'd like to talk to you about two issues that I think
19 we've touched upon a little bit already. And the first one,
20 Mr. McKay, I'd like to go back to an idea that you had
21 touched on, which is this notion of having a parliamentary
22 role, a partisan role, and a personal role. Could you just
23 unpack a little bit what you meant by that?

24 **MR. JOHN MCKAY:** Well, the life of an MP is a
25 strange life, frankly, and once you're elected you are a
26 member of parliament for 24 hours every day, seven days a
27 week, 365 days a year. And there's a lot of blurring. You
28 know, if I go to church, people talk to me about politics.

1 If I go shopping, people talk to me about politics. So it's,
2 you know, it's a mix-in. My friends talk to me about
3 politics, and simultaneously, you know, some of them are
4 liberals, some of them are not, and -- so you're blurred into
5 the personal.

6 So it's in some respects unique to the
7 position that there is so much blurring between the various
8 roles of a parliamentarian. I mean, you could it put it more
9 dramatically and say you have no personal life. In some
10 respects that true, and you are always, quote/unquote "on",
11 and in some respects that's true.

12 So when you are using devices, you may be
13 simultaneously using them for three purposes - parliamentary,
14 personal, and partisan. And so when we've had this
15 conversation, and frankly, Mr. Sheppard, you've kind of sent
16 me down this path, I started to think about how I may have
17 inadvertently or unwittingly exposed personal and partisan
18 activities to my parliamentary account. And I don't think
19 there's been any consequence of that, but in truth I don't
20 know. In truth I don't know.

21 So I don't know where you were thinking we'll
22 go, Madam Commissioner, but I think it is worthwhile thinking
23 about the extinction of whatever protective service we get to
24 the entire range of devices that are used by members.

25 **COMMISSIONER HOGUE:** Because as of now it's
26 limited to your parliamentary and ---

27 **MR. JOHN MCKAY:** Yeah, yeah. So on my ---

28 **COMMISSIONER HOGUE:** --- device or your ---

1 **MR. JOHN MCKAY:** Well, that's ---

2 **COMMISSIONER HOGUE:** --- email account, or --

3 -

4 **MR. JOHN MCKAY:** Well, that's ---

5 **COMMISSIONER HOGUE:** --- other ---

6 **MR. JOHN MCKAY:** --- the point. So I can
7 only access this device with -- through the House of Commons
8 Protective Service. You know, it's got a double
9 authentication, and as far as I know it's pretty good. But
10 in that -- in this information of this device is personal
11 information and is partisan information.

12 **COMMISSIONER HOGUE:** Is it in a different
13 account on your device?

14 **MR. JOHN MCKAY:** Yeah, it's in a different
15 account, yeah.

16 **COMMISSIONER HOGUE:** It's a different
17 account. So you have like three accounts or two different
18 accounts on the ---

19 **MR. JOHN MCKAY:** That's right.

20 **COMMISSIONER HOGUE:** --- same device?

21 **MR. JOHN MCKAY:** That's right. So I have a
22 Gmail account on the device ---

23 **COMMISSIONER HOGUE:** Okay.

24 **MR. JOHN MCKAY:** --- for instance. And you
25 know, frankly, the -- there's a blurring of lines between
26 people who support me politically and people who are personal
27 to me.

28 **COMMISSIONER HOGUE:** Because what you are

1 saying is it's not your device that is protected but just
2 your parliamentary account? Is that right?

3 **MR. JOHN MCKAY:** Well, that's it. You see, I
4 would think, and I don't know the answer to this, and
5 possibly with subsequent testimony you'll be able to
6 ascertain the extent of the protection on the device, and
7 maybe I'm just being paranoid here in thinking that I've
8 inadvertently exposed other. I would rather like to be
9 paranoid in this particular instance. But having said that,
10 I think that's a legitimate line of inquiry, is to what is
11 the nature and extent of the protection that is afforded to
12 MPs who think they have a top-of-the-line security device
13 from the Parliamentary Protective Service.

14 **MR. GARNETT GENUIS:** We've talked about some
15 of the fuzziness, but I think it might be useful to just
16 really zero in on where that clear separation has to be and
17 why many MPs do keep separate devices.

18 So I have two phones. I have them both here
19 with me. I generally carry them all around. And I'm a
20 political person. I like to participate in campaigns; right?
21 So this is my parliamentary device. I -- it has my
22 parliamentary email account. I communicate with staff about
23 parliamentary issues and so forth.

24 Last night, I was making some phone calls to
25 get out the vote for the bi-election. I was using this
26 phone. It would -- this has -- I make partisan calls from
27 it. It has certain information on it in relation to partisan
28 activities. And so that is -- my understanding is, is that

1 the kind of separation that one is supposed to have.

2 **COMMISSIONER HOGUE:** Because there is no
3 connection between them in the sense that you don't have your
4 personal account also in your other device ---

5 **MR. GARNETT GENUIS:** I ---

6 **COMMISSIONER HOGUE:** --- you just have your
7 personal account on one device and your parliamentary
8 account on ---

9 **MR. GARNETT GENUIS:** Well ---

10 **COMMISSIONER HOGUE:** --- another device. Or
11 they are entirely connected?

12 **MR. GARNETT GENUIS:** So I do have -- for
13 instance, my social media account. So I do a lot of -- I
14 post parliamentary things on my parliamentary Facebook page.
15 So my Facebook account, I access my parliamentary Facebook
16 page through my personal Facebook page, and that's on my
17 parliamentary device. I think there would some variation,
18 but I suspect that many members of parliament would have a
19 personal email also on their parliamentary device, but many
20 would also preserve a personal device, particularly for
21 partisan functions.

22 Now, this phone, I just bought it, like
23 anyone else. Like this was issued to me by the House of
24 Commons, and this, I went to a store and got it and bought a
25 phone plan for it, just like anyone else does. Which is why
26 when the House of Commons official from the Speaker's Office
27 gave that comment to the media saying, "Well, these attacks
28 were all blocked", well this is not behind your firewall,

1 it's -- because it's not a parliamentary device.

2 But if there is information on that personal
3 email that's of interest to a foreign actor, and it could be
4 political discussions that are happening on my personal
5 account. So as John was talking about, if a personal friend,
6 who happens to also work for a civil society organisation,
7 says informally to me by a personal email, "Hey Garnett, can
8 you speak at this event we're putting on?", the natural thing
9 is to respond to that, not say, "Well, you got to call my
10 office first through the proper channel." Right? And so
11 there's some of that that inevitably appears on a personal
12 account, and then there's also some risk of a blackmail as
13 well. I have a -- proud to say a boring personal life, but
14 if foreign actors are interested in people's -- in accessing
15 people's personal accounts for -- to understand aspects of
16 their parliamentary work, but also, potentially for blackmail
17 purposes. So it is a potential vulnerability. This personal
18 device is not behind any House of Commons firewall at all.

19 **MR. JOHN McKAY:** Just as a point of
20 clarification, I too would never use my phone for partisan
21 activities. I just want to be, you know, abundantly clear
22 that, you know, we don't make, you know, campaign calls like
23 Garnett was desperately making last night.

24 **MR. GARNETT GENIUS:** Happy to talk more about
25 the bi-election results if you like, John.

26 **MR. JOHN McKAY:** And with -- well, using a
27 parliamentary device, just that's a no-go area. That's
28 clear, but some of the rest is not nearly as clear.

1 **MR. DANIEL SHEPPARD:** And so you've described
2 different ways in which, just using you as the two examples,
3 different parliamentarians may organize their various
4 information technology devices and lives in different ways.
5 When it comes to the parliamentary devices and accounts, I
6 take it that your understanding is the House of Commons
7 administration is responsible for cyber security and the
8 protection of those networks; is that fair?

9 **MR. JOHN McKAY:** I describe it as the
10 Parliament of Canada rather than the House of Commons.

11 **MR. GARNETT GENIUS:** And I'm not sure exactly
12 what the interplay is between security agencies, and we've
13 heard some testimony at Prague on this since, but -- but
14 either way, there's a special hedge of protection that is
15 looking at those devices.

16 **MR. DANIEL SHEPPARD:** And so whoever it might
17 be, those devices have someone responsible for their
18 protection other than yourselves?

19 **MR. GARNETT GENIUS:** Yeah, exactly.

20 **MR. DANIEL SHEPPARD:** When it comes to your
21 personal devices and your personal accounts, does the House
22 of Commons or the Parliament of Canada provide protection for
23 those?

24 **MR. JOHN McKAY:** No.

25 **MR. GARNETT GENIUS:** No.

26 **MR. DANIEL SHEPPARD:** Does the Government of
27 Canada provide protection for those?

28 **MR. JOHN McKAY:** No.

1 **MR. GARNETT GENIUS:** No.

2 **MR. DANIEL SHEPPARD:** Mr. ---

3 **MR. GARNETT GENIUS:** At least not as far as
4 we know.

5 **MR. JOHN McKAY:** Well, I'm pretty sure that
6 my home computer is not protected by the Government of
7 Canada.

8 **MR. DANIEL SHEPPARD:** Mr. McKay, does the
9 Liberal Party of Canada provide you with protection ---

10 **MR. JOHN McKAY:** No.

11 **MR. DANIEL SHEPPARD:** --- for those devices?

12 **MR. JOHN McKAY:** No.

13 **MR. DANIEL SHEPPARD:** Mr. Genius, does the
14 Conservative Party of Canada provide you with protection for
15 those devices?

16 **MR. GARNETT GENIUS:** No, they would deal with
17 security around specific party apps, for example, but not the
18 devices themselves.

19 **MR. DANIEL SHEPPARD:** I mean, maybe just to
20 put it simply, are either of you aware of anyone other than
21 yourselves who are responsible for providing for cyber
22 security for your personal devices and accounts?

23 **MR. JOHN McKAY:** No.

24 **MR. GARNETT GENIUS:** No.

25 **MR. DANIEL SHEPPARD:** So then it takes us to
26 the question of whether or not that's adequate, and if not,
27 who ought to be providing you with those supports. And I'll
28 just ask each of you to comment on that question.

1 **MR. JOHN MCKAY:** Is it adequate? I think
2 that's the \$64 question for this inquiry. I think we've been
3 exposed, and then that's led to a lot of thinking on my part,
4 at least, about my vulnerabilities. And who should do it?
5 I'm a big believer in the separation of the powers. You
6 know, the government is one thing, Parliament is another,
7 judiciary is another. And I think that Parliament should be
8 responsible for its own security. Doesn't mean that they're
9 going to set up a parallel CSIS or CSE or anything of that
10 nature. I would expect that they would get information from
11 our, if you want, government agencies, but I think it's
12 Parliament that should provide the security. I think it's
13 Parliament that should provide the devices and should be
14 sensitive to the unique needs of MPs and senators, all who
15 are, we're coming to understand, are far more vulnerable
16 people than we'd previously understood.

17 **MR. DANIEL SHEPPARD:** Mr. Genius?

18 **MR. GARNETT GENIUS:** Yeah, I mean, there are
19 some different alternatives. Is the current system adequate?
20 No. I think, you know, the most fundamental thing is that
21 when government becomes aware of threats, they should talk to
22 us about it. That's clearly the biggest failure here that we
23 were -- there was a progressive attack that was happening.
24 We could have taken steps to protect ourselves more
25 effectively if we had been informed, and we were not
26 informed. And it remains mysterious to me why nobody thought
27 I had a right to know this information that was very
28 important to how I would protect myself and the people that I

1 correspond with, so I think this is a big failure in terms of
2 the actions of the government.

3 And we may run out of time talking about
4 this, I suppose, but there's the ministerial directive, much
5 discussed, you know, after the events involving Mr. Chong,
6 and yet we were still not informed of this event, in spite of
7 that directive. Now that directive was put in place after
8 the original events associated with this targeting took
9 place, but we were not informed even after that directive
10 came into place.

11 So what could be done beyond informing us to
12 provide better such protection? One possible option would be
13 to just change the rules around partisan activity on
14 parliamentary devices. If we said, well -- if everyone's on
15 an equal playing field, there already are forms of
16 subsidisation of partisan activity, that if we said for
17 elected members of Parliament to move partisan activity --
18 personal activity onto their parliamentary devices, this
19 would bring those things under kind of a greater level of
20 protection. That's not foolproof because it wouldn't apply
21 to candidates, other such people who might be targeted, but
22 it would provide greater protection for parliamentarians. So
23 that's one potential option. Another option would be
24 providing resources directly to parties just to support their
25 support of personal devices and of partisan activity.

26 One thing to just mention is that the House
27 of Commons does provide some support for home security.
28 There's a program through which they do that, which is sort

1 of an acknowledgment that maybe protecting us in our offices
2 and on the hill isn't sufficient because we could face
3 threats to our safety when we're at home. And the same
4 principle could easily be applied in the area of IT, that
5 there are cyberthreats as well that extend outside of the
6 parliamentary precinct, parliamentary devices, and,
7 therefore, there has to be some protection of that. So
8 whether it makes sense to just have more cyber protection of
9 our personal devices or to encourage and permit use of
10 parliamentary devices for more activities, those are two
11 potential options. Although, even if we were to go the
12 direction of permitting more use of parliamentary devices for
13 personal and partisan activity, I think it would be natural
14 that parliamentarians would still maintain personal channels
15 of communication. Someone's not going to shut down their
16 personal email when they get elected and tell their siblings
17 and parents to email them at their .parl.gc.ca account, but
18 some of these steps could make improvements.

19 **MR. JOHN MCKAY:** The only distinction I would
20 make between Garnett's views and mine is that I think
21 parliamentarians should be taking care of themselves.
22 Certainly, we're going to use government resources to acquire
23 the information, but the decision as to what should be done
24 about the information as it's generated, I think, needs to be
25 done by responsible people in the parliament precinct and I
26 would start with the Speaker's offices. That would be my
27 view. And the protocols and the level of threat and all of
28 the various concerns, I think, should be administered by the

1 House in some form or another, to the benefit of members of
2 parliament, with the concern, primarily the members of
3 parliament. Governments have other concerns at times. And
4 so I am strongly of the view the separation of the three
5 branches of government should be maintained, particularly in
6 the realm of security.

7 The other issues I could -- I may or may not
8 take issue with on Garnett, but I think he's outlined some of
9 the concerns that are pretty relevant.

10 **MR. GARNETT GENUIS:** If I can just follow up
11 on that, I mean, I think it's useful to kind of zero in on
12 what, if any, disagreements there are in terms of process.

13 Like I think that government should ensure --
14 it has a responsibility to ensure that those who are targeted
15 are informed. The way the government in this case sought to
16 absolve itself of responsibility is saying, "Well, we
17 informed House of Commons, IT and it was up to them to decide
18 to inform you or not".

19 Frankly, that seems like a pretty weak excuse
20 given that officials subsequently admitted at committee that
21 oftentimes those -- that information sharing has associated
22 caveats with it such as that they can't share it without the
23 permission of those who gave them the information in the
24 first place.

25 So the government said it was up to them to
26 decide whether or not to inform you, and yet the information
27 we have suggests that that information had caveats attached
28 to it that said that they couldn't share the information with

1 us without coming back for permission in the first place.

2 Moreover, House of Commons security is
3 responsible for protecting us, but the function of informing
4 people who have a right to know that they've been targeted, I
5 think it primarily falls to government. In any event,
6 government did not inform us and they did attach caveats to
7 the information. We should have been informed, and it would
8 have matter if we had been. So I would like to underline
9 yes, there's an important separation of powers, but when
10 someone has information that's relevant to the security of a
11 Parliamentarian, they have a responsibility to ensure the
12 Parliamentarian gets that information, and that didn't happen
13 in this case.

14 **MR. JOHN MCKAY:** Yeah, I guess we're going to
15 agree to disagree, but the simple point being that the
16 government did inform the protective service, whoever that
17 might be, and they did not pass on the information. Whether
18 if they didn't pass on the information the government should
19 have phoned us up and said, "Well, you know, they didn't tell
20 you", I think that would be -- I think that's a bit
21 problematic.

22 So if you can establish some lines of
23 clarity, I think that's where we are -- you know, who's to
24 take responsibility, what are the terms and conditions under
25 which the information is disclosed, I think the needs of
26 Parliamentarians are unique in this particular case and we've
27 inadvertently or potentially inadvertently exposed people
28 that shouldn't have been exposed.

1 **MR. DANIEL SHEPPARD:** And with the two or so
2 minutes I have left, I'd like to ask one last question
3 that's, I think, specific to the issue of cyber attacks.

4 Mr. McKay, you made mention of a conversation
5 that you had with the Speaker of the House of Commons, and
6 it's discussed in more detail in your interview summary, but
7 in essence, as I understand it, he informed you that the
8 House of Commons faced frequent cyber attacks and that if MPs
9 were notified of all of them, there would essentially be a
10 constant stream of notifications.

11 Assuming that to be the case, when do you
12 feel or what factors should be taken into account when
13 deciding in a particular case whether or not Members of
14 Parliament should, in fact, be notified of a cyber attack?

15 And maybe, Mr. McKay, I'll start with you.

16 **MR. JOHN MCKAY:** Yeah. You hit on the most
17 difficult of questions.

18 Some MPs, by virtue of circumstances, are
19 more vulnerable than others, and so, if you want, there may
20 be a vulnerability index. The trouble is that that is -- has
21 got all kinds of judgment brought to it. You know, if I look
22 at my own profile, am I a more vulnerable or less vulnerable
23 MP than Garnett, for instance, and what's the basis on which
24 my level of vulnerability would be, and would anybody looking
25 at whether to inform me or not have significant -- or an
26 appreciation of my profile so that they would appreciate that
27 this particular piece of information on this particular
28 attack is unique and makes me the more vulnerable than, say,

1 Garnett does in a similar amount of information.

2 I don't know how you arrive at that, but it
3 is a bit of a "know your client" question. And we all have
4 different levels of vulnerability.

5 How that goes about, I don't know. I do know
6 that the Speaker's Office seems to be seized with the
7 problem, but I don't know that they've advanced their level
8 of understanding when they do notifications as well.

9 I think it's -- you know, we're all geniuses
10 after the fact, and should we have been informed? At this
11 point, probably yes, based on what we know. And based upon
12 our activities and based upon our profiles, it's probably
13 true we should have been told. And there's a unique and
14 discrete set of MPs, and that was not -- the trigger didn't
15 fire.

16 So I -- as you can see, I'm floundering on a
17 response to your question, but I think it is a very difficult
18 question, and I wish you well.

19 Garnett?

20 **MR. GARNETT GENUIS:** Yeah. Respectfully, I
21 don't think it's that difficult. I mean, we were
22 specifically being targeted by a foreign state because of our
23 specific political activities. This wasn't kind of
24 generalized constant attacks on the network. This was a
25 specific targeting of specific members because of their
26 activities including, in my case, at least, at a personal
27 account that the House of Commons is not involved in
28 overseeing.

1 The Government of Canada had this
2 information, they received it from Foreign Intelligence
3 Agency. They did not tell us. They, instead, gave it to the
4 House of Commons, who has no oversight of my personal email,
5 and they attached caveats to the information which prevented
6 passing it along without permission. So I think it's pretty
7 clear that the government had a responsibility they didn't
8 discharge.

9 This characterization that it's really
10 difficult to know what to share because, you know, it would
11 lead to a constant stream of notifications, we get a lot of
12 emails from the Speaker's Office.

13 You know, we get a constant stream of
14 notifications about opportunities to go on early morning all-
15 party jogs, right. I think there should be a higher priority
16 to be sending us regular updates on specific cyber threats
17 than to be getting these constant stream of information about
18 events and all-party jogging opportunities, with all due
19 respect. This was a serious issue we should have been
20 informed about and we weren't. And I think that the
21 particular personal targeting of this, the information that
22 the government received from our American partners is just so
23 obvious that this is a case we should have been told about.

24 I don't think the fact that there may be some
25 marginal cases should distract us from the fact that this is
26 a very clear case and people chose not to inform us, and they
27 failed in their responsibilities to keep our democratic
28 institutions safe. We should have been told.

1 **MR. DANIEL SHEPPARD:** Mr. McKay, Mr. Genuis,
2 thank you very much.

3 Madam Commissioner, those are my questions.

4 **COMMISSIONER HOGUE:** Thank you very much.

5 We'll take a 20 minutes' break, so we'll come
6 back at 10:55.

7 **THE REGISTRAR:** Order, please.

8 This sitting of the Commission is now in
9 recess until 10:55.

10 --- Upon recessing at 10:34 a.m.

11 --- Upon resuming at 10:57 a.m.

12 **THE REGISTRAR:** Order, please.

13 The sitting of the Foreign Interference
14 Commission is now back in session.

15 The time is 10:58.

16 **COMMISSIONER HOGUE:** I think Ms. Dann, you
17 have a message to convey?

18 **MS. ERIN DANN:** Yes, thank you Commissioner.
19 Just before we resume with the examinations, I'm advised that
20 there have been some technical issues with the livestream of
21 the Commission's proceeding this morning. We hope that those
22 have been resolved. But I wanted to alert everyone that if
23 there are any ongoing issues there will be a fully archived -
24 - a full recording of today's proceedings available at the
25 end of the day on the Commission's website.

26 **COMMISSIONER HOGUE:** Thank you.

27 Alors, Me Sheppard -- oh no, it's cross-
28 examination, I'm sorry, you can sit where you are.

1 So the first one is -- I think it's the Jenny
2 Kwan's attorney.

3 --- MR. GARNETT GENUIS, Resumed:

4 --- MR. JOHN McKAY, Resumed:

5 --- CROSS-EXAMINATION BY MR. SUJIT CHOUDHRY:

6 **MR. SUJIT CHOUDHRY:** Good morning, members.
7 For the record, my name is Sujit Choudhry, I'm counsel to
8 Jenny Kwan. Commissioner, just as a housekeeping matter I'm
9 going to seek leave from you to put to these witnesses a
10 Commission document that was not on our list, regrettably,
11 but it shouldn't be a problem. It's Commission 357.

12 --- EXHIBIT No. COM0000357:

13 House of Commons - Debates - No 304 -
14 April 29, 2024

15 **MR. SUJIT CHOUDHRY:** It's the Hansard of this
16 speech that Mr. Genuis gave to Parliament on the issue of
17 privilege, and I've advised Commission counsel of this a day
18 ago, and I apologize for this.

19 **COMMISSIONER HOGUE:** It's fine.

20 **MR. SUJIT CHOUDHRY:** Good. Thank you.

21 So I'd first, if I could, if I could ask Mr.
22 Registrar to put up Witness 75 please? This is Mr. Genuis'
23 witness statement. And if you could go to paragraph 16? I
24 just want to take you, Mr. Genuis, to the statement where it
25 says:

26 "There are other interparliamentary
27 organizations that exist outside of
28 the formal structures of the House of

1 Commons that MPs can belong to." (As
2 read)

3 Do you recall that statement?

4 **MR. GARNETT GENUIS:** Yes.

5 **MR. SUJIT CHOUDHRY:** And the IPAC is one such
6 group. Is that right?

7 **MR. GARNETT GENUIS:** Yes, that's right.

8 **MR. SUJIT CHOUDHRY:** And so, I'd now like to
9 take you to Commission 357 if I could, and this is your
10 speech in the house. And I believe it's page 3 of this
11 document. If you could scroll down. Yes.

12 And so, Mr. Genuis, in the lefthand column
13 there of Hansard, there's a statement that you've made:

14 "IPAC involvement is an integral part
15 of what I do as a member of
16 parliament." (As read)

17 And you'll recall -- and I won't read it
18 because we are pressed for time -- but you recall making that
19 statement, don't you?

20 **MR. GARNETT GENUIS:** Yes, absolutely.

21 **MR. SUJIT CHOUDHRY:** And you agree that there
22 is an integral relationship between your work on IPAC and
23 your work as an MP?

24 **MR. GARNETT GENUIS:** Yeah, absolutely.

25 **MR. SUJIT CHOUDHRY:** Sorry, did you want to
26 say something more?

27 **MR. GARNETT GENUIS:** Sure.

28 In the previous statement you referenced, in

1 my discussion with Commission counsel, what I was emphasizing
2 is that there are formal groups that are registered with the
3 House of Commons, interparliamentary groups that are kind of,
4 official interparliamentary groups of the House of Commons.
5 And then there are groups that do not have that official
6 status with the House of Commons, like IPAC, that are
7 nonetheless integral to how we gather information and
8 collaborate and inform the work we do.

9 **MR. SUJIT CHOUDHRY:** Okay. And Mr. McKay, I
10 don't recall -- I'm just putting to Mr. Genuis his remarks on
11 how he sees the relationship between his work on IPAC and
12 being an MP. Do you see it the same way as Mr. Genuis?

13 **MR. JOHN MCKAY:** Yes. I would -- we all
14 belong to various groups. When you start with the formal
15 committees on the house, and then you go to the formal
16 committees, like I chair a Canada U.S. parliamentary
17 friendship group, and then you go to friendship groups, and
18 then there's even other levels of associations.

19 **MR. SUJIT CHOUDHRY:** Okay. Well, thank you
20 sir.

21 So I'd now like to stay on this document if I
22 could, and I think it's on the righthand side of the page, if
23 I could scroll up, please? Actually, if you could go down,
24 go down to the next page. Yes.

25 And so, could we scroll down a bit more?
26 Yes, okay. So on the righthand column there's some small
27 text there, Mr. Genuis, it's a quote that you read into
28 Hansard from House of Commons Procedure and Practice, and I

1 just want to state what it says for the record. It says:
2 "In order to fulfill their
3 parliamentary duties, members should
4 be able to go about their
5 parliamentary business undisturbed.
6 Any form of intimidation of a member
7 with respect to the member's actions
8 during a proceeding in parliament
9 could amount to contempt." (As read)

10 Do you recall stating that?

11 **MR. GARNETT GENUIS:** Yes, I do.

12 **MR. SUJIT CHOUDHRY:** Okay. And -- but I'd
13 like to now take you to the next two paragraphs where you
14 then -- you apply that principle both to your question of
15 privilege but also to Mr. Chong's, which you cited as a
16 precedent, and I want to put to you the following
17 proposition: That in these passages here, you make not one
18 point but three different points. The first point is the
19 point that quote stands for, which is that intimidation by a
20 third party, so in this case a foreign state, raises a
21 question of privilege, but you then raise two additional
22 points that aren't reflected in that quote.

23 The first point is that the government has a
24 duty to protect parliamentarians from interference with their
25 official duties, and then the third point is that they have -
26 - governments has a duty to warn parliamentarians if there
27 has in fact been any such interference.

28 Do you agree that you made those two points

1 as well?

2 **MR. GARNETT GENUIS:** Yeah, I -- all the
3 things you said are points that I made and points that I
4 believe.

5 **MR. SUJIT CHOUDHRY:** And those are also
6 questions of privilege in your view?

7 **MR. GARNETT GENUIS:** Yes. I will add that,
8 not I think in this speech, but in a previous -- when I was
9 posing the question of privilege, I spoke of a precedent
10 involving a -- an attempted bugging of an NDP Caucus meeting
11 decades ago, and the speaker quickly ruled at that time that
12 even, regardless of impact, the fact that there was bugging
13 happening was clearly a question of privilege.

14 **MR. SUJIT CHOUDHRY:** Good.

15 Mr. McKay, do you view things the same way as
16 Mr. Genuis? That is, is the question of privilege not simply
17 the interference with your email account, but the failure to
18 warn and the failure to protect?

19 **MR. JOHN McKAY:** I supported Mr. Genuis in
20 his privilege motion, and largely adopt his views; yes.

21 **MR. SUJIT CHOUDHRY:** Okay, good. Thank you.
22 And just before we move on from this point, I know that in
23 both of your witness -- your interview summaries, you --
24 there was a description of your views on the ministerial
25 direction on threats to security of Canada that, as you know,
26 was issued in May of 2023 in response to revelations
27 governing Mr. -- regarding Mr. Chong.

28 I just want to ask you both, do you think

1 that pursuant to that directive, CSIS had a duty to warn you
2 or advise you as soon as the government became aware of the
3 cyberattack against your accounts? And maybe, Mr. Genuis,
4 you could start.

5 **MR. GARNETT GENUIS:** Well, I think there's a
6 bit of a lack of clarity around events that took place prior
7 to that directive being issued. This is an instance where
8 the attempted hacking attempt that we know about, the attack,
9 happened prior to the directive being issued, and yet, given
10 the progressive nature of the attack, the fact that
11 information may have been gathered, there may have been
12 impacts that went after the directive. So my suggestion
13 would be that there be clear direction to inform about
14 present events but also past events, especially those that
15 might be still having an impact.

16 **MR. SUJIT CHOUDHRY:** Okay. Thank you.
17 Mr. McKay?

18 **MR. JOHN MCKAY:** I'm reading the ministerial
19 directive ---

20 **MR. SUJIT CHOUDHRY:** Sure.

21 **MR. JOHN MCKAY:** --- and I would like a
22 little bit more clarity and direction to the -- CSIS in this
23 particular instance. It leaves a little bit too much, in my
24 view, to the discretion of the individual officer, you know,
25 whenever possible should be informed. That's a little
26 bit.... But then in all instances, the minister is informed.
27 So I'm not quite sure where I land on that, but it does seem
28 to be a little on the vague side.

1 **MR. SUJIT CHOUDHRY:** So I guess the question
2 is -- so that's a comment about the terms of the directive
3 and whether it provides too much discretion. But do you
4 think in this case -- so let me pose a hypothetical to you:
5 Suppose a cyberattack had occurred after the directive was
6 issued. Do you think under the directive CSIS should have
7 informed you of a cyberattack?

8 **MR. JOHN MCKAY:** Absolutely.

9 **MR. SUJIT CHOUDHRY:** Okay, thank you. So my
10 final question, then, is about this relationship between
11 personal devices and parliamentary devices. And it's a bit
12 of a, if I could use a Yiddish word, it's a bit of a
13 "schnozzle", you know? It's -- it seems to be a bit of a
14 mess.

15 And so I'm wondering if -- I want to propose
16 to you a different way of framing the issue and see -- and
17 get both of your reviews about this. That we might think in
18 Canada not about whether activities are partisan or
19 parliamentary or whether devices are personal or official,
20 but rather, whether these activities or devices or our work
21 is part of democracy or not. And if so, then really the
22 framing is what -- is something part of our democratic
23 infrastructure, whether it's parliamentary or a party issue?
24 And if so, if it's part of our infrastructure and it's
25 vulnerable to threat, the question I'd pose to you is, is the
26 government's duty to protect and warn apply to the
27 infrastructure understood broadly?

28 **MR. GARNETT GENUIS:** I'd have two comments on

1 that. I think that's an interesting idea from the
2 perspective of security. I think we would want to preserve,
3 independent of questions of security, that certain activities
4 are private or they should justly be governed by political
5 parties, as opposed to by the state. But I think from a
6 security perspective, there may be a case.... The only thing
7 I would say is that there are areas of our lives that are not
8 -- clearly not part of democracy, such as our personal lives,
9 but which there still is some potential risk of foreign
10 interference negatively impacting. I mentioned the
11 possibility of blackmail, for example. So there -- that
12 distinction doesn't necessarily capture every area in which
13 we would nonetheless want there to be a -- be cyber
14 protection.

15 **MR. SUJIT CHOUDHRY:** Okay.

16 Mr. McKay, sir?

17 **MR. JOHN McKAY:** Yeah. I have been a
18 practising politician for a long time now, and there were --
19 when I started I think the lines were far more clear as to
20 what constituted personal, private, and public, and partisan,
21 but these things have brought us into a situation where those
22 lines don't necessarily exist any longer, and have become a
23 threat to our democracy. So regrettably, I think that more
24 and more of our lives are being drawn into the protective
25 realm of CSIS, and others, other protection functions, and
26 failure to protect is a threat to the democracy. I wouldn't
27 have said that even five years ago, but now I -- now I'm
28 starting to come to that regrettable conclusion.

1 **MR. SUJIT CHOUDHRY:** Commissioner, those
2 conclude my questions.

3 Thank you for your time, gentlemen.

4 **COMMISSIONER HOGUE:** Thank you.

5 So next one is Me Sirois for the RCDA.

6 **--- CROSS-EXAMINATION BY MR. GUILLAUME SIROIS:**

7 **MR. GUILLAUME SIROIS:** Good morning.

8 **MR. GARNETT GENUIS:** Good morning.

9 **MR. GUILLAUME SIROIS:** I'm Guillaume Sirois,
10 counsel for the Russian Canadian Democratic Alliance.

11 I will begin by asking questions directed at
12 you, Mr. Genuis, and move on to then Mr. McKay. And you are
13 both obviously welcome to provide input even though the
14 question is not specifically addressed to you.

15 In Episode 59 of your podcast, Resuming
16 Debate, Mr. Genuis, you discussed Russian propaganda as a
17 tool for undermining African democracies with Dr. Joseph
18 Siegle. You remember that podcast?

19 **MR. GARNETT GENUIS:** I don't -- I remember
20 the discussion and general contours of it, but maybe not all
21 the details, but yes.

22 **MR. GUILLAUME SIROIS:** You suggest that
23 Russia may use similar strategies of propaganda in western
24 democracies. What can you tell us about that?

25 **MR. GARNETT GENUIS:** Well, I am concerned
26 about the Russian state's effort to project its narratives
27 and the impacts that those have.

28 **MR. GUILLAUME SIROIS:** You believe that

1 Canada's democratic institution can be a target of Russian
2 propaganda as well?

3 **MR. GARNETT GENUIS:** I suspect so, yes.

4 **MR. GUILLAUME SIROIS:** Is -- have you seen
5 any evidence of Russian propaganda in -- during the last two
6 elections, for instance, or between elections?

7 **MR. GARNETT GENUIS:** I certainly see
8 instances of people who are advancing narratives, ideas that
9 I consider wrong that are aligned in their perspective --
10 perspectives with those of the Russian Government. I don't
11 know that in any case I can say this person is directly - how
12 that person has been instigated to hold those opinions, but
13 obviously, I see and everybody sees a presence online,
14 comments in response to posts I make in support of Ukraine,
15 people that are challenging those posts, often with,
16 obviously, factually incorrect claims.

17 So I guess what I'm -- I'm trying to be
18 precise here. The specific source for that person of those
19 conclusions isn't always obvious, but these are narratives
20 that align with things that -- narratives that the Kremlin is
21 trying to push.

22 **MR. GUILLAUME SIROIS:** And so you mentioned
23 the one in Ukraine. Are there other narratives that you
24 suspect are influenced by the Kremlin's narrative, or...?

25 **MR. GARNETT GENUIS:** I mean, I mentioned the
26 Ukraine because it's the most -- by far the most obvious
27 example. Whether there are other narratives that are being
28 advanced at the instigation of the Kremlin, I don't have

1 specific knowledge of that.

2 **MR. GUILLAUME SIROIS:** Okay. Thank you.

3 Now turning to you, Mr. McKay, do you
4 remember the passing of the *Magnitsky Act* in 2017?

5 **MR. JOHN MCKAY:** Yes.

6 **MR. GUILLAUME SIROIS:** Do you recall any
7 efforts by Russia to interfere with the adoption of that Act?

8 **MR. GARNETT GENUIS:** If it may ---

9 **MR. JOHN MCKAY:** Not specifically, no, I
10 don't. I know there was a huge push on the part of our
11 Parliament and caucus to get it, and Bill Browder and Irwin
12 Cotler were very instrumental in that push. But I don't
13 recall any counter-narrative being put forward.

14 **MR. GUILLAUME SIROIS:** I don't -- I simply
15 want to refresh the witnesses' member, and -- by pulling an
16 article from 2017 from the "New York Times" where there's
17 some discussions about interference from Russia during the
18 passing of that Act, and Mr. McKay's quoted in that article.

19 I added this to my list of documents perhaps
20 two hours after the deadline, and I simply want to refresh
21 the witnesses' memory with that article, if that's possible.

22 **MR. DANIEL SHEPPARD:** Madam Commissioner, the
23 document lists get taken down at the deadline, and so it's
24 news to the Commission that any documents have been listed.
25 This has not been notified to the Commission and, as a
26 result, these documents have never been provided to the
27 witnesses to familiar themselves with, so I -- as a reminder
28 for all participants, attempts to put in documents late need

1 to be brought to the attention of Commission counsel as a
2 matter of fairness to the witnesses. And I'm not sure if the
3 witnesses are comfortable or in a position to comment on a
4 document they have not yet had an opportunity to review.

5 **COMMISSIONER HOGUE:** Okay. So what I suggest
6 is we'll -- you'll take a look at the document and tell us if
7 you are not comfortable commenting.

8 **MR. JOHN MCKAY:** Sure.

9 **COMMISSIONER HOGUE:** Just let us know.

10 **MR. JOHN MCKAY:** By all means.

11 **COMMISSIONER HOGUE:** I understand it's just
12 for refreshing their memory, so we'll see whether they are
13 comfortable or not.

14 **MR. JOHN MCKAY:** Our memory is refreshed. Go
15 ahead.

16 **MR. GUILLAUME SIROIS:** Yeah. It's RCD 31,
17 please.

18 **--- EXHIBIT No. RCD0000031:**

19 Canadian Lawmakers Say Pro-Russia
20 Group Tried to Derail Sanctions Law

21 **MR. GUILLAUME SIROIS:** As you see, it's an
22 article from the "New York Times" dated October 4, 2017. It
23 talks about the adoption of the sanctions law, which is the
24 *Magnitsky Act*.

25 You can go down.

26 **MR. JOHN MCKAY:** Can you go back up?

27 **MR. GUILLAUME SIROIS:** Interview John McKay,
28 Member of Parliament.

1 I'll let you read.

2 (SHORT PAUSE/COURTE PAUSE)

3 MR. JOHN MCKAY: Can you keep on going?

4 MR. GUILLAUME SIROIS: Yeah.

5 (SHORT PAUSE)

6 MR. GUILLAUME SIROIS: Just for the record, I
7 sent -- I have the email right here. I sent an email to
8 Commission counsel, Kate McGrann and Matthew Ferguson, on
9 Sunday at 8:00 p.m. Eastern time asking for permission to put
10 these documents to the witnesses.

11 But in any event, I simply wanted to ask you
12 a few questions about these events.

13 And now that your memory's refreshed, do you
14 recall these attempts from Russia to interfere in the
15 adoption of that Act?

16 MR. JOHN MCKAY: I don't with any precision,
17 to be candid about it. Marcus Gold was somebody with whom we
18 worked on a regular basis and we have -- and he was one of
19 the people that brought around Bill Browder and Irwin Cotler
20 and advocated on behalf of the adoption of the *Magnitsky Act*,
21 but I don't recall the -- this particular bit of information.

22 MR. GUILLAUME SIROIS: Thank you.

23 My last question, if that's okay. These
24 attempts, as you quote in the article, were pretty obvious at
25 the time in 2017. I'm wondering if you have any comments --
26 that's to you, Mr. Genuis, as well, if you have any comments
27 regarding the evolution of the Russian strategies to
28 interfere in Canadian elections since 2017.

1 **MR. GARNETT GENUIS:** I think some of the
2 kinds of narratives they push are different now. I think
3 there's also just more recognition since the further invasion
4 of Ukraine of how malicious an actor the Putin regime is.

5 I think some of the statements of the
6 government after 2015 around certain matters suggested much
7 more naivete than about the threat. So some -- awareness has
8 increased. There are different kinds of narratives used,
9 some of them mutually contradictory, and I think those
10 narratives will continue to shift and change just based on
11 where these -- Russia and other foreign actors see there
12 being opportunities.

13 **MR. GUILLAUME SIROIS:** Right. Thank you.

14 **COMMISSIONER HOGUE:** Thank you.

15 So next one is Human Rights Coalition, I
16 think.

17 Sorry. You're on Zoom.

18 **--- CROSS-EXAMINATION BY MS. SARAH TEICH**

19 **MS. SARAH TEICH:** Good morning, everyone.
20 Good morning, MP Genuis, MP McKay.

21 Can everyone hear me okay? There's a bit of
22 an echo in my ears.

23 **COMMISSIONER HOGUE:** Yes, we do.

24 **MS. SARAH TEICH:** Okay, great.

25 My name is Sarah Teich, and I'm representing
26 the Human Rights Coalition.

27 You both spoke about the possibility of
28 exposing others. MP McKay, you stated just before break

1 "Maybe I'd inadvertently exposed others". And MP Genuis, you
2 noted the importance of protecting yourself as well as the
3 people you correspond with. So I just have some follow-up
4 questions about that.

5 Do either of you or both of you communicate
6 with members of diaspora communities, MP Genuis, on your
7 personal or partisan device, and MP McKay, on your one
8 device?

9 **MR. GARNETT GENUIS:** Yes. There are many
10 people who I have worked with in various diaspora communities
11 for a long time who are not just collaborators but are also
12 personal friends and who I would communicate on personal
13 device and through personal channels in -- with in that
14 spirit.

15 **MR. JOHN MCKAY:** And if you represent a
16 riding in Toronto, you necessarily speak to, with and are
17 friends with many diaspora communities.

18 **MS. SARAH TEICH:** Which diaspora communities?
19 And particularly on or after January 2021.

20 **MR. JOHN MCKAY:** Well, I could march you down
21 Markham Road in my riding and pretty well cover every
22 diaspora community known to mankind, but the -- primarily,
23 it's the Gujarati community, Pakistani community,
24 Bangladeshi, the Armenians, the Taiwanese and, to a lesser
25 extent, Portuguese, and multiple Caribbean communities.
26 That's just a superficial rundown of Markham Road.

27 **MR. GARNETT GENUIS:** It would be difficult to
28 put parameters around which diaspora groups I'm communicating

1 with, but I think notably, because I'm most interested in
2 working on human rights issues, I tend to have the closest
3 relationships with diaspora communities who are particularly
4 involved in human rights advocacy, as opposed to those who
5 are focused on engaging the government in relation to other
6 kinds of policy files.

7 **MS. SARAH TEICH:** Does that include Uyghurs,
8 Tibetans, Falun Gong practitioners, Hong Kongers?

9 **MR. GARNETT GENUIS:** Yes. Absolutely.

10 **MS. SARAH TEICH:** Okay. Based on your
11 understanding of cyber attacks, and please only answer to the
12 extent that you have an understanding of cyber attacks, do
13 you think that this put your diaspora community contacts
14 and/or their loved ones at risk?

15 **MR. JOHN McKAY:** I guess we are reluctantly
16 coming to that conclusion. At least I am reluctantly coming
17 to that conclusion, that I may have inadvertently exposed
18 people who communicate with me. I'm thinking of one
19 particular individual from the Hong Kong community. I'm
20 thinking of some of the Falun Gong folks that would be in my
21 contact list.

22 **MR. GARNETT GENUIS:** Yeah, so as I as I
23 discussed earlier, this was a pixel reconnaissance attack
24 that targeted at IPAC members in general, targeted my
25 personal account. I don't know to what extent it was or was
26 not successful, and if it was, what information was gathered.
27 But I have had communications on my personal account with
28 individuals from the communities you mentioned, information

1 that those individuals would certainly not want any malicious
2 foreign actor to have access to. So I don't think we can
3 presume that the attack was successful, nor can we presume
4 that it wasn't successful. But I certainly do correspond
5 with people in those communities through those channels.

6 **MS. SARAH TEICH:** Okay. Thank you.

7 If we can please pull up WIT.75? This is MP
8 Genuis' interview summary. Thank you. And if we can scroll
9 down to paragraph 46? I actually want to start at the bottom
10 of this paragraph.

11 Mr. Genuis, you note the real downstream
12 impacts of these attacks remain unknown. Just to clarify, is
13 that sort of what you're referring to as the impact on your
14 contacts? Or is this referring to something else?

15 **MR. GARNETT GENUIS:** No, that's exactly what
16 I'm referring to. Impacts on my contacts. Impacts that
17 would result from observation. And, you know, I think the
18 greatest threat here is to the freedom of people in diaspora
19 communities. They are vulnerable to all kinds of different
20 threats and I think it's important, as much as possible, to
21 put the spotlight on them, as well as on their courage and
22 heroism in persisting in human rights advocacy in spite of
23 these counter-pressures.

24 **MS. SARAH TEICH:** Thank you. If we can
25 actually go to the same paragraph, but a bit earlier on?

26 You noted you believe it's plausible that
27 China would target you, I'm paraphrasing, obviously it says
28 him, in a way that would threaten your safety or wellbeing on

1 Canadian soil. Would you agree that the experience of
2 members of diaspora communities is not necessarily the same
3 in that regard and that even though your safety and wellbeing
4 would not be threatened, that theirs might be?

5 **MR. GARNETT GENUIS:** I agree 100 percent.

6 **MS. SARAH TEICH:** MP McKay, would you agree
7 with that as well?

8 **MR. JOHN MCKAY:** Absolutely.

9 **MS. SARAH TEICH:** In your opinions, this is
10 to both of you, do you think that these potential downstream
11 impacts, particularly on your contacts that are members of
12 these communities, might have been minimized had you been
13 informed about the attack in a timely manner?

14 **MR. GARNETT GENUIS:** Yes. I would have been
15 able to take protective measures if I had known, and that
16 would have reduced the risk of downstream impacts.

17 **MR. JOHN MCKAY:** I would like to connect the
18 dots, but I can't, given the vagueness of the information.
19 But I do specifically recall a specific conversation with a
20 Hong Kong activist and she was -- I feared for her safety and
21 I think, I don't know this for sure, I think that she has
22 reduced her activities.

23 **MS. SARAH TEICH:** Okay. This is my last
24 question, and it's for you, MP McKay. You raised this idea
25 of vulnerability indexes so that MPs that are more vulnerable
26 than others might be more readily notified. Do you think
27 that the vulnerability of an MP's contacts, particularly
28 among members of diaspora communities, should be a relevant

1 consideration?

2 **MR. JOHN MCKAY:** I think it should be a
3 consideration. I do think you have to start somewhere, and I
4 would be starting with the profile of the MP and the
5 vulnerabilities that he/she would bring to it. And I guess
6 that, in turn, would bring in the downstream, for want of a
7 better term, contacts, calendars, all of the information that
8 you exchange in emails with people in the business that we're
9 in.

10 **MS. SARAH TEICH:** Thank you. I know I said
11 that was my last question, but I actually do have one more, I
12 just had to scroll, if Madam Commissioner, I have another
13 couple of minutes?

14 **COMMISSIONER HOGUE:** Yes.

15 **MS. SARAH TEICH:** Okay.

16 **COMMISSIONER HOGUE:** You have three minutes
17 left.

18 **MS. SARAH TEICH:** Perfect. So if we can
19 please pull up now COM.485 on to the screen? And if we could
20 go to the bottom of page 1? This is where Mr. de Pulford
21 talks about the progressiveness of the attack and how he had
22 notes here that at least two members of IPAC were compromised
23 in mid-2021 subsequent to the pixel reconnaissance emails.

24 If either of you know and/or can share, do
25 you think that your devices, or do you suspect that your
26 devices were targeted subsequent to the January 2021 email?

27 **MR. JOHN MCKAY:** I can't say any ---

28 **MR. GARNETT GENUIS:** I don't have any

1 information ---

2 **MR. JOHN MCKAY:** No.

3 **MR. GARNETT GENUIS:** --- about that. Sorry.

4 **MS. SARAH TEICH:** Okay. That's all right.

5 And if we can scroll to page 2?

6 Mr. de Pulford outlines some potential
7 requests. I'm curious, again to the extent you can share,
8 which of these you've requested and what, if anything, has
9 been done in response? And this is the one, two, three after
10 "We anticipate that Members in Canada..." I'm sorry, it's one
11 through four.

12 **MR. JOHN MCKAY:** Sorry, could you back on the
13 question as to ---

14 **MS. SARA TEICH:** The question is these
15 suggested next steps that Mr. de Pulford identifies, have you
16 requested any of these? And what, if anything, has been done
17 in response of these four bullet points?

18 **MR. GARNETT GENUIS:** It seems to me that one,
19 three, and four have largely by advocacy that we have done,
20 statements I've made in the House. We've clearly attributed
21 this attack in our statements and called for Members of
22 Parliament -- parliamentarians should receive this
23 information in the future. And part of why we're here is to
24 talk about improvements that may need to be made in terms of
25 cyber security.

26 I would certainly be supportive of item
27 number two. It hasn't been a big focus of the conversation,
28 but the idea that individuals who are involved in trying to

1 target legislators in Canada, that those individuals should
2 be subject to sanctions in response to those activities,
3 that's, to me, a pretty commonsense proposition.

4 **MR. JOHN MCKAY:** Yeah, I would just say that,
5 you know, initiating the privilege motion by Garnett was step
6 one. Step two was reference -- was a finding that -- by the
7 Speaker. Step three was a reference to the PROC. And this
8 hearing is part of that overall response to those four
9 issues.

10 **MS. SARAH TEICH:** Okay. Thank you. That
11 concludes my questions.

12 **COMMISSIONER HOGUE:** Thank you.

13 So next one is counsel for the Concerned
14 Group.

15 **--- CROSS-EXAMINATION BY MR. NEIL CHANTLER:**

16 **MR. NEIL CHANTLER:** Good morning. My name is
17 Neil Chantler. I'm counsel for the Chinese Canadian
18 Concerned Group.

19 Question for MP Genuis. You said you would
20 have taken better measures to protect yourself had the
21 Government of Canada informed you about the cyber attack and
22 informed you in a more timely way; correct?

23 **MR. GARNETT GENUIS:** Yes.

24 **MR. NEIL CHANTLER:** And this would generally
25 be true whenever it comes to foreign interference? That
26 people are only able to respond and protect themselves if
27 they're informed of the threat?

28 **MR. GARNETT GENUIS:** Precisely, yeah.

1 **MR. NEIL CHANTLER:** And the more timely that
2 information arrives, the better able you are to protect
3 yourself?

4 **MR. GARNETT GENIUS:** Absolutely.

5 **MR. NEIL CHANTLER:** On the sequence of events
6 that unfolded in respect of this particular cyber attack,
7 could the Registrar please pull up WIT 75, at page 8,
8 paragraph 44.

9 Mr. Genius, you indicated in your interview
10 summary, in your interview with the Commission that you --
11 you've come to understand that the FBI notified the
12 Government of Canada in 2021. You go on to say in the next
13 paragraph that there's some suggestion that the Government of
14 Canada knew about these attacks in 2021. Where does that
15 come from, that suggestion?

16 **MR. GARNETT GENIUS:** Well, the public
17 comments and the government comments in the House of Commons
18 and I believe to the media implied that the government became
19 aware of or identified the attack. So although not entirely
20 clear, my sense was that there was an implication that they
21 had found out about these through some means other than being
22 informed by the Americans. I may have misunderstood that
23 though. They -- in many of the government's statements on
24 this, my perception is that they were sort of intentionally
25 vague, that they were viewing it through kind of a political
26 issues management lens rather than through a let's disclose
27 the information solve the problem kind of lens. So I may
28 have misunderstood, but that was my sense of the implication

1 of what they were saying.

2 **MR. NEIL CHANTLER:** And when were those
3 comments made?

4 **MR. GARNETT GENIUS:** So this was in the same
5 week. It was the week of April 29th. It was the week that
6 Parliament came back following us being informed. So I
7 raised the question of privilege on Monday. As I recall,
8 there was virtually no communications, response from the
9 government on that first day, and then there were some
10 subsequent responses delivered through the media and in the
11 House on the Tuesday or Wednesday.

12 **MR. NEIL CHANTLER:** And just to be clear,
13 that was earlier this year?

14 **MR. GARNETT GENIUS:** This year, exactly.

15 **MR. NEIL CHANTLER:** Could we please scroll to
16 paragraph 50?

17 Now here, Mr. Genius, you've shared your view
18 that there's a cultural problem within the Canadian
19 government with respect to the declassification of
20 information. Now I'm sure you'd agree that the cultural
21 problem isn't the only problem here.

22 **MR. GARNETT GENIUS:** Yeah.

23 **MR. NEIL CHANTLER:** There are other problems,
24 limitations in the *CSIS Act*, for example?

25 **MR. GARNETT GENIUS:** Yeah.

26 **MR. NEIL CHANTLER:** But I take it from your
27 evidence that you believe that even within the powers already
28 given to the government to share intelligence, sometimes

1 intelligence is not shared when it should be; is that
2 correct?

3 **MR. GARNETT GENIUS:** Yes, my understanding of
4 the processes is that the government does have the authority
5 to strategically declassify certain information if there's
6 public interest to do so. And in the comments that Ministers
7 make, it often appears that they are using national security
8 to justify maintaining secrecy when national security could
9 actually be better advanced through disclosure. That's
10 obviously not true in every case, and I'm -- as someone
11 outside the government, it's difficult to evaluate in any
12 particular case, but there are other countries around the
13 world where you much more frequently see what looks like
14 strategic disclosure of information in order to counter
15 foreign influence threats.

16 **MR. NEIL CHANTLER:** And so from your
17 perspective, what is the basis for that reluctance in
18 government to share information even when it might be
19 beneficial for the security of the country?

20 **MR. GARNETT GENIUS:** Well, in this particular
21 case -- in some cases, such as the Winnipeg labs documents
22 issue, there was a reluctance to -- a reluctance to disclose
23 information that seemed to be rooted in a desire for the
24 government to avoid embarrassment. So there was a kind of a
25 political or bureaucratic desire to prevent certain decision
26 makers from being embarrassed about things that had happened,
27 so there was an invocation of national security to avoid
28 disclosing information. In this particular case, if we had

1 been told up front, there would have been no embarrassment to
2 anyone, if we had been told frankly and up front. So in this
3 particular case, it's hard to see any logical motive, except
4 perhaps it speaks to an executive that just isn't that
5 interested in sharing information with MPs, that -- I should
6 say parliamentarians in general. That may speak more to a
7 mentality than a particular evaluation of interests in this
8 case.

9 **MR. NEIL CHANTLER:** Thank you.

10 Madam Commissioner, may I ask one final
11 question?

12 **COMMISSIONER HOGUE:** Yes, one final.

13 **MR. NEIL CHANTLER:** Use my time. Briefly to
14 both of you, you've both acknowledged today that combatting
15 foreign interference involves some degree of sharing, greater
16 sharing of information, in a more timely way to
17 parliamentarians. Would you agree that that same concept
18 would apply to members of the public, members of a diaspora
19 group like Chinese Canadians who are the targets of foreign
20 interference? They too need information about foreign
21 interference and they need it in a timely way in order to
22 better protect themselves and better respond?

23 **MR. JOHN McKAY:** My response would be
24 sunlight is the best disinfectant, and that I'm hoping that
25 this Commission weighs in a bit on cultural secrecy in this -
26 - it's not in this particular government, but the government
27 writ large. Because I do have a secret clearance, I do get
28 exposed to certain information maybe others don't. Having

1 said that, we do have what I think is a regrettable culture
2 of secrecy in this country, which needs to change. You know,
3 because I interact with American defence officials, if I want
4 to find out about what's going on in Canada, I ask my
5 American colleagues, and that shouldn't be.

6 So I think in some indirect way, the failure
7 to disclose to us in a timely sort of way, unlike other
8 governments did, reflects that culture of secrecy and I don't
9 think we can continue to hold onto that because we -- not
10 only do we make ourselves vulnerable, but I think you
11 rightly, as to the previous question, it raised the issue of
12 diaspora, individuals and community members that also become
13 vulnerable.

14 **MR. GARNETT GENIUS:** Yeah, and I'll just add,
15 fundamentally, if there is a threat to an individual, to
16 their safety, to their wellbeing, it would have to be a
17 particularly extreme situation to not inform them. Generally
18 speaking, if a person is being threatened, they have a right
19 to that information, whether that person is a parliamentarian
20 or serving in some other vocation or a private citizen.

21 **MR. JOHN MCKAY:** And reverse onus is actually
22 an interesting idea.

23 **MR. NEIL CHANTLER:** Thank you.

24 **COMMISSIONER HOGUE:** Thank you.

25 So the next one is counsel for the
26 Conservative Party, Me De Luca.

27 **--- CROSS-EXAMINATION BY MR. NANDO DE LUCA:**

28 **MR. NANDO DE LUCA:** Good morning. My name is

1 Nando De Luca. I'm counsel for the Conservative Party of
2 Canada. My first question is one of clarification and it's a
3 compound question for each of you, and it's this. How many
4 email accounts do you have, and from how many devices do you
5 access them, be it computers, mobile devices. We can start
6 with you, Mr. McKay?

7 **MR. JOHN MCKAY:** I have two accounts, private
8 and gmail, and that's it, and I do it from one device.

9 **MR. NANDO DE LUCA:** Sorry, you said private
10 and gmail? Parliamentary?

11 **MR. JOHN MCKAY:** No, my private one is my
12 gmail account.

13 **MR. NANDO DE LUCA:** And your parliamentary
14 email account?

15 **MR. JOHN MCKAY:** Yes, that's the second one.

16 **MR. NANDO DE LUCA:** Mr. Genius?

17 **MR. GARNETT GENIUS:** Yeah, so I have two
18 email accounts that I still use, and one is my personal
19 parliamentary account that I check on my parliamentary device
20 only, and the other is a personal non-parliamentary account,
21 and I have access to that on both of my personal -- well,
22 both of my devices.

23 **MR. NANDO DE LUCA:** Okay. So again, for the
24 both of you, since 2021, or even since April of 2024 when the
25 APT31 cyber attack was disclosed, has anyone from the
26 Government of Canada or from the House of Commons
27 administration done a scan of your devices or your computers
28 to see if there was any impact of that cyber attack?

1 **MR. GARNETT GENIUS:** Assuming that's a scan
2 that would require them to tell me they were doing it and
3 have me bring those things in, then the answer's no.

4 **MR. JOHN MCKAY:** No.

5 **MR. NANDO DE LUCA:** Mr. McKay? Thank you.

6 Also, for each of you, since the April 2024
7 disclosure of the cyber attack, have you had a chance to
8 reflect on the implications of the cyber attack and foreign
9 interference for the work you do as an MP and the
10 constituents that you deal with?

11 First you, Mr. Genuis.

12 **MR. GARNETT GENIUS:** Yeah, it's something I
13 have thought a lot about before and since, what are the
14 implications of foreign interference.

15 I am committed to not changing my behaviour
16 or my advocacy in response to these threats, if anything, to
17 intensifying my advocacy for human rights and against foreign
18 interference because I have an ability to speak on these
19 issues that many of those who are most vulnerable to these
20 kinds of attacks don't always, people that have to worry
21 about members of their family who live in other countries
22 getting picked up, facing negative repercussions.

23 I have the ability to advance concerns that
24 they clearly have that they may be in less of a position to
25 advance.

26 But how unknown surveillance impacts my work,
27 I simply don't know how somebody reading my emails could then
28 use information they gather to counter things I'm trying to

1 do. If that's happening, then I don't know about it and I
2 don't know what the implications have been or would be, so
3 that's certainly an issue as well.

4 **MR. NANDO DE LUCA:** Safe to say that if it's
5 happening, you'd like to know about it?

6 **MR. GARNETT GENUIS:** Yes, absolutely.

7 **MR. NANDO DE LUCA:** Mr. McKay?

8 **MR. JOHN MCKAY:** I'd like to say that it
9 hasn't impacted work, but you know, a minimal self-awareness
10 makes you think about what causes you take on or don't. And
11 I'd like to say that my behaviour prior to being aware is
12 exactly the same as my behaviour post-awareness, and I think
13 it is, I hope it is, but you know, it's -- it does make you
14 think.

15 **MR. NANDO DE LUCA:** Thank you. Those are my
16 questions.

17 **COMMISSIONER HOGUE:** Thank you.

18 Counsel for Michael Chong.

19 **--- CROSS-EXAMINATION BY MR. FRASER HARLAND:**

20 **MR. FRASER HARLAND:** Fraser Harland, counsel
21 for Michael Chong. I just have a couple questions for Mr.
22 Genuis.

23 If I could ask the registrar to pull up WIT
24 75.EN, please, and go to paragraph 49, please.

25 Mr. Genuis, this is your witness statement.
26 And in this paragraph 49, in the first sentence it says that
27 you believe the targeted Parliamentarians should have been
28 notified by the Government of Canada.

1 And then in the last sentence, you say:
2 "The responsibility of notifying
3 Parliamentarians should have been
4 with security and intelligence
5 agencies such as CSIS." (As read)

6 And my question for you is just if CSIS had
7 advised, say, the Minister and Deputy Minister of Public
8 Safety of the cyber attack, you would agree that they would
9 also have a responsibility to read the intelligence, take it
10 seriously and then act on it to inform Parliamentarians. Is
11 that right?

12 **MR. GARNETT GENUIS:** Yeah, absolutely. And I
13 appreciate the opportunity to just clarify my statement here.

14 There are, obviously, limitations in terms of
15 information sharing that apply to CSIS. The Ministers,
16 Deputy Minister, the senior levels of government would have,
17 I think, been in a position to identify the problem and make
18 broader changes to ensure that we got that information, so I
19 think primary responsibility is on the government for taking
20 that action. This is what I said in the first sentence,
21 yeah.

22 **MR. FRASER HARLAND:** Those are my only
23 questions. Thank you, Madam.

24 **COMMISSIONER HOGUE:** Thank you.

25 The AG, do you have any questions?

26 **--- CROSS-EXAMINATION BY MR. BARNEY BRUCKER**

27 **MR. BARNEY BRUCKER:** Good morning. Barney
28 Brucker for the Attorney General.

1 With respect to the information coming to you
2 from the FBI, that came after the indictment was made public.
3 Is that correct?

4 **MR. JOHN MCKAY:** That's correct.

5 **MR. BARNEY BRUCKER:** And in COM 485_R -- this
6 is the message with Mr. de Pulford -- I took it from that,
7 and I'm wondering if you agree, that even in the United
8 States, the FBI was not able to inform members of, I guess it
9 would Congress down there -- is that what you understood?

10 **MR. GARNETT GENUIS:** I have no information on
11 that.

12 **MR. JOHN MCKAY:** Yeah, not clear.

13 **MR. BARNEY BRUCKER:** Mr. Genuis, you alluded
14 to the possibility that the government had -- Canadian
15 government had some information about these attacks earlier,
16 and I think you said that the information that was available
17 to you through the committee hearing was rather sparse. So
18 this is a supposition on your part, but -- which we may learn
19 more about in this hearing, but you have no further
20 information on that other than what's in your statement at
21 this time.

22 **MR. GARNETT GENUIS:** What I know is that the
23 American government had this information, this information
24 was shared with the Canadian government. It was not passed
25 on to us. According to the Canadian government, they shared
26 some information with caveats with House of Commons
27 administration. That's what I know.

28 And I've obviously heard the statements that

1 members of the government caucus and other representatives of
2 the government have made about this matter. I've heard those
3 statements at committee and elsewhere, so I have the
4 information that's on the public record as well as -- as well
5 as the information that I've shared.

6 **MR. BARNEY BRUCKER:** You have no information
7 as to what, if anything, Canadian security agencies may have
8 shared with the House of Commons administration?

9 **MR. GARNETT GENUIS:** So in the committee
10 hearings, which are a matter of public record, I have tried
11 to probe the kinds of information that was shared, the
12 parameters of that information. I'll note as well that some
13 of those deliberations in committee are -- were *in camera*, so
14 -- but certainly I can speak to in the public sessions, we
15 tried to drill down on exactly what information was shared
16 with House of Commons administration and what the parameters
17 around that were.

18 They subsequently confirmed to the committee
19 that there were caveats associated with the information that
20 was shared, which, in my view, throws -- it throws the
21 government's story here in a particularly bad light because
22 they said they information with Parliament that could have
23 been passed on to us, and yet there were caveats attached to
24 that information.

25 **MR. BARNEY BRUCKER:** Okay. And Mr. McKay,
26 perhaps this is for you. I took from your remarks before our
27 break that given the role of an MP as you described it, it's
28 inevitable that there would be some blurring of information,

1 whether it be respect to your role as a -- strictly as an MP,
2 personal or partisan, there's just no way around it because
3 of the 24/7-365 day nature of the job. Is that fair?

4 **MR. JOHN MCKAY:** That's correct.

5 **MR. BARNEY BRUCKER:** Last question.

6 Mr. Genuis, did you have your own personal
7 devices submitted for forensic analysis or scanning to
8 determine whether or not they have been compromised?

9 **MR. GARNETT GENUIS:** No, I would have been
10 happy to work with relevant agencies on that, but I received
11 no follow-up whatsoever to -- after raising this issue.

12 **MR. BARNEY BRUCKER:** Did you take any steps
13 to do that outside of involvement with the government agency?

14 **MR. GARNETT GENUIS:** To have them scanned by
15 a private security ---

16 **MR. BARNEY BRUCKER:** Yes.

17 **MR. GARNETT GENUIS:** --- firm, essentially,
18 is what you're asking. No, I didn't.

19 **MR. BARNEY BRUCKER:** Right. Thank you.

20 **COMMISSIONER HOGUE:** Thank you.

21 Mr. Sheppard, any question in re-examination?

22 **--- RE-EXAMINATION BY MR. DANIEL SHEPPARD:**

23 **MR. DANIEL SHEPPARD:** Just one, Madam
24 Commissioner.

25 Counsel for Ms. Kwan asked a question in
26 which he talked about reframing the question of personal
27 versus partisan to one of communications as being part of the
28 democratic infrastructure.

1 Mr. Genuis, in the course of giving your
2 answer, you raised the question about the importance of a
3 zone of privacy for everyone. The need to protect privacy.

4 In light of that, does the importance of
5 protecting privacy, whether it is for personal information or
6 all that potentially politically sensitive information, does
7 the desire to protect that impact your thinking about who
8 ought to be responsible for providing cyber security? And in
9 particular, does it raise any issues in your mind about the
10 Government of Canada having access to devices in order to
11 provide cyber security services?

12 **MR. GARNETT GENUIS:** I mean, look, I think
13 it's very possible to achieve all of these objectives at
14 once. To have greater cyber security for all aspects of our
15 lives, the personal, the partisan, and the parliamentary,
16 while also ensuring that privacy is preserved, right?

17 I have a security system at my home that is -
18 - that is supported in collaboration with the House of
19 Commons. I trust the fact that the House of Commons'
20 involvement in that doesn't compromise my personal privacy in
21 some way, or lead to other political actors having access to
22 personal information. I think the same standard can be
23 applied in the context of cyber information.

24 I just -- I wanted to respond to the
25 questions on that, to particularly emphasize that you know,
26 yes, things are part of the infrastructure of democracy, but
27 they -- but for the democratic system to work they also have
28 to have a separateness and a privacy to them. So you know,

1 conceptually there is different things going on here. But I
2 think it's very doable in practice to ensure the security of
3 all of these things together while protecting privacy.

4 **MR. DANIEL SHEPPARD:** And Mr. McKay, do you
5 have any views?

6 **MR. JOHN MCKAY:** Privacy is becoming a
7 delusion. And I think that's a regrettable development.
8 There isn't anybody in this room I couldn't find out
9 information that they really wish I couldn't find out. And I
10 don't know where you land on that.

11 But I -- I guess the question is -- becomes
12 really, do I trust the security provider to provide my
13 security? And that will necessarily involve intrusions into
14 my privacy. I think that's a sacrifice that we are already
15 making, whether we want to or not. And the real questions
16 there become what is the limitation of the -- where does
17 security bump up against privacy? And at this point, I think
18 our privacy has been very compromised, you know, ours in
19 particular, but society at large.

20 And I say, even counsel -- even I was talking
21 to someone earlier today and one of these pixel attacks was
22 successful by virtue of communication between the client and
23 the lawyer. It got through to the lawyer's account and
24 therefore accessed the client's accounts.

25 So my view is that we have to redefine what
26 our views are on privacy and recognize that privacy will be a
27 bit of an illusion if you're going to ask for this kind of
28 level of security.

1 **MR. DANIEL SHEPPARD:** Thank you very much.
2 Those are my questions.

3 **COMMISSIONER HOGUE:** Thank you. So thank you
4 to you. I really appreciate.

5 And we'll break for lunch. We'll come back
6 at 1:15.

7 **MR. JOHN MCKAY:** Thank you.

8 **THE REGISTRAR:** Order, please. This sitting
9 of the Commission is now in recess until 1:15 p.m.

10 --- Upon recessing at 11:58 p.m.

11 --- Upon resuming at 1:17 p.m.

12 **THE REGISTRAR:** Order, please.

13 This sitting of the Foreign Interference
14 Commission is now back in session.

15 The time is 1:17 p.m.

16 **COMMISSIONER HOGUE:** So good afternoon.

17 First of all, before you start, Maitre Ferguson, for those
18 that join us just this afternoon unless I'm speaking to those
19 that are not in the room, I referred to a questionnaire
20 yesterday, so I would like to mention that the questionnaire
21 is now live, so those that are interested filling out the
22 questionnaire can do it right away, so it's available.

23 Thank you.

24 **MR. MATTHEW FERGUSON:** Good afternoon.

25 Matthew Ferguson for Commission counsel.

26 Can we swear the witnesses, please -- or
27 affirm the witnesses?

28 **THE REGISTRAR:** First of all Madame Simard.

1 Could you please indicate your complete name, full name, and
2 spell your family name?

3 **MS. CAROLINE SIMARD:** Caroline Simard, S-i-m-
4 a-r-d.

5 **THE REGISTRAR:** Thank you.

6 --- MS. CAROLINE SIMARD, Affirmed:

7 **THE REGISTRAR:** Thank you.

8 And now for Ms. Boucher. Could you please
9 state your name -- your full name and spell your last name
10 for the record?

11 **MS. CARMEN BOUCHER:** Carmen Boucher, B-o-u-c-
12 h-e-r.

13 --- MS. CARMEN BOUCHER, Affirmed:

14 **THE REGISTRAR:** Counsel, you may proceed.

15 --- EXAMINATION IN-CHIEF BY MR. MATTHEW FERGUSON:

16 **MR. MATTHEW FERGUSON:** Hello. Given that
17 there are two commissioners, I will speak to you using
18 "Madame Simard".

19 **MS. CAROLINE SIMARD:** That's fine.

20 **COMMISSIONER HOGUE:** Otherwise, I might take
21 my place.

22 **MR. MATTHEW FERGUSON:** You have already
23 testified on March 28th before this Commission. Could you
24 please explain or could you please remind us of what your
25 role consists of?

26 **MS. CAROLINE SIMARD:** As Commissioner of
27 Federal Elections, I have the mandate to monitor the
28 application of Canadian legislation, so there are several

1 authorities. I can explain to you them or remind you of them
2 later if that would be useful to you.

3 **MR. MATTHEW FERGUSON:** Thank you.

4 Perhaps before moving on, could you please
5 also remind us of your mandate and your responsibility when
6 it comes to foreign interference?

7 **MS. CAROLINE SIMARD:** Of course. In summary,
8 for the mandate, once again, of observing and controlling
9 application of the law. It consists mainly on authorities
10 regarding inquiries, and inquiries related to infractions of
11 the election law of Canada.

12 So as of March, I would describe the role
13 related to foreign interference related to specific sections
14 of the law. We have to remember that it's not one provision,
15 one unique provision. There are several provisions that deal
16 with this, and some that are more targeted, for instance,
17 282.4 of the Act that speaks to undue influence, foreign
18 influence. Also, there are other provisions, but we must
19 understand the scope of this role. For this, we have to go
20 over all of these provisions.

21 **MR. MATTHEW FERGUSON:** So there are several
22 that could be related to foreign interference, but there is
23 not one only provision that is related to this.

24 **MS. CAROLINE SIMARD:** That is correct.

25 **MR. MATTHEW FERGUSON:** Madame Simard, you
26 were interviewed by the Commission counsel on the 20th of
27 July and a summary has been prepared.

28 Mr. Court Operator, can we call up WIT 91?

1 Madame Simard, did you have an opportunity to
2 verify whether this document reflects that discussion?

3 **MS. CAROLINE SIMARD:** Yes.

4 **MR. MATTHEW FERGUSON:** Did you have an

5 **MS. CAROLINE SIMARD:** Yes.

6 **MR. MATTHEW FERGUSON:** Would you say that
7 this is part of your testimony before the Commission?

8 **MS. CAROLINE SIMARD:** Yes.

9 **MR. MATTHEW FERGUSON:** Before I tender it, I
10 have some questions to Ms. Boucher.

11 Ms. Boucher, you were also interviewed by
12 Commission counsel last July 25, and a summary of the
13 interview, this summary in front of you, was prepared by
14 Commission counsel. Have you had a chance to review it for
15 accuracy?

16 **MS. CARMEN BOUCHER:** Yes, I have.

17 **MR. MATTHEW FERGUSON:** Okay. Have you had a
18 chance to make corrections, additions, subtractions or
19 deletions?

20 **MS. CARMEN BOUCHER:** Yes, I have.

21 **MR. MATTHEW FERGUSON:** Okay. Do you have --
22 do you adopt this summary as part of your evidence before the
23 Commission?

24 **MS. CARMEN BOUCHER:** I do.

25 **MR. MATTHEW FERGUSON:** Okay. Then Mr. Court
26 Operator, I will be tendering this WIT 91 as well as the
27 English version, WIT.91.en. And I'm not sure if it's
28 available in the party database yet, but there should be

1 WIT.91.fr. Let's see if we can call it up, just to exhibit
2 it on the screen. If it's not available yet, it will be
3 shortly. Thank you. Okay. We'll come back to it. We'll
4 make sure that it's available shortly. Thank you.

5 As well as a small portion of the July 25,
6 2024 interview was held in a classified environment and
7 references classified information.

8 Commission counsel has also provided a
9 publicly disclosable portion of the interview summary. I
10 will call it WIT.91.1.

11 **--- EXHIBIT No. WIT0000091:**

12 Interview Summary: Office of the
13 Commissioner of Canada Elections
14 (Caroline Simard and Carmen Boucher)

15 **--- EXHIBIT No. WIT0000091.EN:**

16 Interview Summary: Office of the
17 Commissioner of Canada Elections
18 (Caroline Simard and Carmen Boucher)1

19 **--- EXHIBIT No. WIT0000091.001:**

20 Appendix to Interview Summary: Office
21 of the Commissioner of Canada's
22 Elections (Caroline Simard & Carmen
23 Boucher)

24 **MR. MATTHEW FERGUSON:** Okay. It's on the
25 screen.

26 Ms. Boucher, have you had a chance to read it
27 for accuracy? This particular document?

28 **MS. CARMEN BOUCHER:** Yes, I have.

1 **MR. MATTHEW FERGUSON:** Have you had a chance
2 to make any corrections, additions, or deletions?

3 **MS. CARMEN BOUCHER:** Yes, I have.

4 **MR. MATTHEW FERGUSON:** And do you adopt this
5 summary as part of your evidence before the Commission?

6 **MS. CARMEN BOUCHER:** I do.

7 **MR. MATTHEW FERGUSON:** Same question. Did
8 you have the opportunity to verify the exactitude of the
9 content?

10 **MS. CAROLINE SIMARD:** Yes.

11 **MR. MATTHEW FERGUSON:** Did you have the
12 opportunity to make corrections?

13 **MS. CAROLINE SIMARD:** Yes, I didn't need to
14 do any.

15 **MR. MATTHEW FERGUSON:** Do you accept this as
16 part of your testimony?

17 **MS. CAROLINE SIMARD:** Yes

18 **MR. MATTHEW FERGUSON:** Ms. Boucher, you're
19 testifying here. You didn't testify back in March. So we
20 understand you're the executive director of -- at the Office
21 of Commissioner of Canada Elections of enforcement, where you
22 oversee all investigations. Can you give us a brief insight
23 into your role at OCC?

24 **MS. CARMEN BOUCHER:** I am the executive
25 director of enforcement. That involves supervising or
26 overseeing all investigative activities, including those of
27 our investigators, the analytical branch, and paralegals. I
28 also supervise the intake and triage section and I will soon

1 be supervising in a compliance unit as well.

2 **MR. MATTHEW FERGUSON:** Okay. And you've been
3 with the OCC for, I believe, just over a year now? Okay.
4 And in the stage one interview, you mentioned that the
5 position of ED was created to fill certain gaps in strategy,
6 transformation, and change management that were identified
7 following a strategy review undertaken in May 2023. What was
8 that strategy review about?

9 **MS. CARMEN BOUCHER:** Well I wasn't present --
10 -

11 **MR. MATTHEW FERGUSON:** Right.

12 **MS. CARMEN BOUCHER:** --- for the strategy
13 review because it predated me.

14 **MR. MATTHEW FERGUSON:** Your position was
15 created as a result of it?

16 **MS. CARMEN BOUCHER:** My position was created
17 as a result of that strategic review, to my understanding.

18 **MR. MATTHEW FERGUSON:** What was the result of
19 this review, the strategic review of 2021?

20 **MS. CAROLINE SIMARD:** I would say that this
21 wave of foreign interference has struck us all in the fall,
22 the fall of 2022.

23 And we will recall that I was in position as
24 of August 2022. So a few weeks later, we were able to
25 identify the significance of this topic in the public sphere,
26 so it was important to act internally.

27 So strategic planning took place with the
28 employees in the month of May 2023, but it was preceded by

1 certain actions, Parliamentary ones and also internally. So
2 I had to take the decision of creating a special unit for the
3 inquiries on this complex topic.

4 So chronologically, this brings us to the
5 strategic planning. And following that, it was necessary to
6 fight against these threats to democracy, electoral
7 democracy, or the rights to exercise democratic rights and
8 work with our partners, so this vision, as you see, contained
9 several elements. We could perhaps speak to them in greater
10 length later on.

11 There were also some consultants that came to
12 give a hand so we could properly assess our capacity
13 internally. We needed a strong capacity to work -- to do
14 this work internally and also work on funding and illegal
15 voting as well and also work that was done on other issues
16 like misinformation and foreign interference.

17 But it was important to take an objective
18 look externally, and this should -- had to be done by
19 professionals to assess the internal capacities, especially
20 given the new requirements related to foreign interference.

21 It would be interesting to highlight here for
22 this public inquiry is that this exercise was already carried
23 out with our partners, so consultants were able to consult
24 our partners at the time, especially Elections Canada, CSIS,
25 RCMP and CSE, and reach some conclusions.

26 And these conclusions, internally, we were
27 able to use them and implement a transformation initiative
28 that led to restructuring that Madame Boucher has mentioned

1 earlier, and also some concrete tangible actions to
2 strengthen our relations with partners and reach out to new
3 partners and develop a communication strategy.

4 There was also a lot of HR work, as you can
5 imagine, in terms of staffing and training. And what is
6 important as well, we also had to look externally and put in
7 place an international forum -- that's what we call it
8 internally -- that is a group of our counterparts abroad.

9 So I could also provide more information if
10 necessary.

11 **MR. MATTHEW FERGUSON:** Who are your main
12 international counterparts?

13 **MS. CAROLINE SIMARD:** For the first one, so
14 it will be launched very soon. So we have our American, our
15 Australian, our UK, our German and our Netherlands
16 counterparts. I don't think I'm forgetting anyone. So that
17 will be the first time we'll have the opportunity of
18 discussing our challenges and learned lessons, and the topic
19 will be foreign interference.

20 **COMMISSIONER HOGUE:** I just have a question.
21 So you arrived in fall -- August 2022?

22 **MS. CAROLINE SIMARD:** That's right.

23 **COMMISSIONER HOGUE:** So on what I was able to
24 see, you weren't there before. But do I have to understand
25 that foreign interference was not really on the radar at that
26 point in the fall of 2022 of the office?

27 **MS. CAROLINE SIMARD:** Yes, I would say that
28 the work of the Commission of Inquiry allowed me to

1 appreciate better the work that had been done in the past in
2 the elections in 2019 and 2021. Work was already being done.

3 You have to know also that there were
4 legislative amendments related to this, related to foreign
5 interference, that had been done. And when I arrived, there
6 were issues that -- of foreign interference, also of
7 disinformation, of cryptocurrency and other issues.

8 **COMMISSIONER HOGUE:** So it wasn't as
9 organized, if I can say it that way, but it was something
10 that was already on the Bureau's radar.

11 **MS. CAROLINE SIMARD:** That's what I would
12 say.

13 **MR. MATTHEW FERGUSON:** To follow Madam
14 Commissioner's question, there was no plan related to foreign
15 interference when you arrived in function.

16 **MS. CAROLINE SIMARD:** That's right. So the
17 strategic plan wants to be a more global plan that includes
18 foreign interference in a strategic way. And I have to say
19 that there was the comms, strategic plan, and there were
20 other actions.

21 And to have a very specific idea, we also had
22 to look at it from the point of operations. Madame Boucher
23 can give you more details about what can be done in terms of
24 operations. With -- at the heart of that exercise, we were
25 looking at the collection, the use and archiving of
26 intelligence, and that brings us somewhere else as an
27 organization.

28 **MR. MATTHEW FERGUSON:** We'll come back to

1 these topics a bit later.

2 And now we know that after you arrived in
3 August 2022, the issue of foreign interference quickly became
4 a hot issue. Do you agree with that statement?

5 **MS. CAROLINE SIMARD:** It was more and more
6 part of the public sphere. We were being called to appear
7 before a Parliamentary committee, but we saw that other
8 Parliamentary committees were interested in the issue.

9 And internally, there was a major decision
10 taken at the beginning of December 2022, which was to create
11 the special unit on this issue. We had a lot of volume, so
12 it was a way of keeping control on the normal issues, the
13 files, the common regular files, so to speak, and to create
14 this special unit. And the goal was that we would receive
15 complaints.

16 We were beginning to receive complaints
17 because of what was happening in the public sphere and there,
18 first of all, we worked in two phases. First, in the light
19 of these new allegations, to look at past work and to see
20 that if, under this new light, there were other lines of
21 investigation or other work that needed to be done, and I
22 would say that by doing that very minutia's work by
23 experienced investigators, we ended that exercise and we
24 started looking at the future. And there, further work was
25 done.

26 And that announcement was made publicly in
27 March, a bit later, when I appeared before the PROC,
28 Parliamentary committee, in March 2023.

1 **MR. MATTHEW FERGUSON:** So since you've
2 arrived in the position, I understand that there were some
3 modifications in terms of operations, but is there a specific
4 plan to fight against foreign interference in your bureau?

5 **MS. CAROLINE SIMARD:** I would say that it's
6 part of the strategic plan. And at this point, I don't see
7 the need to create a specific foreign interference plan
8 because everything is organized very clearly within the
9 strategic plan, so we have other plans, communications, human
10 resources, and also action plans that were developed within
11 that transformation initiative.

12 So I think that, on the contrary, to take
13 this kind of a broad approach we cover foreign interference,
14 but also common issues such as disinformation and other
15 issues. And one shouldn't forget that foreign interference
16 for us is just a part of the work that we do.

17 **MR. MATTHEW FERGUSON:** Do you think that the
18 approach of the OCCE in terms of foreign interference has
19 changed since you arrived in the position?

20 **MS. CAROLINE SIMARD:** Could you please repeat
21 the question?

22 **MR. MATTHEW FERGUSON:** The approach in terms
23 of foreign interference has changed since you arrived in this
24 position?

25 **MS. CAROLINE SIMARD:** I probably wouldn't
26 have qualified it that way, but when I look at the
27 organization, I think it's important to think about it in a
28 historical context. It exists -- it has existed for 50 years

1 and it's changed, and it had to evolve according to
2 legislative amendments. And now we're really in the era of
3 foreign interference.

4 **MR. MATTHEW FERGUSON:** And Ms. Boucher, on
5 the operations side, can you speak to some of the changes
6 that have taken place, and also as to the awareness amongst
7 staff of the question or the issue of foreign interference?

8 **MS. CARMEN BOUCHER:** Certainly. So prior to
9 my arrival, as Madam Simard has stated, we have specialised a
10 taskforce of three individuals to focus really on the Greater
11 Vancouver Area, specifically, which is two seasoned
12 investigators and one of our OSINT analysts, open source
13 intelligence analyst, to conduct a research on that. Those
14 staff members had to really build that knowledge set with
15 regards to methodologies of the PRC and foreign interference.
16 It wasn't an existing in-depth knowledge set.

17 So while efforts had been done in the past,
18 particularly prior to the 2019 elections, to bring in
19 academics and former government experts, et cetera, to inform
20 the staff and build the knowledge set, this was heading into
21 a much more detailed realm, where in order to identify
22 foreign interference in their files they have to really
23 understand what that looks like. So that's one of the first
24 major things that was conducted prior to my arrival.

25 When I came into my position, one of my
26 primary mandates was to take a holistic look at the tools
27 that we're using, the structure of the enforcement branch,
28 did we need to have expanded analytical capability, for

1 instance, which is already under a lot of pressure because of
2 the exponential growth of technology and technology in our
3 files. We have a lot more files that have a technological
4 component.

5 So I conducted a review, approximately three
6 months, of all of the processes, abilities, tools. I spoke
7 with partners. I was part of the review with the consultants
8 and attended some of those interviews as well, and really
9 looking to see what we needed to adjust.

10 Some of the recommendations from that came
11 out into the new structure that we're putting together of
12 putting all the operations under a single manager to try and
13 find some efficiencies and make sure that we're really
14 looking at things in a holistic manner and on the files.

15 But certainly a flagrant area, which is part
16 of the primary mandate that Ms. Simard gave me when I
17 arrived, was how do we deal with classified information. So
18 a large portion of the restructuring and the building that
19 we're trying to do is to ensure we have the technological
20 infrastructure to directly access classified material in an
21 electronic format. This also reduces the burden on our
22 partners to have to provide everything to us in more of a
23 manual manner, and to ensure ---

24 **MR. MATTHEW FERGUSON:** Sorry. When you say
25 "manual", you mean paper?

26 **MS. CARMEN BOUCHER:** Paper.

27 **MR. MATTHEW FERGUSON:** Okay.

28 **MS. CARMEN BOUCHER:** Paper -- well, paper and

1 an individual that has to personally identify that the
2 information needs to go to us ---

3 **MR. MATTHEW FERGUSON:** Right.

4 **MS. CARMEN BOUCHER:** --- at the partner
5 agency and then creating a group of individuals that can
6 triage that information.

7 And the important thing to recall, where I
8 suppose for people who don't already have that experience, is
9 that the same people working in investigations cannot have
10 access to granular intelligence. The intelligence is not
11 available for criminal investigations or administrative
12 investigations unless it has been released for that purpose.
13 So it really takes a separate team that can look at the
14 triage, and that team needs to have also visibility on our
15 investigations. So it's pretty complex for a small
16 organisation like ourselves, as you can imagine.

17 **MR. MATTHEW FERGUSON:** Okay. On that topic
18 of accessing classified information, what resources does it
19 require? You just mentioned that the investigators can't be
20 the persons handling the classified information and the
21 intelligence. So what kind of administrative burden does
22 that put on you?

23 **MS. CARMEN BOUCHER:** So with regards to just
24 accessing the information in general, I have a lot of
25 employees, including investigators, with security clearances
26 to see classified material, but anyone touching a criminal
27 investigation or administrative investigation is limited to a
28 strategic level, like analytical products essentially.

1 So for our purposes at present, it's the
2 senior managers on those teams that can access the classified
3 information and then decide whether or not we need to take
4 further steps in discussions with the partners for making it
5 actionable.

6 The classified infrastructure is a whole
7 other topic. I don't know if you want me to go into that at
8 some point.

9 **MR. MATTHEW FERGUSON:** Well, we can come to
10 it a bit later, yeah.

11 **MS. CARMEN BOUCHER:** Yeah.

12 **MR. MATTHEW FERGUSON:** But in terms of
13 intelligence collection, obviously the Office of the
14 Commissioner of Canada Elections is not an intelligence
15 collection agency, but intelligence can be helpful to your
16 office in carrying out your mandate of ensuring compliance
17 and enforcement of the *Canada Elections Act*. So how are you
18 made aware of intelligence that may fall under that mandate?

19 **MS. CARMEN BOUCHER:** So the current system is
20 that CSIS, or another partner with classified information,
21 would provide the information to us in a paper in-person
22 briefing. So a senior manager would review the information
23 and have a discussion with CSIS about if there was
24 information there that we would need to have discussions for
25 use.

26 That's managed with CSIS at the helm because
27 they own the information. We do not produce classified
28 materials, so we're really a consumer of intelligence. And

1 the discussions with CSIS litigation branch talks about all
2 of the jeopardies of what can happen if the classified
3 information hits the public realm. If we want to use it for
4 authorisation or even just for the purpose of conducting an
5 interview or taking an investigative step, we have to have
6 the permission of the partner that produces the intelligence
7 to make sure that the source of the intelligence is
8 protected.

9 My vision is that we will have a small
10 secretariat that is capable of managing the intelligence,
11 that can read the classified reports and also be aware of
12 what's happening on the investigative side, but they cannot
13 give direction on an investigative file. It has to be a
14 division between the two. Those positions aren't filled at
15 present, so really the weight is on myself and Madam Gigou,
16 who testified earlier in these hearings.

17 **MR. MATTHEW FERGUSON:** Right. And Ms. Gigou
18 previously described in March of this year that the OCCE
19 would be invited to review the intelligence and then consider
20 whether it was -- whether it requires a use letter. Is this
21 still -- is this structure still in place post-General
22 Election 44, post-2021, to receive classified information in
23 this way?

24 **MS. CARMEN BOUCHER:** Yes, that structure is
25 still in place and we've renewed the discussions with CSIS as
26 well to ensure they have our most up-to-date intelligence
27 requirements. This Inquiry has also helped, I think,
28 everyone, including CSIS, understand exactly which directions

1 we could go, so we're receiving more tailored intelligence
2 products at this point. We're still receiving it in paper
3 form only, so I don't know what they have, they have to
4 correct. They provide it to us.

5 **MR. MATTHEW FERGUSON:** Okay. And what's your
6 current capacity for receiving classified information? What
7 is the infrastructure that you possess in order to receive
8 that or an access to receive that information?

9 **MS. CARMEN BOUCHER:** It's in person only.

10 **MR. MATTHEW FERGUSON:** So you have no
11 structures in-house where you can receive either secret level
12 or top secret level communications.

13 **MS. CARMEN BOUCHER:** I do not.

14 **MR. MATTHEW FERGUSON:** Okay. We'll come back
15 to that a bit later. I want to come back to the question of
16 -- it was mentioned by Mme Simard the question of
17 misinformation and disinformation. I think during Ms.
18 Boucher's Stage 1 interview in March she indicated the OCC's
19 role with respect to disinformation is extremely narrow and
20 that is generally -- it generally involved impersonation or
21 false statements.

22 ...a few provisions specific to
23 disinformation, but they're limited essentially to false
24 declarations made during electoral period about a candidate,
25 a potential candidate or a Party leader and a list of these
26 false statements. Is that right?

27 **MS. CAROLINE SIMARD:** Yes. Perhaps just a
28 correction.

1 In March it was Mdame Gigou and not Madame
2 Boucher.

3 **MR. MATTHEW FERGUSON:** I apologize. Perhaps
4 I misspoke. It was Madame Simard at the interview in March
5 and not at her testimony.

6 I apologize.

7 **MS. CAROLINE SIMARD:** Perfect, yes.

8 And basically, yes, I would just recall that
9 there is section 91 on false declarations at 88.1 where we
10 talk about impersonation and false publications as well, so
11 probably referring to all of this, so I would confirm this,
12 yes.

13 There is the evidence or proof of intention,
14 so I would speak of disinformation rather than
15 disinformation(sic) here.

16 **MR. MATTHEW FERGUSON:** So the person has the
17 intention to mislead.

18 **COMMISSIONER HOGUE:** And just for the benefit
19 of the public that is following this hearing, we say that the
20 authority of the office is very limited under the law, and so
21 you cannot decide to expand the powers that you have.

22 **MS. CAROLINE SIMARD:** You have summarized the
23 situation very well, Commissioner. Thank you.

24 **MR. MATTHEW FERGUSON:** So this only applies
25 during elections.

26 **MS. CAROLINE SIMARD:** Yes, mostly.

27 **MR. MATTHEW FERGUSON:** The articles that you
28 had mentioned?

1 **MS. CAROLINE SIMARD:** I would say that if we
2 want to focus, the most important one or section is 282.4.
3 That is the provision on undue influence by foreign actors.
4 It's limited to the period of election, so there we cannot
5 expand it.

6 **MR. MATTHEW FERGUSON:** Ms. Boucher, I
7 understand the -- you mentioned that the OCC -- in your July
8 25th interview that the OCC does not conduct online
9 surveillance and that it does not have a mandate of
10 prevention, but you indicated that --during the interview
11 that the OCC does seek to detect foreign interference early
12 on and limit its impact.

13 I'm not sure whether this specifically
14 applies to mis or disinformation, but can you elaborate on
15 this a bit? What are the ways in which the OCC acts
16 proactive either during an election period or in anticipation
17 thereof?

18 **MS. CARMEN BOUCHER:** So certainly during an
19 electoral period, our primary concern if we see non-
20 compliance with the *Elections Act* is to get back into a state
21 of compliance. So for instance, if we saw an impersonation
22 that was contrary to the *Elections Act*, we would contact the
23 individual responsible if possible or the provider that it
24 was published on if it was on social media, et cetera, and
25 try to have a remedy taken to ensure that it doesn't affect
26 the election specifically.

27 If we discover it after the fact, then of
28 course we're trying to reconstruct retroactively and then

1 looking at whether or not there's applicable compliance
2 measures that should be implemented. So for sure from that
3 perspective, we would be seeking proactive measures.

4 In all of our files, and not specific to
5 disinformation, one of the criteria that we have for
6 escalating a file is if there is a foreign aspect, any
7 foreign aspect, and that would result in it having a higher
8 priority, additional safeguards around it, supervision levels
9 are higher, signature levels for opening and closing the
10 file.

11 So we have a lot of things that enter into
12 account as soon as there's a foreign aspect to the file.

13 **MR. MATTHEW FERGUSON:** Okay. So if it's a
14 standard mis, disinformation element that you identify,
15 that's one thing, but if it has a foreign aspect to it, it's
16 increasing -- it's escalated in priority.

17 **MS. CARMEN BOUCHER:** It's escalated in
18 priority and the safeguards that are around it as well, yes.

19 **MR. MATTHEW FERGUSON:** Okay. And what do you
20 mean by "safeguards around it"?

21 **MS. CARMEN BOUCHER:** So additional oversight,
22 documentation requirements, potential for a mandatory consult
23 with the partner agency, for instance.

24 **MR. MATTHEW FERGUSON:** Okay. And what steps
25 are you taking in anticipation of the dissemination of mis
26 and disinformation during the next general election, which
27 could be either months or weeks away?

28 **MS. CARMEN BOUCHER:** Mis and disinformation,

1 I would say, are in the same criteria as a lot of the other
2 initiatives that we have, so I wouldn't say it's necessarily
3 specific to that, but we have engaged our partner agencies as
4 CSE certainly are experts in a great deal of this information
5 and identifying origin of information, for instance. And we
6 have had discussions on artificial intelligence with CSE in
7 this regard, and we're not the only partner that are
8 interested in this certainly.

9 So there's a global community effort that's
10 happening within the electoral ecosystem, so I personally
11 attended a number of meetings in which these multiple topics
12 were discussed, discussions with CSIS as well with regards to
13 what they see for disinformation, discussions on artificial
14 intelligence and deep fakes, discussions with the RCMP about
15 what type of technical assistance that they can provide us.
16 So it's not just identifying something that is in
17 contravention; can we identify the individual, can we prove
18 that it's actually false? And as Mme Simard mentioned, it
19 has to be intentionally false and not parity, not
20 unintentional amplification of information that is false or
21 even intentional amplification of misinformation would not
22 likely contravene our Act.

23 So primarily partner engagement, I would say,
24 and education of the staff.

25 We're also watching other elections that are
26 happening, so there's dozens of elections around the world
27 all the time and certainly those are all opportunities for us
28 to learn and then we do roundtables and tabletop exercises to

1 ensure that we know what we would do if something similar
2 happened in Canada.

3 **MR. MATTHEW FERGUSON:** Are you -- you
4 mentioned that you're following what's happening in other
5 jurisdictions around the world. For example, were you aware
6 of the -- what happened during the general election in
7 Slovakia a year ago where deep fakes were spread across
8 social media platforms?

9 **MS. CARMEN BOUCHER:** So the most interesting
10 thing on the Slovak election was that there was a voice call
11 that was actually a deep fake voice call. People think about
12 deep fakes and artificial intelligence, they tend to think of
13 videos, but it can actually be something that is voice
14 generated.

15 So the Slovak election, there was a fake
16 phone call of one of the candidates allegedly in a
17 conversation to rig the election, and this was within the 48-
18 hour blackout period in the Slovak media as well, according
19 to their electoral laws. So it's a very interesting case for
20 us to look at and a reminder that we can't get hyper focused
21 on the idea of video fakes.

22 **MR. MATTHEW FERGUSON:** Okay. And how are you
23 raising that awareness within the office among your staff?

24 **MS. CARMEN BOUCHER:** So we're a very small
25 team. There's less than 30 people in the enforcement branch,
26 so they have regular tabletops. Right now they're doing a
27 lot of general election preparation, and we had specific
28 discussions with the RCMP on that case and some other similar

1 cases. Then we disseminated that information.

2 I also have tasked my analytical team to be
3 tracking all of the artificial intelligence and deep fake
4 instances that they see in a structured manner to make sure
5 they were not missing examples, and they'll be used in our
6 general election tabletops.

7 We have a lot of investigators that have not
8 been through an election yet. It also means we have some
9 younger, very technically adept individuals working in that
10 area, which can be helpful, and we're ensuring that we're
11 doing exercises on those possibilities.

12 The challenge also, as you can imagine, is
13 we're not going to see necessarily what's already been seen.
14 It's trying to predict the things that are coming. And
15 that's part of where we really turn to the partner agencies
16 as well because they may have additional information.

17 **MR. MATTHEW FERGUSON:** And you mentioned
18 tabletop exercises. Those are exercises where you --
19 essentially a simulation of an event that can hypothetically
20 occur or not. Is that correct?

21 **MS. CARMEN BOUCHER:** Yes, a tabletop exercise
22 is basically where you take a scenario and walk through what
23 the reactions would be. It's usually conducted blindly,
24 meaning that the participants don't know what the next steps
25 would be, so they give a scenario to the participants, each
26 person speaks about what steps they would take, then they
27 provide what we call an injection of new material, "Now
28 imagine if this is the next thing that comes in," so it

1 provided a new piece of information, and then they have to
2 rethink if their reaction was correct, what did they miss,
3 did they deviate. It's a really valuable training tool for
4 people in enforcement.

5 **MR. MATTHEW FERGUSON:** And who are you
6 conducting these specific tabletop exercises with in terms of
7 generative AI and deep fakes?

8 **MS. CARMEN BOUCHER:** So our team conducts in-
9 house electoral -- general election preparatory tabletops.
10 We also were involved in one with an interdepartmental
11 taskforce managed by Elections.

12 **MR. MATTHEW FERGUSON:** M'hm.

13 **MS. CARMEN BOUCHER:** We've done tabletop
14 exercises with the SITE team, with Security of Elections --
15 Security Intelligence Threat to Elections Task Force.

16 **MR. MATTHEW FERGUSON:** I will switch topics.
17 Perhaps we could come back to this topic later.

18 Madame Simard, I understood that you have
19 appeared before Parliamentary committees, NSICOP, in June
20 2023. And at your -- when you appeared, you have made a
21 presentation.

22 And if we can call up CEF.3, please? And go
23 to page 11?

24 So Madame Simard, you recognize your document
25 here?

26 **--- EXHIBIT No. CEF0000003:**

27 **Présentation_FRE_CEF**

28 **MS. CAROLINE SIMARD:** Yes.

1 **MR. MATTHEW FERGUSON:** On page 11, there is a
2 short page called "Our wish list". You have a wish list.
3 Could you please elaborate a little bit on this?

4 We see on the left these are things that are
5 provided for. I understand that you would like to expand
6 your authority under the *Canada Elections Act*.

7 **MS. CAROLINE SIMARD:** Yes, exactly. If I
8 may, could you please remind me, it was in June 2023 that I
9 appeared?

10 **MR. MATTHEW FERGUSON:** Yes.

11 **MS. CAROLINE SIMARD:** As you said, this was
12 an *in camera* presentation at this committee, so I've given
13 this presentation. And page 11 refers to the tools that we
14 would like to have. So this was a year ago.

15 I go over this rapidly. You will understand
16 that in light of the discussion that we just had, there are
17 the tools as well that were added to this list -- wish list,
18 I mean.

19 So powers to collect elements. So obviously,
20 if I may, I'm just going to have a look at this.

21 **MR. MATTHEW FERGUSON:** Yes, of course. Go
22 ahead.

23 **MS. CAROLINE SIMARD:** So basically, this
24 slide speaks to tools that were missing in our toolbox.
25 Mainly, the slide refers to five points, but three refer to
26 monetary sanctions.

27 So I would like right off the bat to state
28 that I have some tools to fulfil my mandate and tools for the

1 application of enforcement of the law, also criminal charges,
2 and also violation minutes.

3 So for the administrative regime currently,
4 there is no investigation -- there are no investigative
5 powers. There are individuals who could wonder why we are
6 talking about this since we are speaking about foreign
7 interference. I would say that there is not a single tool
8 that we should neglect to fight against this serious issue.

9 Our role is to counter this threat, but it
10 goes beyond that. I would refer to the work that we are
11 doing here. We need to dissuade and detect, deter, but in
12 this role, we can also detect through the administrative
13 regime these more serious contraventions that are related to
14 foreign interference or more closely related to foreign
15 interference.

16 And as I have stated earlier, we don't have
17 investigation tools within this, so we don't have the power
18 to have communication orders or share information. So these
19 are powers that are usually in our -- are in the toolbox of
20 regulatory or decision-making bodies.

21 So I would also like to add the significance
22 of reviewing the sums that are being imposed and also,
23 depending on the individuals that are targeted, legally
24 speaking. So for companies, it is \$5,000.

25 You can understand that we are talking about
26 contraventions that are related to foreign interference.
27 Well, for a company that has -- that are making millions of
28 dollars, a maximum of \$5,000 is largely insufficient so we're

1 really in the cost of doing business. The companies prefer
2 to pay rather than comply.

3 **COMMISSIONER HOGUE:** When you are talking
4 about \$5,000, you're talking about the maximum sum that can
5 be imposed as a penalty?

6 **MS. CAROLINE SIMARD:** Yes, exactly, for
7 companies, for businesses. And for individuals, it's \$1,500.

8 So what I always ask -- well, for
9 individuals, it's -- this is not where it's happening. This
10 is really more about businesses.

11 So we have to look at this more closely. We
12 have to dissect this and focus on contraventions that are
13 related to foreign interference and certainly where we could
14 find ourselves in a situation where a business that is a very
15 -- in very good financial position would be contravening.

16 **COMMISSIONER HOGUE:** So you will correct me
17 if I did not -- if I misunderstood. So this penalty that we
18 can impose are insufficient in terms of the maximum.

19 **MS. CAROLINE SIMARD:** Exactly.

20 **COMMISSIONER HOGUE:** So we would need more
21 significant -- larger sums that are more significant in their
22 opinion to have the effect that would deter them, all
23 businesses, and so that they would participate -- deter them
24 from participating in these activities.

25 **MS. CAROLINE SIMARD:** Yes. It's dissuasion
26 that would encourage compliance.

27 So there's the *Canada Competition Act* and
28 there's others, so \$1,000 is the maximum. These are not the

1 amounts that are applicable, but it's important to have that
2 latitude and take enlightened decisions based on a number of
3 factors.

4 So yes, that exists, and there are also other
5 things such as the proof of intention. So as a general rule,
6 in an administrative regime, there's very little of evidence
7 of intention. However, in the *Canada Elections Act* we have
8 that burden. So what we are suggesting there, and it's still
9 the case, is to amend the law in order to -- to not have this
10 proof of intention when it's not necessary.

11 **COMMISSIONER HOGUE:** Because it's a heavy
12 burden?

13 **MS. CAROLINE SIMARD:** Yes, completely. And
14 it's not really part of the administrative regime where the
15 burden of proof are less high. The thresholds to be met are
16 not as high as for criminal regimes, for obvious reasons.

17 So at that time, that was the situation we
18 found ourselves in June 2023. Since then, there are other
19 tools that we've identified as being useful to acquit ourself
20 of our mandate. There is *SCIDA*, S-C-I-D-A, the act of
21 information -- oh, it's on the screen before your very eyes.

22 And we also have FINTRAC.

23 **MR. MATTHEW FERGUSON:** So the *Security of*
24 *Canada Information Disclosure Act*.

25 **MS. CAROLINE SIMARD:** And we're asking to
26 have direct access to FINTRAC, so these were legislative
27 amendments we were looking for.

28 That's in the public sphere. All this has to

1 be examined by Parliamentarians, and hopefully become
2 amendments.

3 **MR. MATTHEW FERGUSON:** So to increase these
4 maximum amounts that -- did you formulate a recommendation as
5 to the maximum amount of the penalty?

6 **MS. CAROLINE SIMARD:** Not yet. It's in the
7 context of these Parliamentary appearances. It was in the
8 context of NSICOP that I talked about this, but there has not
9 yet been a focused analysis of that issue.

10 **MR. MATTHEW FERGUSON:** So you mentioned
11 FINTRAC, CANAFE. And since you gave evidence in March, there
12 was a request made to become a designated recipient of
13 FINTRAC information. Before that, you had to go through the
14 agency. Is that right?

15 **MS. CAROLINE SIMARD:** Yes.

16 **MR. MATTHEW FERGUSON:** And when did you ask
17 to be a designated recipient of FINTRAC information?

18 **MS. CAROLINE SIMARD:** To get the exact dates,
19 I'll have to ask Madame Boucher because I think -- I'm
20 thinking of several dates, so Madame Boucher would be better
21 positioned to give you that information.

22 **MR. MATTHEW FERGUSON:** Ms. Boucher, do you
23 have the date?

24 **MS. CARMEN BOUCHER:** I don't remember the
25 date of the initial outreach, but at the end of June ---

26 **MR. MATTHEW FERGUSON:** The month?

27 **MS. CARMEN BOUCHER:** --- we'd sent the ---

28 **MR. MATTHEW FERGUSON:** Okay.

1 **MS. CARMEN BOUCHER:** --- request to finance,
2 because it is finance that would make the legislative
3 requests, and the finance department, so after an initial
4 conversation with them in mid-June, they asked us if we could
5 submit our request prior to the end of June to be able to
6 enter into their summer planning, and it was prepared and
7 sent before July 1st.

8 **MR. MATTHEW FERGUSON:** Okay. What are the
9 anticipated advantages of becoming a listed organization from
10 FINTRAC?

11 **MS. CARMEN BOUCHER:** The primary advantage
12 for me would be lead generation. It provides an additional
13 window into overseas transactions because FINTRAC
14 automatically receives transactions that hit a threshold of
15 \$10,000 or if there's anything that a bank can deem
16 suspicious, so it's actually quite broad what they collect.
17 Right now, we would have to have a starting point and go
18 through the RCMP to request information. You kind of have to
19 know that it exists to know to ask for it, and we can't throw
20 them dozens of requests. It has to be very targeted. If we
21 were designated a recipient, then FINTRAC could proactively
22 flag things that they thought might fall to our mandate and
23 partners could request that FINTRAC provide a copy of a
24 voluntary disclosure test as well. So it's a way for the
25 community to engage FINTRAC proactively. So that's
26 definitely one of the primary things for us.

27 I also think it's important for the
28 independence aspect of our office that we not be forced to

1 disclose to the RCMP what we're investigating, because,
2 currently, to go through them and ask that they approach
3 FINTRAC, we have to *de facto* tell them what we're looking at
4 and there could certainly be files that were too sensitive
5 for that type of engagement.

6 **MR. MATTHEW FERGUSON:** Okay. Are there any
7 drawbacks to becoming a FINTRAC recipient, a designated
8 FINTRAC recipient?

9 **MS. CARMEN BOUCHER:** Really, just the
10 capacity to manage the information on both ends.

11 **MR. MATTHEW FERGUSON:** Okay. And so I
12 understand that that request has -- was made in June and it's
13 still pending. Are there any other steps that you need to
14 accomplish before becoming a listed FINTRAC or designated
15 FINTRAC organization?

16 **MS. CARMEN BOUCHER:** The additional steps are
17 all on the part of finance. I have heard back from them that
18 things are progressing well, so we are hopeful that will be
19 part of the legislative efforts in the fall, but it's in
20 finances' hands at this point.

21 **MR. MATTHEW FERGUSON:** Okay. Ms. Simard, so
22 if I refer to the NSICOP report, when you appeared before
23 them you said there were four external challenges that the
24 OCCE has to overcome. You talked about the dilemma of the
25 conversation of intelligence in evidence, things like
26 cryptography, and also limits in terms of transactions taking
27 place abroad. So it's not the -- what are the limits that
28 you identified as being an external challenge?

1 **MS. CAROLINE SIMARD:** That's a good question.
2 I'm trying to remember.

3 **MS. CARMEN BOUCHER:** If I may, I believe it
4 was specific to encryption, the challenges of evolving
5 technology and end-to-end encryption for communications.

6 **MR. MATTHEW FERGUSON:** Okay. And what does
7 that entail, Ms. Boucher? Is that -- are we talking of
8 getting back into the -- is it the exchange of classified
9 information, the reception of classified information, or is
10 it just -- is it a different level of encryption?

11 **MS. CARMEN BOUCHER:** No, it's encryption such
12 as if you're using an app ---

13 **MR. MATTHEW FERGUSON:** M'hm.

14 **MS. CARMEN BOUCHER:** --- that is encrypted
15 end-to-end. We don't have the ability to decrypt that
16 information and the user, the providing service generally
17 also doesn't have the ability to decrypt. So other agencies
18 would have the capacity to have a search -- don't really want
19 to speak for them and what they have for techniques, but they
20 would be able to have direct access to it that they might be
21 able to break the encryption. We don't have that capacity.

22 **MR. MATTHEW FERGUSON:** Okay.

23 **MS. CARMEN BOUCHER:** So it has to be provided
24 to us by one of the individuals in the conversation or
25 passage of information.

26 **MR. MATTHEW FERGUSON:** So Madame Simard,
27 these are the external challenges you identified before
28 NSICOP. So what are the internal challenges that the OCCE

1 has to overcome?

2 **MS. CAROLINE SIMARD:** Well, we talked about
3 capacity earlier, so there are new requirements in terms of
4 foreign interference and internal capacity. Well, it's to
5 add the necessary resources to fulfil their mandate in terms
6 of these new requirements.

7 So now, currently, we're working with a
8 budget of \$4.4 million for the permanent resources. I would
9 say that that has to be increased. We've evaluated that we
10 need 10 million. And for resources in terms of these
11 techniques as in full-time employees, we're working with 80
12 people who are employees and consultants, and I'd say half of
13 those, 40, are permanent employees. So when we talk about
14 increasing our capacity, it's specifically in those terms.

15 We're going -- we're continuing with our
16 transformation initiative and now there's the issue of change
17 management. And I would say that everybody is working very
18 hard to accomplish this. It requires a lot of effort
19 internally on the part of employees and on the part of
20 everyone, actually. And I would say that it's important for
21 me to tell you here in this context that it's very demanding,
22 but people are really rolling up their sleeves internally.

23 Same thing for the partners who support us.
24 I'm talking about change management. I think this is an
25 example that really illustrates collaboration with partners.
26 We had a partner who came and gave us training on how they
27 experienced this type of change.

28 So I would say it's resources, training and

1 this whole issue of change management.

2 **MR. MATTHEW FERGUSON:** Ms. Boucher, you
3 mentioned during your July 25th interview that one of your
4 first mandates as executive director was to establish a
5 systemic access to classified information. In your interview
6 and the materials you provided you can see -- we can see that
7 both accessing intelligence and the infrastructure you need
8 to access that intelligence has been a challenge for the OCC.
9 I don't want to elicit any classified information in your
10 endeavours to secure that access, but can you provide a high-
11 level description of your sojourn through that bureaucracy?

12 **MS. CARMEN BOUCHER:** So first, I would note
13 that it is a challenge for us certainly, but I think it's a
14 challenge for any organization that's not used to working in
15 that world because there isn't a playbook, as I discovered
16 when I tried to wind my way through the democracy. There are
17 two classified systems available primarily or that I'm aware
18 of for the Government of Canada. One is the secret level,
19 GCSI, Government of Canada Secure Infrastructure. That's the
20 simpler solution. We could have a terminal in-house and be
21 able to send out emails at a secret level. It's given access
22 and installation, et cetera, is all managed through shared
23 services. And that is the first thing that we attempted. It
24 should be quicker, in theory, but we've been working on it
25 for just over a year. Elections Canada has managed to
26 install it, and I am allegedly pending access still. But
27 figuring out how to fast track that, what's required, we need
28 a survey of our building to see if they can put the

1 infrastructure in place. And, again, you're really reliant
2 on external individuals, external knowledge sets, and if
3 you're not at the top of the pile, it could take a lot longer
4 to do as well.

5 The second classified infrastructure is the
6 CTSN infrastructure. I'm not sure I know what that stands
7 for, technical network.

8 It's the classified top secret network. It's
9 made available by the Communications Security Establishment,
10 so again, it's not something that we can do independently.

11 Secret access isn't sufficient for us. As
12 well, secret access lets us send out information to our
13 liaising partners and certainly can reduce pressures or risk
14 of accidentally producing classified information on an
15 unclassified forum. We need to be able to access CSIS
16 reporting and probably CSE reporting. That would be at a top
17 secret level and above, and for that we need the CTSN
18 network.

19 Understanding the steps in that, when I came
20 in, I really didn't have -- I didn't understand what the
21 steps to go through were, and it was very difficult to find
22 an answer as to what those steps were. Our security is --
23 and internal security tools are all coming out of Elections
24 Canada, so we don't have an in-house security team. They
25 have fairly a in-depth knowledge set as well, but another
26 organization that's not used to dealing with top secret
27 information.

28 So we started by reaching out to PSPC to see

1 if they could tell us what the steps were to identifying top
2 secret access, didn't really get very far with that initial
3 conversation. The first response was that that's not
4 information that they can share. They can't provide the
5 locations of the secure infrastructure. People generally
6 don't share their infrastructure, so it was a very
7 discouraging response.

8 Then we went to CSE and it took some time to
9 get a response back, but the response was also "We can't tell
10 you where the locations are", so I really didn't know where
11 to go at that point. And part of that, as I say, is on our
12 knowledge set, but I think any organization that's entering
13 it for the first time probably hits that blockade.

14 I would like as steps 1 to 12 to get access
15 to CTSN. It would have saved us some time.

16 At that point, the Elections Canada security
17 team put us into contact with the Centre of Security
18 Expertise, which I had never heard of, so I really didn't
19 know who to call. And this is important, I think, as well.

20 They were extremely helpful, located more
21 than one partner that was located walking distance to our
22 office or within a reasonable time. I can't cross a bridge
23 during an election on something urgent, so we were looking
24 for something on the Gatineau side.

25 And they identified potential partners. We
26 reached out to those partners and we found at this point a
27 willing partner, so I thought we were in the clear and was
28 very excited. That was December of last year. And I

1 realized in February that we were missing a huge step, which
2 is becoming an authorized organization.

3 So authorized organization status is granted
4 by CSE to organizations that have been determined to have
5 need and capacity to manage the classified information. We
6 put in our application for that, which was granted in July.
7 The actual application process was less onerous than I was
8 expecting, and at that point we really were starting to get
9 all the information that we need on the steps.

10 There's actually quite clear policy out
11 there. I just didn't know where to get it. It's not
12 available on Google or on the systems that we have.

13 So we have authorized organization status,
14 but there's still a number of steps left. We have to have an
15 internal administrative structure to properly manage the
16 classified information. That includes having a senior
17 indoctrinated official designated by our office approved by
18 CSE.

19 There are specific resume requirements for
20 experience for that individual. They have to have a top
21 secret clearance, special indoctrinations. We can't conduct
22 those indoctrinations yet, so CSE will have to indoctrinate
23 those people.

24 I need a compartmented Information Officer
25 that would be the person that writes the specific procedure
26 and tracks who is accessing the classified infrastructure,
27 making sure that they have the appropriate levels. It's
28 really quite complex so we were building that all trying to

1 pick our way through the bureaucracy.

2 And as slow as it seemed, and I'm actually a
3 person that likes to run, not walk, so I can definitely say
4 that at times I was trying to figure out why is this hard,
5 for the progress we've made in a year, I'm actually quite
6 astounded. But that comes to what I mentioned earlier about
7 the GCSI. People are treating us as a priority right now in
8 large part because of the visibility of this Inquiry and what
9 people are understanding of the challenges that we're facing.

10 **MR. MATTHEW FERGUSON:** Okay. I want to show
11 you a document that maybe betrays a bit your frustration with
12 this process. If we call up CEF 275_R.

13 **--- EXHIBIT No. CEF0000275 R:**

14 Email exchange delays RE GCSI user
15 costs - follow up questions

16 **MR. MATTHEW FERGUSON:** And I also have a
17 question in relation to it.

18 If we go down to the second page. Just a bit
19 higher.

20 A bit higher, please. Okay.

21 It's an email response on the 24th of June of
22 this year to someone at Elections Canada that you're noted --
23 you're taking note of the delay for I believe it's the GCSI
24 terminal.

25 **MS. CARMEN BOUCHER:** Yes.

26 **MR. MATTHEW FERGUSON:** You're mentioning
27 you're shocked it's still not functional seven to eight
28 months later, and you mention that you wish to advise SSC,

1 which is Shared Services Canada, that this is a specific
2 subject of discussion with PIFI.

3 "Access to secure infrastructure is a
4 primary topic for Phase 2 and I would
5 hate to have to say in a public forum
6 that we've been waiting 10 months for
7 whatever it is and still no access to
8 this infrastructure." (As read)

9 I understand that this had to do with a
10 question of a broken printer. Was it that?

11 **MS. CARMEN BOUCHER:** Well, the terminal was
12 installed at Elections Canada in November and it became
13 functional in July, but it's the printer and the tools -- the
14 encryption tools that allow you to actually be able to read
15 the information and print it, there's apparently steps to get
16 to that that they were blockaded at for several months.

17 **MR. MATTHEW FERGUSON:** And since June 24th,
18 has this problem been rectified?

19 **MS. CARMEN BOUCHER:** It is rectified.

20 **MR. MATTHEW FERGUSON:** Okay. Well, that's
21 good.

22 If I move on to -- I'd like to discuss
23 briefly Party nominations and leadership contests.

24 Ms. Simard, could you please remind us
25 whether OCCE plays a role in the candidates?

26 **MS. CAROLINE SIMARD:** As a general principle,
27 these are political funding provisions that apply.
28 Essentially, these are Party rules that apply.

1 **MR. MATTHEW FERGUSON:** So Parties organize
2 their own, and they will decide how they're going to use
3 these funds for these.

4 Is it true that the *Election Act* does not
5 prevent non-residents to participate?

6 **MS. CAROLINE SIMARD:** That is correct.

7 **MR. MATTHEW FERGUSON:** So there is no
8 legislation that prohibits non-citizens or non-Canadian
9 residents to vote in these races.

10 **MS. CAROLINE SIMARD:** It's the same question;
11 right?

12 **MR. MATTHEW FERGUSON:** Yes, I apologize.

13 Ms. Boucher, you stated also in your
14 interview that you were unaware whether the OCCE has received
15 any complaints relating to allegations of FI concerning
16 recent nomination contests in Canada. You mentioned,
17 however, that any such complaints would have been closed upon
18 receipt if they fell outside the OCCE's mandate.

19 What happens or has it happened that the OCCE
20 receives a complaint, becomes aware of suspicious activity
21 that relates to foreign interference or allegations of
22 misconduct in either nomination or leadership contest that is
23 not covered by the *Canada Elections Act*? So you'd receive a
24 complaint, it alleges certain things, but it falls outside of
25 your mandate. What do you do with that information?

26 **MS. CARMEN BOUCHER:** It would depend on the
27 nature of the information, but generally if it does not fall
28 to our mandate, it is closed at receipt.

1 **MR. MATTHEW FERGUSON:** Is there any
2 reflection as to whether some information should go to
3 partner agencies for further investigation? That's something
4 that may fall under a different -- another partner agency's
5 mandate.

6 **MS. CARMEN BOUCHER:** There may be things that
7 fall under Elections Canada mandate that would be sent to
8 them. Outside of that, I think it is unlikely that that
9 would happen.

10 The complaints that come in are subject to
11 weekly reports that are sent up the line and are reviewed by
12 a number of individuals within my branch under myself,
13 including I read them all, and individuals in the compliance
14 unit, they go to all our senior managers. So there's
15 additional opportunity to flag something that may be of
16 interest, but I don't think that there's an example of what
17 you're suggesting.

18 **MR. MATTHEW FERGUSON:** Okay. Recently, there
19 were by-elections in Canada. I think there were 10 before
20 the federal elections in 2021, and two took place yesterday.
21 Is that correct?

22 **MS. CAROLINE SIMARD:** The number 10 I would
23 have to check, but two yesterday, yes, that is correct.

24 **MR. MATTHEW FERGUSON:** And I'm not talking
25 necessarily about the two from yesterday, but if I understand
26 that OCCE has received complaints on allegations of foreign
27 interference specifically to by-election. Maybe not the 10,
28 but perhaps the eight last by-elections.

1 So there were complaints alleging some cases
2 of foreign interference. Is that correct?

3 **MS. CAROLINE SIMARD:** Yes, and the topic
4 could be that is subject to -- you could understand there is
5 confidentiality related to the complaints and their content
6 that we receive within investigations that are ongoing. But
7 generally, I can definitely say that this was mentioned, yes.

8 **MR. MATTHEW FERGUSON:** I think, Ms. Boucher,
9 you mentioned that there was nothing glaring, there was
10 nothing that -- there was nothing glaring in the complaints
11 that you received?

12 **MS. CARMEN BOUCHER:** I didn't see anything
13 alarming.

14 **MR. MATTHEW FERGUSON:** Alarming. Sorry.

15 **MS. CARMEN BOUCHER:** It's okay.

16 **MR. MATTHEW FERGUSON:** Yeah.

17 **MS. CARMEN BOUCHER:** Several of the
18 complaints were really precipitated by media reporting or the
19 NSICOP reports, this inquiry, certainly, and not specific to
20 the byelections. But if we're speaking over the last year
21 what has come in, there's been certainly some that were
22 flagged for foreign and some of them are based on if people
23 don't know what's behind it, then they're speculating that
24 that could be. So it's certainly something that we would
25 look at.

26 **MR. MATTHEW FERGUSON:** Okay. Are you able to
27 give an idea of the number of complaints you've received with
28 respect to that?

1 **MS. CARMEN BOUCHER:** About a dozen.

2 **MR. MATTHEW FERGUSON:** Okay. During the
3 byelections, did you receive regular updates from SITE?

4 **MS. CARMEN BOUCHER:** We attend a weekly
5 committee meeting.

6 **MR. MATTHEW FERGUSON:** M'hm.

7 **MS. CARMEN BOUCHER:** It's the Electoral
8 Security Coordinating Committee. That's at high level. So
9 EDM director general level, where there is the round tables
10 with our partners, including Elections Canada, CSIS, CSC all
11 attend, PCO. So we get regular updates through that, but
12 weekly updates.

13 **MR. MATTHEW FERGUSON:** I understand the OCCE
14 attends SITE meetings, but is not a member of the SITE Task
15 Force? Is that correct?

16 **MS. CARMEN BOUCHER:** We only attend SITE
17 meetings that are extended out to broader partners, where we
18 would be included with other partners who are not core
19 members.

20 **MR. MATTHEW FERGUSON:** Okay. Have you sought
21 status on SITE or -- have you sought status on SITE?

22 **MS. CARMEN BOUCHER:** I've had conversations
23 with CSIS, who is currently the lead for SITE, with regards
24 to what they're looking at for membership. We haven't done
25 an in-depth analysis of whether we would be exactly a member
26 or observer status, but it wouldn't be something that we
27 could just request. It has to be offered, I would say. And
28 the response even from the SITE leaders was that they weren't

1 quite sure what that would look like, but that they were
2 considering whether they needed to go on a different path in
3 the future. And so our request was that we be at the table
4 for those discussions.

5 **MR. MATTHEW FERGUSON:** That you'd be at the
6 table for the discussions pertaining to ---

7 **MS. CARMEN BOUCHER:** Should SITE expand
8 membership or observer status.

9 **MR. MATTHEW FERGUSON:** And are there -- what
10 are your anticipated -- what are the advantages or
11 disadvantages of being -- for the OCC being a member of SITE?

12 **MS. CARMEN BOUCHER:** So again, not
13 necessarily a member. Perhaps an observer.

14 **MR. MATTHEW FERGUSON:** Observer. Right.

15 **MS. CARMEN BOUCHER:** I think that's important
16 from our ---

17 **MR. MATTHEW FERGUSON:** Sure.

18 **MS. CARMEN BOUCHER:** --- status.

19 **MR. MATTHEW FERGUSON:** M'hm.

20 **MS. CARMEN BOUCHER:** The primary advantage is
21 that SITE has a more tactical view of things. The ESCC
22 committee meetings are at a high level, so it's really
23 strategic discussions. They are providing updates that may
24 delve more granular, but it's very much a high-level meeting.
25 They're usually 30 to 60 minutes long, so you don't get in-
26 depth detail passed, whereas the SITE meetings, in particular
27 during an election, they're speaking much more granular, and
28 if our goal is to identify potential overlap with our

1 investigations, we need that insight into the more granular
2 intelligence.

3 **MR. MATTHEW FERGUSON:** Yeah. We also saw in
4 the material the setting up of an Interdepartmental Task
5 Force, the IDTF. I think that's an acronym that's used. Can
6 you speak a bit more about that? What's that about and
7 what's the difference between that and SITE?

8 **MS. CARMEN BOUCHER:** So I didn't attend the
9 Interdepartmental Task Force. It was attended by one of my
10 senior investigators. They had an initial roundtable
11 tabletop exercise that was attended, and they're looking at
12 setting a sort of permanent structure for that. I would
13 liken it to, like, a centre of operations, where the
14 different partners will sit live during an electoral period.
15 So it will be daily contact for the different partner
16 agencies to sit. This provides opportunities for us to take
17 leads that are actionable and it's not necessarily
18 intelligence focused. So while there could be classified
19 meetings, there is also enforcement partners that are sitting
20 at the table and it's really to make sure that the
21 information is moving very quickly. So similar that you
22 would do for any major event, except focused on elections.

23 **MR. MATTHEW FERGUSON:** Okay. And I want to
24 turn now to something that I think you alluded to at the
25 beginning of your testimony, Ms. Boucher, which is an
26 investigation -- say investigation -- I'll use your
27 terminology, a review, of, in the Greater Vancouver Area, and
28 maybe I'll just ask a few preliminary questions first, but

1 with respect to the 43rd and 44th General Elections, there was
2 no -- the files that raise allegations of foreign
3 interference did not lead to the OCC laying any charges or
4 taking enforcement actions against any individuals? Is that
5 correct?

6 **MS. CARMEN BOUCHER:** That is correct.

7 **MR. MATTHEW FERGUSON:** Okay. And at the time
8 of the Commissioner's appearance, Mme Simard's appearance in
9 March of 2024, there were two ongoing reviews, one focused on
10 the Greater Toronto Area, and more specifically, allegations
11 of FI in Don Valley North. This one remains open. It's an
12 ongoing review; correct?

13 **MS. CARMEN BOUCHER:** I can't provide anymore
14 information on that review.

15 **MR. MATTHEW FERGUSON:** The other review --
16 and my purpose wasn't to elicit whether it was ---

17 **MS. CARMEN BOUCHER:** Understood.

18 **MR. MATTHEW FERGUSON:** The other is a review
19 focused on electoral districts in the Greater Vancouver Area,
20 and more specifically, the unsuccessful candidate Kenny Chiu
21 has, well, it's a detailed review of media and social media
22 to determine whether there was tangible evidence of
23 contraventions to the *Canada Evidence Act*.

24 And I'll pull up a document, which is
25 CEF.152_r. Okay. That's underscore r? Okay.

26 Do you recognize the document here, Ms.
27 Boucher?

28 **MS. CARMEN BOUCHER:** Yes, I do.

1 **MR. MATTHEW FERGUSON:** Okay. And I
2 understand that this review was the one you mentioned at the
3 beginning of your testimony involving two investigators and
4 an analyst; correct?

5 **MS. CARMEN BOUCHER:** One and the same.

6 **MR. MATTHEW FERGUSON:** One and the same?
7 Okay.

8 Now I'll pull up document CEF.302_r. It
9 takes some time to load.

10 **--- EXHIBIT No. CEF0000302 R:**

11 Memo for CCE_Summary 2022-0925

12 **MR. MATTHEW FERGUSON:** Okay. This is a memo
13 dated August 19, 2024 to Mme Simard. And you're CC'd on this
14 memorandum too. I understand that this is -- this memorandum
15 relates to the closing -- relates to a report of this review.
16 Is that correct?

17 **MS. CARMEN BOUCHER:** Yes, it's the memorandum
18 which includes the report and proposes to the Commission for
19 a decision as to whether we should close the review.

20 **MR. MATTHEW FERGUSON:** Yeah. Now, if we -- I
21 think the document is 112 pages. There is appendices at the
22 end. The document is there for -- I'll go through -- I won't
23 take a granular search to this document. I have some
24 questions as to what this -- what initiated this review and
25 whether you've conducted reviews of this nature in the past.

26 So if you could help us to understand what
27 this review specifically was about?

28 **MS. CARMEN BOUCHER:** So as Mme Simard

1 mentioned, pursuant to the media reporting from the fall of
2 2022, ---

3 **MR. MATTHEW FERGUSON:** M'hm.

4 **MS. CARMEN BOUCHER:** --- make sure I get my
5 years right, there was a retroactive review that was done
6 around our organization's prior files that could have fallen
7 into the category of foreign interference, including some
8 that touched briefly on Mr. Chiu, but were not specific to
9 that.

10 Pursuant to that media reporting, we did
11 receive complaints, renewed complaints, specific to the
12 information that was circulating in the media, and one of
13 those complaints was the complaint which the Bloc Quebecois
14 made public subsequently, which is why I can confirm it here
15 in this forum, and this review was initiated in response to
16 the new information that was circulating to ensure that we
17 were doing our due diligence and identify if there were
18 contraventions to the *Canada Election Act*.

19 **MR. MATTHEW FERGUSON:** And has the OCC
20 undertaken such an ambitious, or such a -- yeah, I could say
21 a deep dive in other files in the past?

22 **MS. CARMEN BOUCHER:** We've certainly had
23 significant and long reviews not specific to foreign
24 interference.

25 **MR. MATTHEW FERGUSON:** Okay. So this was the
26 first major review specific to foreign interference?

27 **MS. CARMEN BOUCHER:** Yes.

28 **MR. MATTHEW FERGUSON:** And if we take a look

1 -- a quick walk through the Executive Summary at page 5?
2 Right here. Just a bit up.

3 Right. So here at paragraph 5, we see that
4 the -- and the subsequent paragraphs, that the review found
5 either insufficient or no evidence to support the elements
6 constituting the offences of undue foreign influence -- undue
7 influence by foreigners, voter intimidation or duress,
8 unregistered domestic third-party, use of spending of foreign
9 funds by a third party, the making or publishing false
10 statements during an election period. Is that correct?

11 **MS. CARMEN BOUCHER:** That is correct.

12 **MR. MATTHEW FERGUSON:** Did the OCCE receive
13 any assistance or support from partner security or
14 intelligence agencies, or other law enforcement in the course
15 of this review?

16 **MS. CARMEN BOUCHER:** We had some on the
17 ground support from the RCMP for logistics around interviews.

18 **MR. MATTHEW FERGUSON:** If I go to paragraph
19 148, and you'll have to bear with me, I didn't note the page
20 number, Mr. Court Operator. Paragraph 148, yeah, we're
21 almost there. Yeah.

22 So here it mentions -- the report mentions
23 that although information received during the review leads to
24 suspected attempts to influence the -- I'm sorry, that's not
25 the right quote. I'll just read quote from somewhere else.
26 But in the report it mentions that:

27 "Although the information received
28 during this review leads to suspected

1 attempts to influence the Chinese
2 Canadian diaspora existed, at no time
3 did investigators obtain sufficient
4 evidence to support any of the
5 elements of undue foreign influence
6 or other contraventions as defined by
7 the Act." (As read)

8 Now, I'll read paragraph 148, which states:

9 "Information gathered indicated that
10 impetus and direction was given by
11 PRC officials for the anti-CPC
12 campaign." (As read)

13 And a bit further down at 149:

14 "The overall campaign was carried out
15 and amplified by a multi-pronged and
16 layered approach using Chinese
17 Canadian association individuals,
18 Chinese Canadian business interests,
19 as well as pervasive social media and
20 printed and digital and broadcast
21 media messaging. (As read)

22 Now, these are -- I'll qualify it as
23 significant findings or claims, insofar as they are
24 indicative of foreign interference. Is that an accurate
25 statement?

26 **MS. CARMEN BOUCHER:** Yes.

27 **MR. MATTHEW FERGUSON:** Okay. Before making
28 this report publicly available, did the OCCE share the report

1 or any information yielded by the investigation, or any
2 findings with security and intelligence agencies or law
3 enforcement?

4 **MS. CARMEN BOUCHER:** We provided a verbal
5 extensive briefing to both the RCMP and CSIS.

6 **MR. MATTHEW FERGUSON:** Have you reported
7 unredacted copies of the reports to either agency?

8 **MS. CARMEN BOUCHER:** Not at this stage, we've
9 only provided it to the inquiry this week.

10 **MR. MATTHEW FERGUSON:** Right. Okay.

11 **MS. CARMEN BOUCHER:** We won't provide an
12 unredacted version though, because our witness is protected
13 from the partner agencies as well.

14 **MR. MATTHEW FERGUSON:** Right.

15 **MS. CARMEN BOUCHER:** Due to our independence
16 in addition.

17 **MR. MATHEW FERGUSON:** So you'll be -- if you
18 provided copies they will be redacted copies. But now that
19 you have ---

20 **MS. CARMEN BOUCHER:** It would likely be a
21 lighter redaction than what the public redaction is, but it
22 would not be a fully unredacted report.

23 **MR. MATTHEW FERGUSON:** Okay. And despite
24 these findings by the OCCE investigators of a seemingly
25 concerted attempt with elements of foreign direction to
26 interfere in certain electoral districts, none of this
27 conduct could substantiate a charge to an offence contrary to
28 the *Canada Elections Act*. Correct?

1 **MS. CARMEN BOUCHER:** That is correct.

2 **MR. MATTHEW FERGUSON:** Okay. What -- I don't
3 know if you can speak to this, but what more -- what more was
4 needed to substantiate a charge to an offence contrary to the
5 *Canada Elections Act*?

6 **MS. CARMEN BOUCHER:** So I think I would have
7 to go back to the prior statement about there were elements
8 of foreign interference that were seen, but not under the
9 *Canada Elections Act*. My investigator's role is to identify
10 contraventions to our *Act*, they aren't experts in national
11 security law, and they are certainly not experts in the PRC
12 and their efforts.

13 So some of this may fall to other partner
14 agencies, certainly. For our purposes, a contravention, for
15 instance, intimidation and duress has to be intimidation of
16 an elector for the purpose of influencing their vote. It's
17 very specific in the *Canada Elections Act*. So widespread
18 systemic efforts to sway a community to act in a certain
19 manner would be very difficult to prove. But it would also
20 be very unlikely to fall under the specific contraventions of
21 the *Act* as narrowly as they are written. And that would be a
22 similar answer to most of the contraventions that you've
23 listed there.

24 **MR. MATTHEW FERGUSON:** Yeah. And maybe for
25 the public listening and watching, the OCCE doesn't have the
26 power to create offences to fit patterns; correct?

27 **MS. CARMEN BOUCHER:** As mentioned earlier by
28 the Commissioner, we are not responsible for creating

1 legislation. We enforce the Act as approved by parliament.

2 **MR. MATTHEW FERGUSON:** And the report -- at
3 paragraph 156 the report indicates that foreign -- at
4 paragraph 156, I'll wait until it comes up:

5 "That foreign ownership or control of
6 Canadian broadcasting media may be in
7 contravention of applicable Canadian
8 statutory and regulatory
9 requirements. Consideration will be
10 made for a recommendation to disclose
11 to the CRTC as appropriate."

12 (As read)

13 Can you tell us whether any decision to
14 disclose information in that direction has been made?

15 **MS. CARMEN BOUCHER:** The document for a
16 recommendation hit my desk this morning.

17 **MR. MATTHEW FERGUSON:** Okay.

18 **MS. CARMEN BOUCHER:** And you'll understand, I
19 thought that Madam Simard would probably prefer to review it
20 tomorrow.

21 **MR. MATTJEW FERGUSON:** Yeah. Well, we won't
22 be calling you back tomorrow, Madam Simard.

23 **MS. CAROLINE SIMARD:** Thank you.

24 **MR. MATTHEW FERGUSON:** What are the take
25 aways from this investigation, lessons learned for the OCCE?
26 I know it was an extensive review that didn't lead to
27 findings of fault, or to initiate an investigation, and any
28 charges -- to substantiate any charges contrary to the *Canada*

1 *Elections Act*. But what were any takeaways, if any, from
2 this investigation review?

3 **MS. CARMEN BOUCHER:** I think that primarily
4 our staff has really built a really significant knowledge set
5 with regards to the Chinese communities in Canada, the
6 pressures that they are under, how the associations work, the
7 interactions with Canadians here and their homeland. We
8 didn't have any of that knowledge set to start and it will be
9 a great knowledge set to build on for the next election.
10 Specific to the PRC, understanding that we haven't done a
11 similar review for the -- I don't know the number, half a
12 dozen other countries that could possibly surface in the next
13 election.

14 So first, from a lessons-learned perspective,
15 extremely useful. Certainly, from an open-source
16 intelligence perspective we've learned a great deal about how
17 those -- the information circulates on the internet in those
18 communities. We've worked to strengthen our linguistic
19 capacities within the office.

20 So we're really looking at where our
21 limitations would be a challenge in addressing this in the
22 future in the most efficient manner, because we also had a
23 big lag on timing on starting this review, which was leaving
24 us reconstituting things after the fact. It's always better
25 to be in there sooner. So the goal is for us to learn what
26 we need to build to do it faster and better next time, and I
27 think it's been a great learning opportunity for the staff.

28 There's also you can imagine, some sense of

1 frustration in that they've put all those efforts in and my
2 investigators would love to get to an end game. They are
3 investigators for a reason. But the narrowness of what our
4 contraventions fall under, it really leaves us enforcing what
5 we have before us, and the question of proof. How are we
6 going to prove intention? We have the obligation of
7 intention for these criminal prosecutions that we would be
8 looking for on something this serious, and for that we need
9 witnesses that are willing to testify, and there's a huge
10 challenge there if you're working in a community of a
11 diaspora that has widespread fear.

12 **MR. MATTHEW FERGUSON:** Just before I move on
13 to my last set of questions that flow from this -- but I just
14 want to go to page 79 to show for the record that the review
15 was closed and signed by the Commissioner, [No
16 interpretation]. Page 79.

17 **MS. CARMEN BOUCHER:** Page 79?

18 **MR. MATTHEW FERGUSON:** And can we just see
19 the dates? So it's mentioned decision is sought to conclude
20 the review the review. There's an X marking the box next to
21 reviews to be concluded based on the conclusions outlined in
22 the report and considerations supporting decision or other
23 observations [No interpretation].

24 **MS. CAROLINE SIMARD:** [No interpretation]

25 **MR. MATTHEW FERGUSON:** Ms. Boucher, you
26 touched on something in one of your answers. You said that
27 you -- this report allowed you to engage with various groups,
28 I think maybe I'm paraphrasing now. But with various groups

1 and members of the Chinese Canadian diaspora in the greater
2 Vancouver area. Does the OCCE have a specific vision in
3 place to dialogue with diaspora communities in the future, or
4 going forward I should say?

5 **MS. CARMEN BOUCHER:** Any dialogue with the
6 community would still be in the context of a file. So we do
7 engage with academics and certainly academic experts. Some
8 of the individuals that were interviewed for the purposes of
9 this file or other files on foreign interference, we have the
10 ability to maintain a sporadic dialogue with them,
11 particularly experts, I would say. Engaging that diaspora on
12 an ongoing basis, I think that would be difficult given our
13 size and the specific role that we play of enforcement.

14 **MR. MATTHEW FERGUSON:** Okay. I believe those
15 are my questions. Maybe I just have one more.

16 Did you -- you recognized in your -- in March
17 that it would be important to maintain relationships with
18 members of the diaspora. Since you've said this, have you
19 thought about these initiatives of creating relationships
20 with cultural groups in the future?

21 **MS. CAROLINE SIMARD:** The brief answer is
22 yes. Slightly longer and detailed answer is, I think that
23 right now we're in an exploratory phase in that regard. I
24 talked about the strategic communications plan, the
25 mobilization or the engagement plan that's being developed as
26 well, and we're looking at various options in that context.

27 We identified Elections Canada as a partner.
28 They have tools for raising awareness and information, so

1 we're at an exploratory stage. However, even if we are at an
2 exploratory stage, we can evaluate possibilities to add to
3 our communications tools so it exists in several languages,
4 in Indigenous languages and third languages. So these are
5 one of the options we're looking at.

6

7 **MR. MATTHEW FERGUSON:** Thank you. That's all
8 for me, Madam Commissioner.

9 **COMMISSIONER HOGUE:** Thank you, Mr. Ferguson.

10 So we'll take our break now.

11 So we'll come back at five past three. We
12 have 20 minutes? Yes. Five past three.

13 **THE REGISTRAR:** Order, please. This sitting
14 of the Commission is now in recess until 3:05 p.m.

15 --- Upon recessing at 2:45 p.m.

16 --- Upon resuming at 3:08 p.m.

17 **THE REGISTRAR:** Order please.

18 The sitting of the Foreign Interference
19 Commission is now back in session. The time is 3:08 p.m.

20 **--- MS. CAROLINE SIMARD, Resumed:**

21 **--- MS. CARMEN BOUCHER, Resumed:**

22 **COMMISSIONER HOGUE:** So we'll start cross-
23 examinations. First counsel is counsel for Jenny Kwan.

24 **--- CROSS-EXAMINATION BY MR. SUJIT CHOUDHRY:**

25 **MR. SUJIT CHOUDHRY:** Thank you, Madam
26 Commissioner. For the record, my name is Sujit Choudhry.
27 I'm counsel for Jenny Kwan.

28 I would like to take you both, Ms. Boucher

1 and Ms. Simard, to a document that Mr. Ferguson put up at the
2 end of his examination, and it's CEF 302_R. And if we could
3 go to, I believe it's page 4, footnote 1. And if we could
4 expand that a bit? It's hard for people to read.

5 Okay. And so I think this is principally a
6 question to Ms. Boucher, but it has to do with the
7 interpretation of this provision and the conclusion that the
8 OCCE drew based on the interpretation of this provision
9 regarding this review. And so -- and if I understood
10 correctly, it was your testimony that it'd be very hard to
11 make out an offence under the Act when mass communications
12 are concerned, given how it's worded at present. And forgive
13 me if I'm -- if I've paraphrased incorrectly. We didn't have
14 a lot of time for you to explain your interpretation. I know
15 you're legal counsel as well, so it would be helpful, I
16 think, for us if you could expand a bit on how you're
17 interpreting this Act and why you viewed it -- what you view
18 the barriers to applying it in this case to be.

19 **MS. CARMEN BOUCHER:** So to clarify, I'm not
20 legal counsel.

21 **MR. SUJIT CHOUDHRY:** Oh, forgive me.

22 **MS. CARMEN BOUCHER:** So I'm not sure if I'm
23 going to be able to give you ---

24 **MR. SUJIT CHOUDHRY:** Okay. Well ---

25 **MS. CARMEN BOUCHER:** --- the detail you would
26 like, but I can certainly try.

27 **MR. SUJIT CHOUDHRY:** Sure.

28 **MS. CARMEN BOUCHER:** So my reference to Mr.

1 Ferguson was specific to intimidation as an example. So it's
2 intimidation of an elector. It's not intimidation writ
3 large. So mass communication designed to intimidate would be
4 difficult because it has to intimidate an elector as opposed
5 to systemic intimidation by China.

6 **MR. SUJIT CHOUDHRY:** I see. Now this
7 provision as I'm reading it doesn't use the word
8 "intimidation". It uses the word "unduly influenced".

9 **MS. CARMEN BOUCHER:** That's correct. I was
10 not referring to this portion of the Act.

11 **MR. SUJIT CHOUDHRY:** I see. Okay. Well,
12 maybe if we could talk about this portion of the Act then.
13 So in principle, could this portion of the Act be violated by
14 miscommunication regarding a candidate designed to influence
15 how people -- people's political support for that candidate?

16 **MS. CARMEN BOUCHER:** So if they incur an
17 expense for the communication it can, but the use of most
18 apps is free. And that is another challenge for us as well.
19 So one of my investigators made the comment to me that if
20 this was a concerted effort by China using WeChat or
21 WhatsApp, that it would have been a very cheap one if not
22 free. And if we cannot prove an expense, then it may not
23 fall under this portion of the Act ---

24 **MR. SUJIT CHOUDHRY:** I see. Okay. That's
25 helpful. And so it's the -- and so -- so, for -- so if I
26 could kind of summarize, if disinformation is done for free
27 on WeChat, or WhatsApp, or any social media platform, then if
28 it didn't involve incurring an expense, it wouldn't violate

1 this provision of the Act?

2 **MS. CARMEN BOUCHER:** Not this provision, but
3 it could violate a different provision of the Act.

4 **MR. SUJIT CHOUDHRY:** And which provision
5 would that be?

6 **MS. CARMEN BOUCHER:** Well, there are portions
7 of the Act that refer to small statements or impersonation,
8 for instance ---

9 **MR. SUJIT CHOUDHRY:** I see.

10 **MS. CARMEN BOUCHER:** --- would not require an
11 expense.

12 **MR. SUJIT CHOUDHRY:** And for this review, did
13 you look at those provisions of the Act as well or not.

14 **MS. CARMEN BOUCHER:** Yes, there's a list of
15 the provisions that were looked at right up until the end
16 within this document and it includes all statements.

17 **MR. SUJIT CHOUDHRY:** I see. And I'm sorry
18 I'm -- we -- I only was able to see this document recently,
19 so I'm sorry I'm asking these questions.

20 **MS. CARMEN BOUCHER:** I understand.

21 **MR. SUJIT CHOUDHRY:** Yeah, and so -- and you
22 nonetheless concluded that there was no violation of those
23 provisions of the Act either?

24 **MS. CARMEN BOUCHER:** That we had insufficient
25 evidence to prove.

26 **MR. SUJIT CHOUDHRY:** I see.

27 **MS. CARMEN BOUCHER:** Or no evidence to prove,
28 depending on the contraventions. Near the end of the report,

1 there is a portion that -- I don't know the page number, I
2 apologize -- that summarizes each of the contraventions that
3 were looked at.

4 **MR. SUJIT CHOUDHRY:** Yes. Okay. Thank you.
5 Well, that's all for now, I'm afraid, but, thank, that's
6 helpful.

7 I was wondering if we could turn to your
8 witness -- your interview summary, and so this is the -- of
9 the non-classified interview, so it's WIT 91, if you could
10 put it up.

11 And so I -- there's a number of paragraphs
12 here, Ms. Boucher and Ms. Simard, where you talk about your
13 current capacities, your current capabilities, your current
14 budgets. And so I can take you to specific paragraphs where
15 I've drawn these points from if you like, but I'd like to be
16 -- hope to summarize. There's a lot of information in here,
17 and so I want to go through a few points.

18 So the first is, I understand that you have -
19 - OCCE currently has about 80 employees. Is that correct?

20 **MS. CARMEN BOUCHER:** And contractors.

21 **MR. SUJIT CHOUDHRY:** And -- employees and
22 contract together.

23 **MS. CARMEN BOUCHER:** Yes.

24 **MR. SUJIT CHOUDHRY:** How many of those 80 are
25 full-time?

26 **MS. CARMEN BOUCHER:** The majority of them are
27 full-time, but they are not permanent positions. So they're
28 -- versus an indeterminate position with the government,

1 they're on term or contract positions.

2 **MR. SUJIT CHOUDHRY:** So how many are
3 indeterminate?

4 **MS. CARMEN BOUCHER:** About 40.

5 **MR. SUJIT CHOUDHRY:** So about half are
6 indeterminate and 40 are on limited term. Okay.

7 And then you said as well, I believe, in this
8 document that you have about 20 investigators, but your
9 testimony today you said you had about 30. So I'm wondering
10 what the correct figure is.

11 **MS. CARMEN BOUCHER:** So what I said today was
12 there's less than 30 people in the enforcement branch, and
13 that's not just investigators.

14 **MR. SUJIT CHOUDHRY:** I see.

15 **MS. CARMEN BOUCHER:** So there are, I believe
16 including myself, 28 individuals in enforcement, but there's
17 been hiring and it might be 30, but I'll say 28.

18 **MR. SUJIT CHOUDHRY:** And of those -- and of
19 those 28, then, how many are indeterminate and how many of
20 them are on fixed term?

21 **MS. CARMEN BOUCHER:** It's approximately half.

22 **MR. SUJIT CHOUDHRY:** So at 14 full-time or
23 indeterminate.

24 And you've had problems with turnover, you've
25 referenced in the document. Is that right?

26 **MS. CARMEN BOUCHER:** Yes.

27 **MR. SUJIT CHOUDHRY:** And that's partly
28 because you can't hire people in permanent positions that put

1 tremendous impact on the OCCE team.
2 Of a team of about 20 investigators,
3 three were dedicated to just one
4 major interference case." (As read)

5 It's a direct indication -- the dedication of
6 resources is a direct indication of the complexity of the
7 files that involve foreign interference.

8 Do you recall making those statements?

9 **MS. CARMEN BOUCHER:** I do.

10 **MR. SUJIT CHOUDHRY:** And so is it fair to say
11 that allegations of foreign interference relative to what you
12 called your historically routine cases tend to be more
13 complex on average?

14 **MS. CARMEN BOUCHER:** Foreign interference
15 files are generally more complex, writ large.

16 **MR. SUJIT CHOUDHRY:** Okay. And then because
17 they're more complex, they're more resource intensive.

18 **MS. CARMEN BOUCHER:** They can be.

19 **MR. SUJIT CHOUDHRY:** They can be.

20 **MS. CARMEN BOUCHER:** It depends on the
21 allegation.

22 **MR. SUJIT CHOUDHRY:** Okay. And is it fair to
23 say that the demand on OCCE's resources posed by foreign
24 interference investigations or complaints is rising?

25 **MS. CARMEN BOUCHER:** Yes.

26 **MR. SUJIT CHOUDHRY:** Okay. So I'd now like
27 to shift to issues of capacity and expertise.

28 And here, for the record, I'm referring to

1 statements made at paragraphs 8, 20 and 22.

2 And so -- and paragraph 8, there are
3 statements made about developing and maintaining an ability
4 to investigate complex files requires extensive expertise,
5 training and time, which can be challenging.

6 Paragraph 20, there are statements about how
7 staff need to understand evolving methodologies in order to
8 identify when there's potential foreign interference. And
9 that's an understanding, I think, that they don't all
10 currently have.

11 And then paragraph 22, there's a statement
12 which states:

13 "It's essential for the OCCE to
14 evolve in order to deal with foreign
15 interference, a problem that presents
16 significant challenges for a micro
17 organization such as the OCCE where
18 staff members are often called upon
19 to support several important
20 initiatives simultaneously. Staff
21 members struggled to develop the
22 office's ability to deal with foreign
23 interference." (As read)

24 Do you remember -- do you recall those
25 statements?

26 **MS. CARMEN BOUCHER:** I believe that's Mme
27 Simard's.

28 **MR. SUJIT CHOUDHRY:** Mme Simard, do you

1 recall those statements?

2 **MS. CAROLINE SIMARD:** Yes, I do.

3 **MR. SUJIT CHOUDHRY:** And you agree with
4 those?

5 **MS. CAROLINE SIMARD:** Yes.

6 **MR. SUJIT CHOUDHRY:** And so it would -- so
7 it's fair to say, then, that at this time, today, it's
8 challenging for the OCCE to investigate foreign interference
9 without a bigger budget, without more staff, without more
10 expertise who have more experience.

11 **MS. CAROLINE SIMARD:** Well, to describe the
12 situation clearly, currently we have that capacity
13 internally. What's missing is related to the concern about
14 the future, especially with the coming elections with the
15 potential multiplication of threats.

16 **MR. SUJIT CHOUDHRY:** Well, let's talk about
17 the next election because I think it was Ms. Boucher who said
18 that if I -- please forgive me. You said that your staff
19 might be preparing for the next election. Is that correct?

20 **MS. CARMEN BOUCHER:** My staff is preparing
21 for the next elections.

22 **MR. SUJIT CHOUDHRY:** And I think we can take
23 notice of the fact that that might happen at any time.

24 And so let me ask you a question. If the
25 next election were to happen in a month, would you be where
26 you need to be given your current staffing and resources, to
27 properly address foreign interference?

28 **MS. CAROLINE SIMARD:** Currently, I can say

1 that in the current situation, yes, it's for the current
2 time, but the concern is about the future. So essentially,
3 here we're talking about a community that's being targeted,
4 but it's the possible multiplication, the risk of having
5 simultaneous files.

6 But to answer your question clearly,
7 currently we are able to deal with those demands. However,
8 historically, it's important to say that the office already
9 had to deal with files related -- problematic file, that was
10 the robocalls, with less personnel. So the capacity exists
11 internally, but I'd say that for the staff it's difficult.
12 It's a lot of hours of work. Put it this way.

13 **MR. SUJIT CHOUDHRY:** And this is a three-year
14 plan, but the election might happen in a month. And so I'm
15 assuming that at the end of the three years, you'd be in a
16 better position than you are today. Is that right?

17 **MS. CAROLINE SIMARD:** Well, I see it as
18 continuous improvement, and it's been the case for the office
19 for the past 50 years. If I looked at the evolution of the
20 office, it was a constant improving -- improvement with
21 legislative amendments, of course, as I said earlier, and
22 with the tools that we have now. But we're following the
23 technological evolution.

24 When we got internet 20 years ago, the office
25 really settled down to deal with that, and now it's the same
26 thing with AI and all new developments.

27 **MR. SUJIT CHOUDHRY:** Ms. Boucher, do you have
28 anything to add to that?

1 **MS. CARMEN BOUCHER:** Yeah. I would add that
2 we also have the ability to do surge capacity because we can
3 hire additional contractors, so a lot of our contractors are
4 extremely experienced. They have a very specialized
5 expertise.

6 So the challenging thing with our current
7 funding model and half of our staff being permanent is that
8 we are more reliant than I would like to be on contractors.
9 We still have the capacity to do it.

10 And we have had -- always had complex and
11 complicated files. The robocalls is an excellent example.
12 However, the challenge is if I get six or seven of those at
13 once and they're on six or seven different countries of
14 foreign interference, we would have to turn for outside help
15 and supplement.

16 Most of those investigations don't happen in
17 the electoral period. As I'm sure you would know, given your
18 legal background, those investigations take sometimes years,
19 so we would have the ability after the election to do the
20 deep dive and boost where we need. The challenge is,
21 ideally, you have an internal staff capacity and the staff
22 can grow within.

23 I have several investigators with that level
24 of capacity. The staff that don't have that level are in the
25 -- like for government terms, like PM4 or PM5 level
26 investigators. I have PM6 investigators that do the complex.

27 Since we have so many non-complex files, they
28 are given to the people that are still learning so that they

1 aren't thrown into the most complex files.

2 **MR. SUJIT CHOUDHRY:** Madam Commissioner, how
3 much time do I have left?

4 **COMMISSIONER HOGUE:** Your time has just
5 expired, but ---

6 **MR. SUJIT CHOUDHRY:** Oh, okay.

7 **COMMISSIONER HOGUE:** --- but if you have a
8 last question, I'm going to allow a last question.

9 **MR. SUJIT CHOUDHRY:** You know, I think I'll
10 wrap up for today. Thank you very much.

11 **COMMISSIONER HOGUE:** Thank you.

12 So counsel for the RCDA?

13 Oh, I'm sorry, I think it was the
14 Conservative Party. Sorry.

15 **--- CROSS-EXAMINATION BY MR. NANDO DE LUCA:**

16 **MR. NANDO DE LUCA:** Good afternoon. My name
17 is Nando de Luca. I represent the Conservative Party of
18 Canada.

19 Could I have CEF.302_r pulled back up? And I
20 just want to pick up on what my friend was canvassing at the
21 beginning of his questions at footnote number one. Right
22 there.

23 And I guess this is for Ms. Boucher. Did I
24 understand your testimony with respect to possible
25 prosecutions under the *Canada Elections Act*, focusing in on
26 282.4(2), that one of the challenges that relates to the fact
27 that the Act uses the word -- or the phrase "influences an
28 elector" as opposed to the electorate at large?

1 **MS. CARMEN BOUCHER:** The difficulty of
2 proving electorate at large. It would be much more
3 challenging than proving an elector.

4 **MR. NANDO DE LUCA:** Okay. So maybe I
5 misunderstood. I thought that what you were trying to
6 suggest was because it's only stated in the singular, it
7 excludes the plural. Did I misunderstand?

8 **MS. CARMEN BOUCHER:** No, I don't think that
9 that is my interpretation.

10 **MR. NANDO DE LUCA:** Okay. Could I ask you to
11 consider then what is it about the fact -- you tended to
12 stress the word "elector" that makes it difficult to prove
13 the offence, in your estimation?

14 **MS. CARMEN BOUCHER:** The offence of undue
15 influence requires knowingly, it requires incurring an
16 expense, ---

17 **MR. NANDO DE LUCA:** Yes.

18 **MS. CARMEN BOUCHER:** --- or incurs a breach
19 of another Act of Parliament, and in addition, we have to
20 show that it was the purpose of influencing an elector to
21 vote. Whether that's one elector or dozens of electors. It
22 has to be done with that purpose and with those sub-criteria.

23 **MR. NANDO DE LUCA:** Right. So do I take it
24 from your answer that if it had -- that if it was more than
25 one elector, it would be even more difficult?

26 **MS. CARMEN BOUCHER:** Well that would depend
27 on the facts of the case.

28 **MR. NANDO DE LUCA:** Could I ask -- I'm going

1 to change -- turn to a slightly different topic. Am I
2 correct that the Elections Canada -- *Canada Elections Act*
3 does regulate certain aspects of parties' leadership
4 contests?

5 **MS. CARMEN BOUCHER:** Their financial aspects
6 of the leadership contests are regulated.

7 **MR. NANDO DE LUCA:** Right. And am I correct
8 that the Conservative Party of Canada made a submission to
9 the Commissioner of Canada Elections in July 2022 regarding
10 potential breaches of the Act that it observed in
11 administering the CPC's leadership contest that year?

12 **MS. CARMEN BOUCHER:** They did, but it was not
13 in connection with foreign interference.

14 **MR. NANDO DE LUCA:** Okay. And the submission
15 was in respect of irregularities and the sale of CPC
16 memberships for one of the contestants, not the current
17 leader, that may have resulted in a circumvention of donation
18 limits? Is that correct?

19 **MS. CARMEN BOUCHER:** I'm not at liberty to
20 speak to our files in an open environment.

21 **MR. SÉBASTIEN LAFRANCE:** And Madam
22 Commissioner, I'm sorry, Sébastien Lafrance for the OCCE, but
23 Ms. Boucher answered that it was not related to foreign
24 interference, so in all fairness, given the mandate of this
25 Commission, it would go beyond the mandate of this
26 Commission.

27 **COMMISSIONER HOGUE:** Do you have anything to
28 add, Me De Luca?

1 **MR. NANDO DE LUCA:** Yes, with respect to the
2 objection, Madam Commissioner, I'm going to pull up the
3 document. It was just added to the database, with your
4 permission, that actually responds to the complaint.

5 Certainly one of the issues that has been put
6 forward even for this phase is the vulnerabilities in the
7 various electoral processes, including memberships, ---

8 **COMMISSIONER HOGUE:** In relation to foreign
9 interference.

10 **MR. NANDO DE LUCA:** Right.

11 **COMMISSIONER HOGUE:** So since she mentioned
12 that it's not in connection with foreign interference,
13 honestly I fail to see how it can be relevant to what I'm
14 tasked to do.

15 **MR. NANDO DE LUCA:** Okay. All right. Well
16 then I'm going to reserve. This is part of my client's --
17 the CPC's evidence that will be put forward later, and maybe
18 we can bring it up with them.

19 Those are my questions. Thanks very much.

20 **COMMISSIONER HOGUE:** Thank you. So now it's
21 the counsel for RCDA.

22 **--- CROSS-EXAMINATION BY MR. GUILLAUME SIROIS:**

23 **MR. GUILLAUME SIROIS:** Good afternoon.

24 I would like to pull CEF.23_r2, please.

25 While that's being pulled up, those are
26 complaints filed with the OCCE during the 44th General
27 Election.

28 Yeah, sure, it's CEF.23_r2.

1 Do you recognize this document?

2 **MS. CARMEN BOUCHER:** You'd have to scroll
3 down. I believe this was the document we addressed in Phase
4 1 of the testimony?

5 **MR. GUILLAUME SIROIS:** Exactly. Yeah. Yes.
6 I raised that document during stage 1. There are two
7 complaints, as I understand it, in that document. The first
8 one is the one we're seeing right now. And there's a second
9 complaint filed approximately the same day about similar
10 events.

11 So if you can go back just to the first page
12 of the document, please?

13 We see that it was -- again, we see that it
14 was filed on August 31st. It relates to fake news,
15 disinformation during the 44th General Election.

16 Can you scroll down a little bit? I'm just
17 trying to introduce the document. And scroll down again.

18 It relates to an ad that was seen on YouTube
19 in which there were allegations that Justin Trudeau had
20 purchased a multi-billion-dollar yacht and made over 30
21 million in crypto.

22 We can scroll down a little bit more to page
23 4, please.

24 In the second to last paragraph we see a
25 summary of a call that was made with the complainant that
26 says the complainant:

27 "recognizes that such ads are not true
28 [but] expects that many don't [sic], thus

1 potentially influence their views.”

2 Is this something that you share? Is it an
3 assessment that you share?

4 **MR. SÉBASTIEN LAFRANCE:** I will have to
5 interfere again. I’m sorry to disrupt my friend’s question,
6 but if I would -- if I may kindly ask him to specify his
7 question to target it about foreign interference, because I
8 hardly see how it connects to foreign interference here. I’m
9 sorry.

10 Thank you. Sébastien Lafrance for the OCCE.

11 **COMMISSIONER HOGUE:** Are you in a position to
12 do it?

13 **MR. GUILLAUME SIROIS:** Well just if we go two
14 paragraphs before, the complainant -- no, the same page, just
15 two paragraphs above. The complainant, it’s blank:

16 “...stated that [he found -- he or she]
17 found the video of high quality and
18 reported it as [he or she] knows that
19 foreign actors can manipulate in many
20 ways, and that this could be one.”

21 I’m not sure if that satisfies my friend, but

22 ---

23 **MR. SÉBASTIEN LAFRANCE:** Yes. Thank you.

24 **MR. GUILLAUME SIROIS:** --- the second
25 complaint also provides a bit more evidence of potential
26 Russian interference as well.

27 I just want to understand your views on
28 whether or not this could potentially influence views of some

1 Canadians during an election?

2 **MS. CARMEN BOUCHER:** So if I understand your
3 question correctly, I don't think that the average Canadian
4 necessarily has an understanding of all of the technology
5 behind these things, but certainly have become more aware of
6 disinformation, technology, fake videos, malware, clickbait,
7 over the last few years. It's certainly a discussion in the
8 general populus, but it would -- the understanding of it
9 would vary person to person.

10 **MR. GUILLAUME SIROIS:** In 2021 it could
11 influence the views of some Canadians at least?

12 **MS. CARMEN BOUCHER:** Some Canadians,
13 certainly.

14 **MR. GUILLAUME SIROIS:** Thank you. We can go
15 down now at page 6, just to see the end of that complaint.
16 It says that it closed due to insufficient evidence because
17 it was not possible for the OCCE to reproduce the
18 advertisement and the complainant didn't have any screenshots
19 or screen captures of the advertisement.

20 **COMMISSIONER HOGUE:** Can you scroll down a
21 little bit? I think it's ---

22 **MR. GUILLAUME SIROIS:** Yeah, exactly. Thank
23 you.

24 So that kind of advertisement would be a
25 potential violation to section 91? Is that right? That's
26 what we said, the last paragraph?

27 **MS. CARMEN BOUCHER:** Potentially.

28 **MR. GUILLAUME SIROIS:** Okay. So we can

1 scroll down for the second complaint. That's in the same
2 document.

3 It's page 16. Oh, sorry, page 12. You're
4 right there. That's right. Thank you.

5 So it was received on September 1st, so the
6 same day that the first complaint was closed, a day after the
7 first complaint was filed. And it relates to seeing a
8 similar video about Justin Trudeau, as we can see from the
9 description below. However, the difference is that there is
10 a Russian URL that the complainant was about -- able to
11 capture during -- while he was viewing the video, and there
12 are screenshots attached.

13 We can scroll down to see that screenshot.
14 Next page, thank you. Just scroll down a little bit more.

15 You see panel.quizgo.ru.

16 You can scroll down again and at page 18,
17 please.

18 Yeah, Analysis, Findings, and Steps Taken.
19 That's a report that was prepared on December 22, 22nd, so a
20 few months after the election. But we see that the analyst
21 says that Quizgo, that the analyst -- the OCCE analyst
22 believes that Quizgo is a company that may be based in
23 Moscow.

24 Is it something that could relate -- could be
25 a foreign interference or it could be a violation of the
26 *Canada Elections Act*?

27 **MS. CARMEN BOUCHER:** The fact that it
28 originates in Russia, that depends. But what I'm -- I really

1 want to answer your question, but what I'm struggling to
2 understand is how this differs from what was addressed in the
3 first phase.

4 We have an understanding that this was
5 malware, so this was not an attempt at disinformation from
6 the information that the Government of Canada collected, that
7 included our discussions with GAC. The indication is that it
8 was malware or click bait. If you click on this, bad things
9 can happen to your computer. We don't have any indication
10 that it was actually going back to Russia, but we couldn't
11 reproduce the ad so we can't follow it past that, but that's
12 not the assessment from us or our partners.

13 **MR. GUILLAUME SIROIS:** Yes. I'm trying to
14 look forward to the future. I apologise. It's a bit of a
15 long introduction. But now I'm wondering what kind of tools
16 that the OCCE could have to better determine whether it is or
17 not a violation to the *Canada Elections Act* before the
18 election period ends?

19 **MS. CARMEN BOUCHER:** Thank you for your
20 question. So we do work closely with our partners on this
21 type of concern. So putting aside this specific case, I
22 guess unfortunately I don't think that it was a foreign
23 interference episode, we certainly are concerned about
24 artificial intelligence generated videos, misinformation,
25 disinformation that could be originating from a foreign state
26 or anyone.

27 Our Act is party agnostic for the most part,
28 it's written quite generally. So it's not specific to

1 whether or not it comes from a foreign actor, which is
2 actually a good thing because it allows us to apply it more
3 broadly.

4 So what we have is training internally for
5 recognising artificial intelligence videos that are not
6 original voice records, et cetera. So we have initial
7 software that we could use to do an initial assessment of it
8 that we would turn to the RCMP expertise. They have a unit
9 that's specialised in analysing a video or online content of
10 whatever forum, and we have an agreement in place that they
11 would prioritise us during an election to do so. Following
12 that, whether or not it's an offence and whether or not we
13 can move forward on it is really a case-by-case example.

14 **MR. GUILLAUME SIROIS:** I understand that the
15 input from partners is crucial. That ---

16 **MS. CARMEN BOUCHER:** We need their expertise.
17 That's not just input, we would turn to the RCMP to analyse
18 the video for us because it has to be video -- it has to be
19 analysed by an expert who can testify to evidentiary
20 standards. We don't have the in-house capacity. I have an
21 analytical team that can do the initial triage, and we have
22 partners with an MOU that can step in to ensure that we can
23 analyse it to evidentiary standards.

24 **MR. GUILLAUME SIROIS:** And we understood that
25 in the course of the hearings, or shortly afterwards, that
26 the initial engagement with GAC, the rapid response mechanism
27 that's on the SITE Task Force as well, was in November of --
28 the 18th of November 2021, so almost two months after the

1 44th general election. I'm wondering if that timeline is
2 appropriate or if you can comment on the timeline at all?

3 **MS. CARMEN BOUCHER:** I would have a dual
4 answer to that. One is that we receive thousands of
5 complaints during the electoral period, thousands of
6 complaints. We have to prioritise them. So what we're going
7 to react to on an immediate versus what we would react to a
8 month after the fact is based on whether or not there's
9 ongoing compliance and the severity of the action.

10 In this case, we had already done a
11 preliminary assessment. We were reaching out to GAC to
12 provide them the information in the event it fell under their
13 mandate. So the urgency to provide it under their mandate,
14 which is not ours and not specific to elections, is one
15 criteria. The other end is the criteria of GAC's resources
16 and potential delays on theirs. I don't have the specific of
17 the exchanges here, but part of that delay was on the part of
18 GAC due to their own priorities.

19 **MR. GUILLAUME SIROIS:** So if I understand
20 correctly, assuming it was not severe or urgent enough to be
21 shared with GAC before the election date.

22 **MS. CARMEN BOUCHER:** We didn't have an
23 indication that it was anything more than click bait, but
24 because there was Russian URL, out of due diligence we had to
25 share it with them.

26 **MR. GUILLAUME SIROIS:** Okay. And also I
27 understand from another document that the rapid response
28 mechanism was not necessarily sharing their weekly reports

1 with you.

2 MS. CARMEN BOUCHER: That's true.

3 MR. GUILLAUME SIROIS: That's true?

4 MS. CARMEN BOUCHER: Their daily SIT reps, we
5 were not receiving. I believe it was the daily SIT reps we
6 weren't receiving from the rapid response. The weekly ones
7 we may have been receiving. I would have to go back to the
8 record of the documents to know if it was both.

9 MR. GUILLAUME SIROIS: I'm not sure I have
10 time to go to the document.

11 MS. CARMEN BOUCHER: At any rate ---

12 COMMISSIONER HOGUE: No, because your time is
13 already exhausted, but you can have -- you can ask the last
14 question.

15 MR. GUILLAUME SIROIS: I think I'm going to
16 wrap it up for today, but thank you.

17 COMMISSIONER HOGUE: Thank you.

18 So next one is counsel for the Concern Group.

19 --- CROSS-EXAMINATION BY MR. NEIL CHANTLER:

20 MR. NEIL CHANTLER: Good afternoon. My name
21 is Neil Chantler. I'm counsel for the Chinese Canadian
22 Concern Group.

23 Madam Simard, Madam Boucher, I've heard you
24 acknowledge some things today, such as that the OCCE is in
25 dire need of a bigger budget and more staff in order to
26 properly conduct its work. Correct?

27 MS. CARMEN BOUCHER: Correct.

28 MR. NEIL CHANTLER: And part of the reason

1 for that is the growing complexity of these types of
2 investigations, perhaps growing awareness about foreign
3 interference, and particularly, the need to reach out and
4 engage with the victims of foreign interference. Correct?

5 **MS. CAROLINE SIMARD:** [No interpretation]

6 **COMMISSIONER HOGUE:** [No interpretation]

7 **MS. CAROLINE SIMARD:** OK, parfait.

8 Excellent. Sorry about that.

9 **COMMISSIONER HOGUE:** Just wait for him to ---

10 **MR. NEIL CHANTLER:** Thank you.

11 **MS. CAROLINE SIMARD:** Yes.

12 **COMMISSIONER HOGUE:** Please.

13 **MR. NEIL CHANTLER:** And the terms of
14 reference of this Inquiry recognise that diaspora groups are
15 among the first victims of foreign interference. You
16 acknowledge that?

17 **MS. CAROLINE SIMARD:** I would like to answer
18 the previous question, if I may.

19 So the question was when it comes to our role
20 or our mandate, and this went -- this included outreach. I
21 had to reframe and confirm that, indeed, we have the role of
22 observation, control and enforcement of the law, but when it
23 comes to outreach with the population, this is part of
24 Elections Canada's mandate. So I think it's important to
25 specify this from the get-go.

26 **MR. NEIL CHANTLER:** Okay. I didn't see
27 anything in your three year strategic plan that had to do
28 with diaspora groups, engaging with diaspora groups more than

1 you are already. Is that correct?

2 **MS. CAROLINE SIMARD:** In the strategic plan,
3 the vision that I have explained earlier, and there are three
4 objections, strategic objectives in there.

5 One is to serve Canadians, and under this
6 strategic objective there is an aspect that is to render the
7 office more visible and ensure that Canadians can come see us
8 to make complaints and signal any issues, so this is what
9 already exists.

10 When it comes to developing mobilization
11 plans that are more detailed, I explain it a bit earlier.
12 The specific example, it's anecdotal, and it's at an
13 exploratory stage. It is about working with partners on the
14 outreach aspect.

15 The example that I was giving was working
16 with Elections Canada, especially for information documents
17 that already exist in several languages and that could find
18 some space there to inform people from different communities
19 about the existence of our office and how to reach us, so
20 that is for starters.

21 **MR. NEIL CHANTLER:** And you will need staff
22 who speak the language of the various diaspora groups that
23 you're dealing with, you'll need staff that speak Chinese
24 language, you'll need staff that can correspond with people?

25 **MS. CAROLINE SIMARD:** Currently at the
26 office, it's quite impressive. We were talking about a
27 capacity of 80 staff, contract staff. We have more than 15
28 spoken languages in our office, including Mandarin, and not

1 just one employee. I would say that, you know, that's the
2 capacity that we have.

3 **MR. NEIL CHANTLER:** Could the Court Operator
4 please bring up CEF 302_R?

5 And, Madam Boucher, we've seen this document
6 a couple of times already today. There isn't much need for
7 me to further introduce it, but as you read through this
8 document, there is a number of -- there are many passages
9 that refer to evidence that was gathered in the course of
10 this review, complaints that were made, and these are multi-
11 faceted, from comments from a Consul General in Vancouver to
12 social media disinformation campaigns surrounding the
13 campaign of Kenny Chiu. A huge amount of information must
14 have been gathered in conducting this review; is that fair to
15 say?

16 **MS. CARMEN BOUCHER:** Yes.

17 **MR. NEIL CHANTLER:** And, ultimately, the
18 conclusions of this review have been already made known
19 today, and we know that the threshold for a proper
20 investigation was not met; right?

21 **MS. CARMEN BOUCHER:** Correct.

22 **MR. NEIL CHANTLER:** And so the file has been
23 closed, but, of course, the OCCE still has this file, and
24 it's probably -- contains a number of -- or a huge amount of
25 important information; is that right? And I understand there
26 to be information-sharing agreements between the OCCE and the
27 RCMP and CSIS, and these are two-way information-sharing
28 agreements; is that fair?

1 **MS. CARMEN BOUCHER:** There is an information-
2 sharing agreement; however, the *Canada Elections Act* has
3 specific confidentiality agreements and scripts out in what
4 circumstances that we can provide the information to them.

5 **MR. NEIL CHANTLER:** So are these not
6 circumstances where you could share that huge volume of
7 information, which may well suggest foreign interference? It
8 may well not meet the threshold under your mandate, but it
9 might lead to investigations by other agencies. Are you
10 unable to share this file with other agencies that could look
11 into it further?

12 **MS. CARMEN BOUCHER:** So we have provided an
13 extensive and detailed verbal briefing to both the RCMP and
14 CSIS. In the event that we decide to share the full report
15 or a redacted version thereof, it would require Madam
16 Simard's approval, and likely be requested under of the
17 public interest provisions of the Act. That said, there are
18 experts in those organizations and a great deal of this
19 information is already in their possession. So they will,
20 based on our briefing and the publication of a report, have
21 discussions with us if there's things they want to have
22 released to them or specifics.

23 **COMMISSIONER HOGUE:** It's going to be your
24 last question because you have already used all your time.

25 **MR. NEIL CHANTLER:** Do you agree with my
26 assertion that we may have a bit of a fragmented system right
27 now where information perhaps gets stuck with a specific
28 agency, perhaps the OCCE, that if we had a more integrated

1 system might be shared more freely, might result in perhaps
2 an overall better system to combat, deter, counter foreign
3 interference?

4 **MS. CAROLINE SIMARD:** With all respect, I'd
5 say that my reading of this is slightly different from yours,
6 that we have a system that works well but needs some
7 adjustment. We can take the example of the report here. It
8 brings to light some information that we received much too
9 late but which would not have changed the end result, so
10 that's fortunate as a conclusion. But I would say that some
11 adjustment necessary on our side.

12 We have identified some adjustments that need
13 to be brought about that are our responsibility, and so we're
14 working proactively to improve this work because, again, it's
15 a team project, so all partners have to be well equipped with
16 tools and work well with each other.

17 **MR. NEIL CHANTLER:** Thank you.

18 **MS. CAROLINE SIMARD:** Thank you.

19 **COMMISSIONER HOGUE:** Thank you.

20 Next one is counsel for the Human Rights
21 Coalition, Me Teich.

22 **--- CROSS-EXAMINATION BY MS. SARAH TEICH:**

23 **MS. SARAH TEICH:** Good afternoon. If I can
24 pull back up 302_R again, and I'm going to pick up where Mr.
25 De Luca left off with footnote 1. We can scroll back down to
26 that.

27 So you mentioned, Ms. Bouchard [sic], to Mr.
28 De Luca that it can be -- that multiple electors could

1 potentially be a contravention of this Act. So my next
2 question is do the electors need to be specifically
3 identified or can they be anonymously identified?

4 **MR. SÉBASTIEN LAFRANCE:** Just for my friend's
5 benefit, it's Ms. Boucher, not Ms. Bouchard, if I'm -- thank
6 you very much.

7 **MS. SARAH TEICH:** Thank you. I'm sorry.

8 **MS. CARMEN BOUCHER:** It's okay. You're not
9 the first person to make that mistake.

10 So it does not -- it could be -- I'm sorry,
11 can you repeat the question?

12 **MS. SARAH TEICH:** So I understand that there
13 can be multiple electors. It doesn't need to be a singular
14 elector, but do the electors ---

15 **MS. CARMEN BOUCHER:** Anonymous, yes.

16 **MS. SARAH TEICH:** Can they be anonymous?

17 **MS. CARMEN BOUCHER:** So to submit a complaint
18 they can be anonymous; however, to take a prosecution, we
19 would have to have a person willing to testify.

20 **MS. SARAH TEICH:** Okay. If we can go now to
21 paragraph 159? This is a summary of the intimidation or
22 duress offence, and I understand that this offence, this
23 prohibition refers to a person, not an elector, so I just had
24 similar questions. Does it need to be a singular person, or
25 can it be multiple people?

26 **MS. CARMEN BOUCHER:** Well, there could be
27 multiple offences if it was multiple people.

28 **MS. SARAH TEICH:** Okay. And the person would

1 again have to be named; is that right?

2 **MS. CARMEN BOUCHER:** Or the Act would have to
3 be identified.

4 **MS. SARAH TEICH:** Okay.

5 **MS. CARMEN BOUCHER:** At present, I have
6 neither a perpetrator, nor an Act, nor an individual who was
7 influenced, so I'm missing all three criteria.

8 **MS. SARAH TEICH:** Okay. Thank you. If we
9 can now pull up WIT 91? And scroll down to paragraph 94.

10 Thank you. So you say here that the OCCE
11 doesn't have the resources to begin another project like
12 creating a confidential informant program. And you also
13 state that the electoral laws likely do not authorize the
14 OCCE to offer such protection. So I'll start with the last
15 sentence. On what basis do you believe that the electoral
16 laws do not authorize this? Did you get legal advice to this
17 effect?

18 **MS. CARMEN BOUCHER:** The entire *Canada*
19 *Elections Act* makes, to my recollection, one mention of an
20 informant, and that is with regards to one of the reasons for
21 confidentiality is to protect the identity of an informant.
22 There is no other mention of informant in the Act, to my
23 recollection. I'd have to do a control F to be sure, but ---

24 **MS. SARAH TEICH:** Okay. And why does this
25 mean that the laws don't authorize a confidential informant
26 program?

27 **MS. CARMEN BOUCHER:** The law is silent on it.
28 We are not a law enforcement agency in the way that the RCMP

1 is, and other agencies have specific provisions to provide
2 them with that. And I would also note that this paragraph
3 was in response to a specific question from the counsel at
4 the time of the interview, so it's not something under
5 consideration at this time in our organization.

6 **MS. SARAH TEICH:** Do you think it would be
7 valuable to have the electoral laws authorize this kind of
8 protection?

9 **MS. CARMEN BOUCHER:** I think it could be
10 valuable for the electoral laws to offer some sort of
11 protection. I don't know that a confidential informant
12 program would be the answer, and that would be an extremely
13 difficult thing to do in an organization our size.

14 **MS. SARAH TEICH:** What would an alternative
15 be?

16 **MS. CARMEN BOUCHER:** The alternative would be
17 if there's multiple offences and some of them overlap with
18 other areas of the Criminal Code, we may do a joint or
19 parallel investigation with the RCMP. So if there were
20 corresponding offences, we could do it jointly and charge
21 both, perhaps. Depend on the case.

22 **MS. SARAH TEICH:** Okay. And if both are
23 charged, would witnesses -- I suppose witnesses would be able
24 to enjoy the confidential informant protections offered by
25 other Acts; is that right?

26 **MS. CARMEN BOUCHER:** Exactly. There's
27 witness protection in other Acts that we do not have in ours.

28 **MS. SARAH TEICH:** Okay. Okay. Those are my

1 questions. Thank you.

2 **COMMISSIONER HOGUE:** Thank you.

3 Mr. Johnston for the AG.

4 **--- CROSS-EXAMINATION BY MR. MATTHEW JOHNSON:**

5 **MR. MATTHEW JOHNSON:** Madam Commissioner,
6 thank you.

7 My name is Matthew Johnson. I'm counsel for
8 the Attorney General of Canada and I just want to ask a few
9 questions about nomination processes. I know my friend took
10 you to a couple of questions mostly about I think the
11 legislative capacity there, but I want to talk about your
12 capacity as an organization, given some of the discussions
13 about nominations.

14 So maybe I'll just start with are you
15 familiar, as an organization, with the nomination rules of
16 each political party?

17 **MS. CAROLINE SIMARD:** Yes, we have to know
18 the rules of all...

19 **MR. MATTHEW JOHNSON:** So you'd need to get to
20 the -- beyond sort of the financing rules if you were to --
21 for example, if there was a recommendation about OCCE or the
22 *Canada Evidence Act* being more involved with nomination
23 contests, there would be a learning process for your
24 organization to be able to be familiar with the details of
25 political party nomination contests and leadership contests;
26 correct?

27 **MS. CAROLINE SIMARD:** Correct.

28 **MR. MATTHEW JOHNSON:** Correct. And each

1 party obviously has its own rules; correct?

2 **MS. CAROLINE SIMARD:** Correct.

3 **MR. MATTHEW JOHNSON:** And I think with the
4 redistribution, we now have 343 ridings in the next election.
5 Is that -- am I correct about that?

6 **MS. CAROLINE SIMARD:** That's my ---

7 **MS. CARMEN BOUCHER:** Sounds right.

8 **MS. CAROLINE SIMARD:** Yes.

9 **MR. MATTHEW JOHNSON:** And so if we're talking
10 about volume, every party would presumably have its own
11 nomination contest and if there's a single party that has a
12 national slate, that would be 343 nomination contests, if
13 there's two parties, 686, three parties, suddenly you're
14 above 1,000. So we're talking about a lot of nomination
15 contests. Is that fair to say?

16 **MS. CAROLINE SIMARD:** Yes.

17 **MR. MATTHEW JOHNSON:** And I should note that,
18 you know, even within Quebec, you'd have the Bloc with 78
19 ridings. So you get to a large number very quickly in terms
20 of volume, in terms of capacity. Is that fair?

21 **MS. CAROLINE SIMARD:** Yes, in general terms.
22 Yes, these are the challenges associated with the...

23 **MR. MATTHEW JOHNSON:** And what would be the
24 impact on your organization on a capacity level if there was
25 a movement towards having the *Canada Evidence Act* apply and
26 OCCE be involved in monitoring, to some extent, those
27 nomination processes? What would that involve for you and
28 what would be the impact?

1 **MS. CAROLINE SIMARD:** To answer that question
2 specifically, it would depend on the terms defined by
3 Parliament. But it is certain that there would be needs in
4 terms of additional capacity minimally and, actually, this
5 new capacity would be -- would depend on the framework
6 definition.

7 **MR. MATTHEW JOHNSON:** There's not a set time
8 for nomination contests, it could be at different -- it could
9 depend on during the election campaign, in advance of the
10 election campaign; correct?

11 **MS. CAROLINE SIMARD:** I'm not sure that I
12 understand.

13 **MR. MATTHEW JOHNSON:** Sorry. There's no
14 specific time for nominations? Is that a fair point?

15 **MS. CAROLINE SIMARD:** Yeah. Yeah. Exactly.
16 Yeah.

17 **MR. MATTHEW JOHNSON:** So you could have
18 nominations within the period of the writ, but you could also
19 have nominations well in advance?

20 **MS. CAROLINE SIMARD:** That's my understanding
21 as well, depending, yeah.

22 **MR. MATTHEW JOHNSON:** Okay. So if we take it
23 together, you would have a large number of nominations using
24 different rules occurring at different times, and I think I'm
25 hearing you say that that would be a significant, or at least
26 an imposition for you as an organization if you were to be
27 involved in those beyond what you currently are?

28 **MS. CAROLINE SIMARD:** So to answer your

1 questions, we do that internally now, but maybe it's to make
2 your job easier, currently I can't share my comments. I'll
3 keep them for Parliament because we're anticipating that in
4 the C-65.

5 But it's an evaluation that is being done
6 internally because we are anticipating an impact on our
7 capacity. So for all the reasons that you've just mentioned.

8 **MR. MATTHEW JOHNSON:** If I can just bring up
9 WIT.91 very quickly and go to paragraph 103?

10 I think right at the end Ms. Boucher
11 clarified that depending on the specific legislation, this
12 could even double the OCCE's work because it does not have
13 the resource to monitor contests. I know that there's some
14 background there, but is that a fair estimate of what that
15 might involve? I know you would save more specific comments
16 for Parliament, but this is what you're talking about when
17 you said that, Ms. Boucher, that this could double your work?
18 Is that fair to say?

19 **MS. CARMEN BOUCHER:** It really depends on
20 what the contents of the legislation is.

21 **MR. MATTHEW JOHNSON:** Okay.

22 **MS. CARMEN BOUCHER:** So as you describe, if
23 it's very nomination contest, 365 days a year potential, and
24 they don't necessarily run just -- right now I have to bring
25 my staff up for 24/7 capacity during the writ period and
26 electoral period. I can't have people on call for seven
27 months of the year. We don't have the capacity for that type
28 of surge.

1 However, if there's only certain areas and
2 aspects that are added, it could be substantially less as
3 well.

4 **MR. MATTHEW JOHNSON:** Okay. Thank you.
5 Those are my questions.

6 **COMMISSIONER HOGUE:** Thank you.
7 Maitre Lafrance?

8 **MR. SÉBASTIEN LAFRANCE:** No questions, Madam
9 Commissioner. Thank you.

10 **COMMISSIONER HOGUE:** Mr. Ferguson, you're
11 also done?

12 So thank you very much. Thank you very much
13 for your time and generosity.

14 **MS. CARMEN BOUCHER:** Thank you for having me.

15 **COMMISSIONER HOGUE:** So we have completed
16 what we wanted to complete today, so thank you. We are just
17 on time. I'm very, very impressed. It's probably the first
18 time.

19 So we'll start tomorrow morning at 9:30.
20 Thank you.

21 **THE REGISTRAR:** Order, please.

22 This sitting of the Foreign Interference
23 Commission is adjourned until tomorrow, the 18th of September
24 2024 at 9:30 a.m.

25 --- Upon adjourning at 4:00 p.m.

26

27

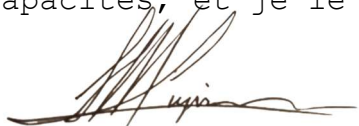
28

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

C E R T I F I C A T I O N

I, Sandrine Marineau-Lupien, a certified court reporter,
hereby certify the foregoing pages to be an accurate
transcription of my notes/records to the best of my skill and
ability, and I so swear.

Je, Sandrine Marineau-Lupien, une sténographe officielle,
certifie que les pages ci-hauts sont une transcription
conforme de mes notes/enregistrements au meilleur de mes
capacités, et je le jure.



Sandrine Marineau-Lupien